



- **Common Pipistrelle** **Pipistrellus Pipistrellus**
- **Leisler's Bat** **Nycatalus Leisler**



Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Lacken Road, Kilbarry, Waterford, County Waterford (Longitude -7.1296978, Latitude: 52.2309800)** for **Eamonn Power**
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 (**Kilbarry Phase 5 Lacken Road, Waterford**
5. **Supporting Information for the Derogation Application**) 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 **7th November – 31st December 2025, inclusive**.
7. The works will be supervised by bat ecologist(s): **Jane Russell-O'Connor**
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 Conservation Ranger – David Jacob**, david.jacob@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.**



NPWS

An tSeirbhís Páirceanna
Náisiúnta agus Fiadhúlra
National Parks and Wildlife
Service

For the Minister for Housing, Local Government & Heritage

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

07 November 2025

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





Derogation Assessment

Name of Applicant: Eamonn Power

Location/Name of Project: Lacken Road, County Waterford [Grid Ref: -7.1296978, 52.2309800]

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 the applicant claims 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 interests of public health and public safety aspect of reason C for the proposed works close to Six Crossroads Business Park and Waterford City. As outlined on page 16 of the accompanying report, the derogation is required to remove the lower branches on trees that are in the way of vehicle movement/scaffolding etc. while construction is taking place on a planned housing development. If the trees are not cut back, there is a potential issue of health and safety in the event of storms/high winds

It is clear that the applicants are also relying on the imperative reasons of overriding public interest, including those of a social or economic nature aspect of Reason C. The proposed works, within the zoned residential area for Waterford City will provide housing including social housing for the City and assist in the Waterford County Council Development Plan (2022-2028) while supporting national and local housing objectives.

The applicants have provided evidence as to the nature and scale of the Health and Safety aspect and for reasons of public interest including those of a social or economic nature for the proposed works 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 treeline is adjacent to the Lacken Road and the granted planning application for Phase 6 of Kilbarry Housing Development, for which the construction phase 6 has not yet commenced. The trees in the treeline will not be removed as a result of the development, however as many of the trees are sycamore or horse chestnut, there are lower branches that are in the way of vehicle movement/scaffolding etc. Therefore, the derogation licence is required to remove the smaller sucker-type lower branches on these trees. These trees are being used by the aforementioned bat species for roosting.

The alternative solutions suggested by the applicant are:

- Do nothing scenario:** If the proposed tree trimming was not carried out then there is a risk of the boughs being damaged and affecting the health of the trees which may lead to their death and loss of roosts. As the Conservation Ranger, I agree that this would ultimately damage the trees and may result in their death and thus the roost sites being destroyed. Furthermore, if the trees are not trimmed then there is a risk of boughs falling on residents of the housing development for which planning has been granted. Thus creating a health and safety risk to human health.

The purpose of the derogation is to allow the following activity to take place. The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page [11] of the accompanying report. 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)

Small number of pipistrelles and Leisler's bats have been reported foraging/commuting along this treeline/hedgerow. Individual bats also roost in the mature trees. These species are widespread and abundant. The necessary trimming of lower branches will not impact on the conservation status of these bat species providing the proposed mitigation measures are observed

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]

Kate Greaney

Signed: .

Date: November 7, 2025

Position: Ecologist