Derogation Number
DER-BAT-2025-344

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 **Joe Kearney** of **Ballinard, Baltimore, County Cork, P81 XK80** 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**

Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Ballinard, Baltimore, County Cork, P81 XK80** for **Joe Kearney**
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 Survey and Assessment Ballinard**
5. **Baltimore Co. Cork)** 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.
6. The actions which this derogation authorise shall be completed between **31st October – 31st December 2025, inclusive.**
7. Refurbishment and demolition works are to take place between 1st September and 1st May, as per the recommendations in the bat survey report – a new derogation must be applied for any 2026 activity.
8. The works will be supervised by bat ecologist(s): **Karen Banks**
9. A bat survey is to be undertaken immediately prior to any works to determine if any bats are using the building. A bat specialist is to provide a briefing to the contractor carrying out the building work and measures outlined in the case that the contractor comes across any bats during works.
10. A suitable bat box, to be recommended by a bat specialist, is to be provided on the gable end of the building.
11. No external lighting is to be put up over the new bat box at the gable end of the building.
12. 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.
13. 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.
14. 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.
15. The local **NPWS Conservation Ranger – David Rees,** david.rees@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.
16. 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)

31 October 2025

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

Derogation Assessment

Name of Applicant: Joe Kearney

Location/Name of Project: Ballinard, Baltimore, County Cork

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 overriding public interest, including those of a social or economic nature aspect of Reason C.
As outlined on page three of the accompanying report, the derogation is required to facilitate works to a derelict building falling into disrepair at Ballinard, Baltimore, Co. Cork.

The outcome of the works is to provide a habitable residence while also increasing the local housing supply. The provision of housing in Ireland is at a critical juncture and the public interest of same can be balanced against the conservation aims of the Directive.

The applicants have provided evidence as to the nature and scale of the overriding public interest 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.
The purpose of the derogation is to allow the following activity to take place: renovation of a house that will require the destruction of a roost

The specific situation that needs to be addressed is: Following a survey of the house by a bat ecologist, it has been found to support a roost for a single Soprano Pipistrelle. Renovation of the house will require the destruction of the roost.

The alternative solutions suggested by the applicant are: ……

1. "Do-Nothing" scenario However, that option is not feasible as the dwelling is falling into disrepair, if nothing is done it will fall further into disrepair and beyond reasonable cost of repair. I would agree with this and if the building falls into disrepair could result in the loss of the roost
2. Alternative 1 The proposed development is for the renovation of an existing dwelling, therefore an alternative location is not a feasible option. The applicant has shown that an alternative location for their building is not an option.
3. Alternative 2 The proposed dwelling refurbishment will incorporate alternative roosting habitat for crevice dwelling bats (bat box) as well as the provision of housing for humans; an alternative design is not considered to be required. As mentioned, the building is in disrepair with the potential to lose the roost. This option provides an alternative long term alternative roost at the same location.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page [9] of the accompanying report *a number of alternative solutions, including the "do-nothing alternative" were examined by the applicant.*

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	☒
	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 building has been found to support a single Soprano Pipistrelle. This species is widespread and abundant in Ireland and is in favourable conservation status. The loss of this roost will not impact on the conservation status of the species.

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. Refurbishment and demolition works are to take place between 1st September and 1st May, as per the recommendations in the bat survey report
2. A bat survey is to be undertaken immediately prior to any works to determine if any bats are using the building. A bat specialist is to provide a briefing to the contractor carrying out the building work and measures outlined in the case that the contractpor comes across any bats during works.
3. A suitable bat box, to be recommended by a bat specialist, is to be provided on the gable end of the building.
4. No external lighting is to be put up over the new bat box at the gable end of the building.

[add additional conditions where required]

Signed:  Date: October 31, 2025

Position: Ecologist