Derogation Number
DER-BAT-2025-356

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 **Padraic Cullen** of **Clare County Council, Buttermarket Building, Drumbiggle, Ennis, County Clare, V95 RR72** 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 **Clarisford Park, Killaloe, County Clare** for **Padraic Cullen**
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 **(Killaloe Bypass, Shannon Bridge Crossing**
5. **and R494 Improvement Scheme)** 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 **20th November – 30th November 2025, inclusive.**
7. The works will be supervised by bat ecologist(s): **Karen Banks**
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 – David Lyons,** davida.lyons@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 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)

20 November 2025

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

Derogation Assessment

Name of Applicant: Padraic Cullen

Location/Name of Project: Clarisford Park, County Clare

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) (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'* 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 re-populating and re-introducing these species and for the breeding operations necessary for these purposes aspect of Reason D.

As outlined in Appendix A of the accompanying report, the derogation is required to assist in proposed works at a bat house near Clarisford, Co. Claire. The objective of the works is for the improvement of an existing compensatory bat house constructed for the Killaloe Bypass, Shannon Bridge Crossing and R494 Improvement Scheme. Further outlined on page seven of the accompanying report, the applicants have highlighted the works will provide more suitable conditions for summer roosting bats.

The applicants have provided evidence as to the nature and scale of the re-populating and re-introducing these species and for the breeding operations necessary for these purposes 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: [*Remedial works to a compensatory Bat roost to improve roosting conditions*]

The specific situation that needs to be addressed is the proposed works may cause disturbance to a small number of roosting Lesser Horseshoe Bats that use a ground floor room throughout the year.

The alternative solutions suggested by the applicant are:

1. "Do-Nothing" scenario – "*This option is not feasible as the bat house is currently not providing suitable conditions for summer bats*" – Assessment accepted, the roof space is large and not retaining heat and is therefore unsuitable as a maternity roosting location for Bat species.

2. Alternative 1: Alternative location: "*The proposal is for improvement of an existing bat house, therefore an alternative location is not a feasible option"* – Assessment accepted, a dedicated bat roost has been built in a suitable location, an alternative location is not required.

3. Alternative 2: Alternative timing: "*It is proposed to conduct works outside of the main maternity and hibernation period to avoid the most vulnerable periods for roosting bats"* – Assesment accepted - A doored downstairs room the is used by 1-2 Lesser Horseshoe Bats at various times throughout the year. The proposed works will be 2 floors above this location and for a very short duration.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 7 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 proposed works will improve the roosting conditions in the bat house. Some minimal temporary disturbance may occur but if the mitigation measures proposed in the bat report are implemented in full then there should be no significant negative impact on the conservation status of the bats in the area and the works should in fact be beneficial.

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.
2.
3.
4.

[add additional conditions where required]

Signed: Date: November 20, 2025

Position: Ecologist