



- **Common Pipistrelle** **Pipistrellus Pipistrellus**



NPWS

An tSeirbhís Páircenna  
Náisiúnta agus Fiadhúlra  
National Parks and Wildlife  
Service

### Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Moore Street, Kilrush, County Clare** for **Clare County 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 (**Derogation License Application Supporting documents Moore Street Development, Kilrush, Co. Clare**), 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 **1<sup>st</sup> November – 31<sup>st</sup> December 2025, inclusive**.
6. The works will be supervised by bat ecologist: **Ian Douglas**
7. The precautionary measures, mitigation recommendations, and compensation strategies outlined in the 2023 bat survey report (included in the application as Appendix 2) should be adhered to, including sensitive lighting design, and ecological enhancement through integrated bat boxes and habitat improvements
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**, [davida.lyons@npws.gov.ie](mailto: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 data form provided below and must be submitted to the NPWS **within four weeks of the expiry date of this derogation**. Included with the below returns form, a report will also be submitted to [wildlife.reports@npws.gov.ie](mailto:wildlife.reports@npws.gov.ie) detailing results of works and success of mitigation.  
**Both documents must be submitted to constitute a derogation return.**



**NPWS**

An tScribhís Páircanna  
Náisiúnta agus Fiadhúra  
National Parks and Wildlife  
Service

**For the Minister for Housing, Local Government & Heritage**

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

**08 September 2025**

Any query in relation to this derogation should be sent to [reg54derogations@npws.gov.ie](mailto:reg54derogations@npws.gov.ie)



## Derogation Assessment

**Name of Applicant: Clare County Council**

**Location/Name of Project: Moore Street, Kilrush, 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	<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 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 at Moore Street, Kilrush, Co. Clare. The objective of the works as outlined on page 8 of the accompanying report is the demolition of existing buildings, which are in a deteriorated and unsafe condition with structural defects presenting potential hazards to public health and safety. Without these works taking place, they will continue to deteriorate over time.

It is clear that the applicant is also relying on the imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences aspect of Reason C. The proposed redevelopment of the site aims to provide 16 residential units, directly addressing local housing demand, supporting national housing policy objectives, and providing secure, energy-efficient homes of significant social benefit and sustainable community growth

The applicants have provided evidence as to the nature and scale of the public health and public safety reasoning and reasons of overriding public interest including those of a social or economic nature; therefore, 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: Renovation of urban buildings to provide a dwellings by the local authority.

The specific situation that needs to be addressed is the proposed works will lead to the loss of a structure recorded as being used by a small number of bats.

The alternative solutions suggested by the applicant are:

1. "Do-Nothing" scenario – *"The option of leaving the building in its current condition has been considered but is unsatisfactory, as the structure is already in an advanced state of disrepair with significant safety risks, and it would continue to deteriorate over time."* Regional NPWS staff agree with this conclusion.

2. Alternative 1 – *"Retention and renovation of the existing building was also examined; however, the extensive works required to bring the structure up to modern safety and energy-efficiency standards would likely result in disturbance equivalent to demolition, while offering no certainty that any bat roosting features could be safely retained. In addition, the constraints of the current building footprint would prevent delivery of the proposed 16 housing units, thereby undermining the site's capacity to address the identified housing need"* - NPWS Regional staff agree.

3. Alternative 2 – *"delaying works to allow additional bat monitoring was also considered, but this would unnecessarily prolong the safety hazards posed by the deteriorating structure and delay the provision of urgently needed housing. Given that two seasons of survey data have already been collected, including the absence of bat use in 2025, additional delay would be disproportionate to the low conservation value of the site"* – NPWS regional staff agree.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 6 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	<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):**

A very minor roost of common pipistrelles was recorded in one of the buildings due for demolition. This species is widespread and abundant and in favourable conservation status. The loss of this roosts will have no impact on the conservation status of this species providing the mitigation measures are implemented (see conditions below).

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. The precautionary measures, mitigation recommendations, and compensation strategies outlined in the 2023 bat survey report (included in the application as Appendix 2) should be adhered to, including sensitive lighting design, and ecological enhancement through integrated bat boxes and habitat improvements.

2

Signed:



Date: September 8, 2025

Position: Ecologist