



**NPWS**

An tSeirbhís Páircenna  
Náisiúnta agus Fíadhúlra  
National Parks and Wildlife  
Service

**Derogation Number  
DER-BAT-2026-93**

**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 **Aine McHugh of Donegal County Council, National Roads Office, Drumlonagher, Donegal Town, County Donegal, F94 DK6C** 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**:

- |                              |                                  |
|------------------------------|----------------------------------|
| • <b>Common Pipistrelle</b>  | <b>Pipistrellus Pipistrellus</b> |
| • <b>Soprano Pipistrelle</b> | <b>Pipistrellus Pygmaeus</b>     |
| • <b>Leisler’s Bat</b>       | <b>Nycatalus Leisler</b>         |
| • <b>Daubenton’s Bat</b>     | <b>Myotis Daubentonii</b>        |



### Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works as **mentioned under Section 4.2 of the accompanying report for Aine McHugh**
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 (**TEN-T Priority Route Improvement Project, Donegal : Section 1 and 2**) 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 **12<sup>th</sup> February – 31<sup>st</sup> December 2026, inclusive**.
6. The works will be supervised by bat ecologist(s): **William Lishman**
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 District Conservation Officer – James Hegarty, [james.hegarty@npws.gov.ie](mailto:james.hegarty@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](mailto: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)

**12 February 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: Aine McHugh**

**Location/Name of Project: N15/N13 Ballybofey/ Stranorlar Urban Region & N56/N13 Letterkenny to Manorcun , County Donegal**

**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 five of the accompanying report, the derogation is required to assist with proposed works at section 3 of the TEN-T priority route and national road network in Donegal. The three sections are identified below:

- Section 1 - N15/N13 Ballybofey/ Stranorlar Bypass.
- Section 2 - N56/N13 Letterkenny to Manorcunningham.
- Section 3 - N14 Manorcunningham to Lifford/Strabane/A5.

These works involve the demolition of a number of structures with the report noting the overall objective to “establish a single multimodal Union wide transport network of high quality.” and anticipates benefits for the wider region in both tourism and industry. The report further outlines on page 18 and 19, a number of these benefits due to the works as improved journey times and journey reliability, improved connection and accessibility to the region and improved road safety with the reduction of collisions.

These works also form part of Project Ireland 2040 which incorporate both the National Planning Framework (NPF) 2018 and the National Development Plan 2021-2030 (NDP) as set out in the programme for Government. The works also aligns with the County Donegal Development Plan (CDDP) 2024-20, noted as containing “core strategy objectives that support the development of transport infrastructure in the county.”

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: The construction of the proposed road scheme outlined in the application and the supporting report.

The specific situation that needs to be addressed is that these works involve the demolition of a number of structures where bats have been identified as being present.

The alternative solutions suggested by the applicant are:

“Do-Nothing” scenario: Applicant states that this scenario “Does not meet Policy at international, national regional and local level”.

Do -Minimum Alternative: Applicant states that in considering this scenario “An online improvement scheme does not provide the appropriate cross-section and junctions required to achieve the level of service, journey time reliability, safety and economic benefit required in the project objectives”

Do Something Non-Road Improvement Alternatives: In this scenario the options that have been considered by the applicant as alternatives to improving/ upgrading the existing road include:

- Improved broadband
- Staggering worktimes and localised improvements
- Alternative forms of transports
- Improved public transport

The applicant states that this scenario “Improved broadband, alternative working times/localised improvements and alternative forms of transport have been discounted as reasonable alternatives to address the needs of the proposed development or meet the project objectives”

Route Corridor Alternatives: Applicant states that in considering this scenario “The route selection process has looked at a number of alternative route options through a Multi Criteria Assessment (MCA). This has assessed each route option under a number a criteria and the process has eliminated the other route options as having a greater impact or not achieving the objectives of the proposed development”

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on pages 35-43 of the accompanying report a number of alternative solutions, including the “do-nothing alternative” were examined.

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	<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 number of structures which support bats have been identified during the surveys for this road developments. The species identified as present are soprano pipistrelle, common pipistrelle, Leisler bat and Daubenton’s bat. While the first three species are widespread and abundant, Daubenton’s bat is less common, though still widespread. All four species are in favourable conservation status.

The numbers of bats present in all identified roosts and all roosts discovered have been categorised as temporary roosts, likely night roosts or feeding roosts. No maternity or hibernation roosts were identified based on field surveys conducted by experienced and licenced bat surveyors.

Suitable and proportionate mitigation has been proposed, including the provision of alternative roosts in the form of bat boxes. In addition, bat tubes will be erected on new culverts and on new bridges proposed to be built. 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.
- 2.
- 3.
- 4.

[add additional conditions where required]

Signed:

Date: February 12, 2026

Position: Ecologist