Derogation Number
DER-BAT-2025-320

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 **Kevin Finn** of **Galway County Council, Prospect Hill, Galway, County Galway, H91 H6KX** 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**:

- **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 **Maam Courthouse, Moneenmore, County Galway** for **Kevin Finn**
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 (**Bat Derogation Licence Application – Maam Courthouse**), 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 **3rd October – 31st December 2025, inclusive**
6. The works will be supervised by bat ecologist(s): **Aoife Joyce, Ryan Connors, David Culleton (with Saoirse Fitzsimons & Noel Duffy under supervision)**
7. A bat access vent is to be installed in the roof at the back of the property.
8. Trees are to be retained around the boundary perimeter.
9. Trees within the slope at the back of the courthouse to be cut back using a chainsaw or handsaw. The stumps and roots of these trees are to be retained in the slope in order to maintain the stability of the slope. These trees are not to be grubbed out. Trees to be retained on top of the slope near the stonewall at the back of the property.
10. Trees on the top slope at the back of the property are to be under-planted with species such as hazel, rowen and willow to build up the scrub layer.
11. 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.
12. 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.
13. 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.
14. The local **NPWS Conservation Ranger – Grace Kilbane,** grace.kilbane@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.
15. 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.**

For the Minister for Housing, Local Government & Heritage

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

03 October 2025

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

Derogation Assessment

Name of Applicant: Kevin Finn

Location/Name of Project: Maam Courthouse, County Galway

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 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 Public health and public safety aspect of Reason C to facilitate the proposed works at Maam Courthouse which is noted as a protected structure. As outlined in the supporting report, the proposed maintenance and repair works at the Courthouse are urgent and essential to addressing the ongoing deterioration of the building and to ensure the long-term stability, safety, and preservation of the building which currently presents safety concerns due to the buildings condition. Without these works, further decline could compromise the building's integrity and increase safety hazards due to falling masonry or unstable elements.

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 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 documentation submitted by the applicant has been reviewed, including the evidence for alternative solutions. In addition, an on-site meeting was carried out on the 8th of September 2025 with the applicant to go through the proposed works.
The purpose of the derogation is to allow for structural and repair works of Maam Courthouse which is a protected structure (RPS No.554).

The works proposed include the refurbishment of doors and windows, clearing of overgrown vegetation from the building, removal of trees and other vegetation within the footprint of the building, cleaning and treatment of the external façade, repainting, reconstruction of the chimney capping and other works to seal up the building to make it waterproof. A survey undertaken by MKO on behalf of the applicant found that there was a Lesser Horseshoe bat roost in the attic of the courthouse. The bats are entering the roost via the back door which has been left open and entering the attic space through a hole in the ceiling. This is a previously unknown roost site and is more than likely linked to a winter roost, which we monitor annually, at Clements Mine (located approximately 2.9Km from Maam courthouse). The works proposed could negatively impact the integrity of the roost site resulting in the loss of this newly discovered roost. Specifically by sealing up access points for the bats and clearance of vegetation around the site. The site is surrounded by native woodland within the site boundary. During the site visit, the applicant told me that they wanted to remove most of the trees and scrub within the site boundary.

The alternative solutions suggested by the applicant are:

1. "Do-Nothing" scenario- would result in accelerated damage to both the structure and the roosting habitat, reducing the ecological value of the site. I agree that the structural integrity of the courthouse does need to be improved and should be improved in such a way that it also improves the integrity of the roost site.
2. The applicant states that there are no other viable alternative solutions to address the structural deterioration.

   Regional agree with the above assessments

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 14 of the accompanying report only one alternative has been discussed by the applicant.

Having weighed the possible solutions to solve the applicant's problems against the effects of a derogation on the species concerned, it is considered 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	☒
	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):

Maam courthouse contains a small roost of lesser horseshoe bats. This is a rare species and is currently in Unfavourable conservation status. The proposed works will need to be carried out sensitively. Appropriate mitigation measures are included in the proposal:
All works will be carried out outside the main bat activity season (May to September).

Hand tools will be used at sensitive areas,

Retention or like-for-like replacement of soffits,

Removal of vegetation in a controlled manner.

The roost itself and its key access point via the open rear doorway and internal ceiling opening into the attic, will be retained in full. No works to take place which would obstruct or alter these access routes.

All works will be carried out under supervision from a qualified bat ecologist.

Once these measures are implemented there should be no significant impact on the conservation status of the bats

<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:

[add additional conditions where required]

1. A bat access vent is to be installed in the roof at the back of the property.
2. Trees are to be retained around the boundary perimeter.
3. Trees within the slope at the back of the courthouse to be cut back using a chainsaw or handsaw. The stumps and roots of these trees are to be retained in the slope in order to maintain the stability of the slope. These trees are not to be grubbed out. Trees to be retained on top of the slope near the stonewall at the back of the property.
4. Trees on the top slope at the back of the property are to be under-planted with species such as hazel, rowen and willow to build up the scrub layer.

Signed:  Date: October 3, 2025

Position: Ecologist