



NPWS

An tSeirbhís Páircenna
Náisiúnta agus Fiadhúlra
National Parks and Wildlife
Service

**Derogation Number
DER-BAT-2025-293**

**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 **Francis Brophy of Kilkenny County Council, Machinery Yard, Hebron Industrial Estate, Kilkenny** 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**:

- **Daubenton’s Bat** **Myotis Daubentonii**



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Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Lismaine Bridge, County Kilkenny (Grid Ref 52.74369, -7.34748 S442660)** for **Francis Brophy**
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 application report (**Application for Derogation Licence to Conduct Repair Works to Lismaine Bridge, Lismaine, County Kilkenny**), 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 **15th September – 15th December 2025, inclusive**.
6. The works will be supervised by bat ecologist(s): **Caroline Shiel & Francis Brophy**.
7. The crevices which have been identified as bat roosts shall be retained.
8. 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.
9. 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.
10. 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.
11. The local **NPWS District Conservation Officer**, kieran.buckley@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.
12. 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.



NPWS

An tScribhís Páircanna
Náisiúnta agus Fiadhúla
National Parks and Wildlife
Service

For the Minister for Housing, Local Government & Heritage

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

08 September 2025

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



Derogation Assessment

Name of Applicant: Francis Brophy

Location/Name of Project: Lismaine Bridge, County Kilkenny

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 checked="" 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, the applicants are relying on the public health and public safety aspect of Reason C in that Lisaine bridge requires maintenance works to ensure its ongoing safety for road users. If the proposed works are not conducted, then the bridge will deteriorate further until eventually the road will have to close.

The applicants have provided evidence as to the nature and scale of the public health and public safety reasoning and the proposed activity is necessary to achieve the overall objective. 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;

Lismaine Bridge requires routine maintenance works in the interests of public safety, to ensure its ongoing safety for road users. The bridge is 250 years old. A maternity roost of Daubenton's bats has been identified in this bridge with up to 25 individuals recorded in one crevice and another 4 individuals in another crevice

The specific situation that needs to be addressed

Necessary works include the removal of heavy vegetation from the structure, repair of damage to parapet walls, repointing of arches and abutments, the installation of concrete scour protection for abutments, and installation of concrete rubbing strips

The alternative solutions suggested by the applicant are

"Do-Nothing" scenario

The do- nothing option is unsatisfactory because the structural condition of the stone work of the bridge will deteriorate further until the structure become unsafe and the road that the bridge is carrying will have to be closed

Alternative 1

Place Schwegler bat boxes on bridge It is always preferable to attempt to retain some of the original crevices being used by bats than simply fitting a bat box to the bridge structure after the works have been completed and all crevices sealed. It has been found that Daubenton's bats do not readily take to bat boxes. Most boxes placed on bridge walls were taken up by pipistrelle bats, not the target species - Daubenton's bats.

There is no suitable alternative. The repair works are necessary to maintain the safety of the bridge.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on pages 36-39 of the accompanying Supporting Information document, alternative solutions, including the "do-nothing alternative" were examined by the applicant as was the placing of Schwegler bat boxes on the bridge

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 maternity roost of Daubenton's bats has been identified in this bridge with up to 25 individuals recorded in one crevice and another 4 individuals in another crevice. The proposed works have been designed to work around and retain these crevices. Providing these crevices are retained, the works take place outside the breeding and hibernation seasons, and the works are supervised by Dr Caroline Shiel, a very experienced bat specialist, then I am satisfied that there should be no significant impact on the conservation status of the bats on site.

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. The crevices which have been identified as bat roosts shall be retained
2. The works shall take place between 15th September and 15th December
3. The works are supervised by Dr Caroline Shiel
- 4.

[add additional conditions where required]



Signed: .

Date: September 8, 2025

Position: Ecologist