



Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **1 MacCurtain Street, Victorian Quarter, Co. Cork T23 TE84** for **Emma O'Shiel**
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. In addition, the Minister reserves the right to revoke the derogation where updated information indicates that the basis upon which the derogation was granted has materially changed.
4. The mitigation measures outlined in the application report (**Bat Fauna Impact Assessment for a proposed Hotel Development at 1 MacCurtain Street, Victoria Quarter, 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.
5. The actions which this derogation authorise shall be completed between **29th January 2026 – 31st December 2027, inclusive**.
6. The works will be supervised by bat ecologist(s): **Bryan Deegan**
7. The derogation does not provide consent to proceed with any works that may also be subject to another approval (for example, planning permission).
8. The derogation is based upon information provided in the application. Where this information may cease to be accurate due to the passage of time or changes to the circumstances giving rise to the need for the derogation, the derogation holder is responsible for notifying the NPWS.
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 Conservation Ranger – Sam Bayley**, Sam.Bayley@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 of the derogation or the 31st January each year**, should the derogation run for longer than one calendar year. Additionally a report will also be submitted detailing results of works and success of mitigation. **Both documents must be submitted to constitute a derogation return** and should be submitted to wildlife.reports@npws.gov.ie



For the Minister for Housing, Local Government & Heritage

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

29 January 2026

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





Derogation Assessment

Name of Applicant: Emma O’Shiel

Location/Name of Project: MacCurtain Street, Cork, T23 TE84

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 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, 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 titled "Supporting document for proposed Hotel Development", the derogation is required to assist with proposed works at the Leisureplex site, 1 MacCurtain Street, Victoria Quarter, Co. Cork.

The objective of the works is the construction of a 173-bedroom hotel and involves the demolition of existing buildings on the site while retaining a façade for one protected structure. The report further outlines on page 11 that the existing leisureplex building is no longer fit for purpose and its redevelopment will support the ongoing regeneration of Cork city centre. The report also notes the project will provide employment opportunities both during construction of the hotel and once it has opened for business while "increasing visitor accommodation capacity, and strengthening the local tourism and business economy" for the city.

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	<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: disturbance of roosting Leisler’s Bates to allow the demolition of existing Leisureplex building to replace with a 7-storey hotel.

The specific situation that needs to be addressed is that a single Leisler’s Bat was seen emerging from a cavity in the building which would be protected under Annex IV of the European Habitats Directive affording protection from disturbance and habitat destruction, two things that will occur with the construction of this development. Therefore a derogation licence is required in order to disturb individuals from the proposed construction site.

The alternative solutions suggested by the applicant are:

1. “Do-Nothing” scenario

Applicant Under a do-nothing scenario, no monitoring would take place which would be in contradiction with the condition compliance set out by the planning authority and the condition set out by NPWS. This is not a satisfactory alternative.

Assessment: Agreed.

2. Alternative 1

Applicant: Alternatively, monitoring would have to take place without a derogation licence, and therefore illegally. This is not a satisfactory alternative

Assessment: Agreed.

3. Alternative 2

Applicant: Alternatively, monitoring would have to take place without a derogation licence, and therefore illegally. This is not a satisfactory alternative

Assessment: Agreed.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 12 of the accompanying report. The applicant examined sufficient alternative solutions.

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)

Survey results confirmed a single Leisler’s bat (*Nyctalus leisleri*) emerging from the brickwork of the Leisureplex building and a single Common Pipistrelle (*Pipistrellus pipistrellus*) emerging from ivy on an adjacent building outside the site boundary. The works will only affect the Leisler’s roost; the pipistrelle roost will remain untouched however construction and demolition in the vicinity may cause temporary disturbance if a bat is present. The availability of extensive alternative roosting habitat in surrounding urban structures, and nearby green corridors further reduces the potential impact.

Leisler’s bats are widespread and abundant throughout Ireland. They are highly mobile, forage over large areas, and routinely utilise a range of transient and seasonal roost types including tree cavities, buildings, and crevices. The national population is considered stable, with no significant pressures identified, and the species is classified as Least Concern. Similarly, Common Pipistrelles are one of Ireland’s most widespread, abundant and adaptable bat species, with a national population that is currently increasing and assessed as having Favourable conservation status.

Suitable and proportionate mitigation measures are proposed and with these in place, the redevelopment of the site for a new hotel will not be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.

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



NPWS

An tSeirbhís Páircenna
Náisiúnta agus Fiadhúlra
National Parks and Wildlife
Service

The following conditions should be attached to the derogation:

Kate Greaney

Signed: .

Date: January 29, 2026

Position: Ecologist