Derogation Number
DER-BAT-2025-340

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 **Galway City Council** of **City Hall, College Road, Galway, H91 X4K8** 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**:

- **Soprano Pipistrelle** **Pipistrellus Pygmaeus**
- **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 **Menlo Castle, Menlo, County Galway** for **Galway City Council**
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 – Menlough Castle**), 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 **24th October – 31st December 2025, inclusive.**
6. The works will be supervised by bat ecologist(s): **Aoife Joyce, David Culleton & Clare Mifsud (with Saoirse Fitzsimons & Noel Fahy under supervision)**
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 Regional Managager – Rebecca Teesdale,** rebecca.teesdale@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 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)

24 October 2025

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

Derogation Assessment

Name of Applicant: Galway City Council

Location/Name of Project: Menlo Castle, Menlo, 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 have 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 applicant is relying on the Public health and public safety aspect of Reason C to facilitate the proposed works to stabilise and conserve the ruins at Menlough Castle. As noted on page 14 of the accompanying report, Menlough Castle is a protected structure and the proposed work are necessary for the conservation of the building. The castle walls alongside loose masonry and wall tops pose a safety hazard, If the works are not carried out, then the structure will fall into further decline, rendering the structure unsafe and at risk of collapse.

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	☒
	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 Bat Derogation Licence Application report looked at alternative options. It concludes that there is an absence of satisfactory alternatives.
The building in question has been subjected to phased maintenance and restoration works over recent years and this derogation licence application relates to Phases 5 and 6 of the castle stabilisation project, which are significant as they are being carried out in the area of the castle known to host a Lesser Horseshoe bat roost. The building requires urgent maintenance/restoration works to prevent further deterioration of the structure. The 'do nothing' approach is unsatisfactory as this would mean the building would continue to deteriorate, and specifically in the area of the structure used by Lesser Horseshoe bats, which would be detrimental to the ongoing use of the structure by the population of this species in particular, but also other bat species as a roost, as well as creating an ongoing and increasing health and safety risk. I am satisfied that this option is not viable.

Given that the required structural works are necessary to preserve and ensure the longevity of the structure and therefore its use by bats, and for reasons of public health and safety, and also that no intention is proposed to close off the part of the building known to contain a Lesser Horseshoe bat roost, I am satisfied that there is no satisfactory alternative to carrying out the required structural works. It is stated in the application form and supporting documentation that all scaffolding will be free standing and access to the roost by bats will remain open throughout the works. In terms of mitigation, the works are proposed to take place outside of the peak bat activity period of May-August for other bat species, and from October onwards in the areas of the building that host the Lesser Horseshoe bat roost. In addition a bat ecologist will be on site during all works in the vicinity of the Lesser Horseshoe bat roost to oversee works and confirm presence/absence of the bats at the time of works.

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)

Repair works are required to stabilise this building. These works will also ensure its long term availability for bat species, including lesser horseshoe bats.

Providing the mitigation measures proposed in the bat report are implemented in full I am satisfied that there should be no significant negative impact on the bat populations in the area

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:

[add additional conditions where required]

Signed: Date: October 24, 2025

Position: Ecologist