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**Derogation Number**
**DER-BAT-2025-290**

# EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS, 2011 (S.I. No 477 of 2011)

## DEROGATION

Granted under Regulation 54A 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 54A of the Habitats Regulations hereby grants to **Daniel Buckley** of **NPWS, Kenmare Road, Muckross, Killarney, County Kerry, V93 N673** a derogation. It is stated that this derogation is issued:

A. 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
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**:

- **Lesser Horseshoe Bat** **Rhinolophus Hipposideros**

**Terms and Conditions**

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Droumcarban, Headford, County Kerry**, for **Daniel Buckley.**
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.
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 **1st October – 31st December 2025, inclusive.**
6. 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.
7. 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.
8. 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.
9. On completion of the actions which this derogation authorises, all recordings of bat species affected will be made using the standardised data form provided below and must be submitted to the NPWS **within four weeks of the expiry date of this derogation**. Included with the below 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**

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

**29 August 2025**

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

# Derogation Assessment

**Name of Applicant: Daniel Buckley**

**Location/Name of Project: Droumcarban, County Kerry**

**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 derogation is considered under Regulation 54(2)(d): for the proposed repair and enhancement of a private building supporting Lesser Horseshoe Bat. This building is a European Site designated as the Old Domestic Building, Dromore Wood Special Area of Conservation (SAC) [Site Code: 000353] Lesser Horseshoe Bat are the Qualifying Interest. The derelict property is used as a maternity roost for Lesser Horseshoe Bats and is now in a state of disrepair, with the risk of the building becoming increasingly unsuitable to support the existing population. Article 6 of the EU Habitats Directive makes provision to ensure the favourable conservation status of all Annex I habitats and Annex II species within SACs. The Site Specific Conservation Objectives (SSCOs) of the Old Domestic Building, Dromore Wood SAC state there should be no decline in summer roosts of this species within the site. A Screening for Appropriate Assessment determination in accordance with Regulation 42A(8) of the 2011 Regulations concluded that the proposed conservation measures for Lesser Horseshoe Bats within Old Domestic Building, Dromore Wood SAC are entirely comprised of activities or works that directly support the SSCOs of this European site and that the project is a necessary conservation measure that is directly connected with or necessary for the management of the site. There is no element of this project that is not conservation related. The renovation works will be undertaken outside the maternity period when Bats will not be using the building or are present in very low numbers (October-March inclusive) however; there will inevitably be some level of disturbance and the derogation is required. In support of the derogation, the applicant has provided a clear rationale for the activities and evidence of the need for the works. On the 25th July 2025, the Minister, in accordance with the requirements of Regulation 54A(2) (flora, fauna and habitats) of the European Communities (Birds and Natural Habitats) Regulations 2011-2021 (“2011 Regulations”) furnished the Ecological Assessment Unit (EAU) with a derogation application and a supporting report on why tests have been met. On 29th August 2025, the EAU was provided with a Chartered Engineers Report documenting the inspection of the aforementioned property at Droumcarban, Headford, and a contractor’s scope of works, which detailed the required remedial measures to address the deterioration of the property, specifically with the objective of repairing and preserving its use as a roost in the long-term. In addition to the legislative obligations under Article 6 of the Habitats Directive, the Lesser Horseshoe Bat Species Action Plan 2022-2026 adopted by the National Parks and Wildlife Service (NPWS) provides the policy basis for the proposed measures that require derogation (Action 4.1d: fund roost repairs and enhancement works to implement SSCOs). The proposed derogated activities are proven to be effective in benefiting population recovery by securing the integrity of buildings, improving access points and by providing optimal microclimatic conditions within buildings (See: Aughney et al. 2021. Monthly roost counts of Lesser Horseshoe Bats (Rhinolophus hipposideros in a purpose-renovated building in Co. Galway. The Irish Naturalists' Journal, 37, pp.137-141; and, Wright et al. 2022 Effect of roost management on populations trends of Rhinolophus hipposideros and Rhinolophus ferrumequinum in Britain and Ireland. Conservation Evidence, 19, p.21). See also Roche et al. (2015) NPWS Irish Wildlife Manuals, No. 85. The EAU is of the opinion that this application meets the criteria to satisfy reason 54A(2)(d) and the value of the derogated activities outweighs the risk of disturbance during the implementation of these necessary conservation measures.

**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 application for derogated activities is supported by objective, verifiable factors, including engineering and technical considerations required to implement the proposed conservation measures at Old Domestic Building, Dromore Wood SAC.
The specific situation requires intervention to an existing Lesser Horseshoe Bat roost to avoid its loss through deterioration of the buildings structure, increased exposure at access points and roost spaces to inclement weather and predators, and changes to microclimatic conditions within areas used by roosting Bats.
A "do-nothing" scenario would result in the building supporting the Qualifying Interest continuing to become less suitable for Bats through gradual deterioration, leading ultimately to partial or total loss of the building as a functioning roost. This would undermine the SSCOs for which the site is designated.
Any scenario of alternative scale, design, location of works would be insufficient to achieve the projects objectives. The required remedial measures are not isolated to any one part of the building and the works are structural, inclusive of timbers, flooring and the roof, all elements that collectively provide the critical conditions that Bats require for it to function as a roost site.
The evidence provided by the applicant also show that all parts of the building are used by Bats as part of its function as a maternity roost and therefore there is no iteration of scale, design or location of the works that would eliminate the need for a derogation. Timing of the proposed activities has been incorporated into the project to reduce as far as possible the disturbance on the Qualifying Interests, however this is unavoidable due to the year round use of the structure by Bats.
The EAU is of the opinion that the objective of the activity cannot be solved or met in a way that does not involve a derogation and meets the criteria of an absence of satisfactory alternatives.

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):**

The net result on the Lesser Horseshoe Bats conservation status from granting the derogation is positive and there is certainty in that regard as demonstrated by peer-reviewed literature on the benefits of roost repair, protection and improvement on roost occupancy. Cited studies show similar projects have been undertaken in similar circumstances with positive results and indicate a yearly increase in population post restorative measures within roosts of between 5.7% (Wright et al. 2022) and 24.7% (Aughney et al. 2021).
Contemporary data on the existing roost shows that the maternity population is between 15 – 39 individuals. Renovation works will be undertaken outside the maternity period when Bats will be using a wider variety of post-parturition / pre-hibernation day roosts, night roosts and later transition predominantly to hibernation sites within their core foraging areas. See, McAney (2014). An overview of Rhinolophus hipposideros in Ireland (1994–2014) Vespertilio 17:
115–125. At this time of year Bats are known to utilise fewer parts of the main building or are present in very low numbers (October-March inclusive).
The species is restricted to six western counties from Cork to Mayo. The population overall is doing well and monitoring has demonstrated significant increases in numbers in the core areas. The Article 17 assessment for Lesser Horseshoe Bat (NPWS 2019) estimates a national population of 12,791 individuals. Short-term and long population trends for this species are increasing (short-term +43-44%; long-term +62-100%). The population size inside the SAC network designated for this species is estimated between 5,000 – 7,000 individuals. The Old Domestic Building, Dromore Wood SAC is one of 92 European Sites with Lesser Horseshoe Bat roosts.
The EAU is of the opinion the proposed derogation would not be detrimental to the maintenance of the population of Lesser Horseshoe Bat 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: Ryan Wilson-Parr Date: 28th August 2025

Position: Head of Ecological Assessment Unit, Department of Housing, Local Government and Heritage.