

REPORT CONCERNING APPLICATION FOR DEROGATION REGARDING POTENTIAL FOR  
WORKS TO IMPACT ON BATS AT EMO COURT, EMO, CO LAOIS  
JANUARY 2025



Prepared January 2025 by:



Forest, Environmental Research and Services Ltd.

Silloogue

Kilberry

Navan

Co. Meath

087 7573121

[info@fers.ie](mailto:info@fers.ie), [pat.moran@fers.ie](mailto:pat.moran@fers.ie)

## Summary

In June of 2023, a derogation licence (DER-BAT-2023-66(as amended)) was issued to the Office of Public Works at Emo Court, Emo, Co. Laois with regard to "Builders Fabric Reinstatement Works, Basement Level, Main House. Phase 4". The overwhelming majority of this work had been completed by December 31<sup>st</sup>, 2024. Works were done in compliance with the conditions of the licence. There have been no significant negative impacts bats occurring, with the pre-existing environmental conditions within the roost enhanced in relation to roosting bats. Returns forms and reports have been submitted regarding DER-BAT-2023-66. No negative impacts on bats were associated with these works.

There are a small number of items requiring completion in 2025, the majority of which were covered under the previous derogation. For this reason, a new derogation licence is being applied for. Regarding examples of development with potential impacts on bats, the National Guidelines<sup>1</sup> indicate that the following types of work are likely to require a derogation licence

- Conversion of barns or other buildings known to be used by bats;
- Restoration of ruined or derelict buildings (applies here);
- Maintenance and preservation of heritage buildings (applies here);
- Significant alterations to roof voids known to be used by bats.

The remaining items of work to be undertaken at basement level are outlined below

### **Basement Works remaining to be completed**

- Some minor works in the Servant's Tunnel and works to the Walkway including to emergency lighting and associated ground works as per DER BAT 2023-66.
  - The emergency lighting within the tunnel will require maintenance and may require updating. This lighting is required to guide people along the path in the event of an emergency in total darkness.
  - New emergency lighting with the associated groundworks for the walkway thus extending the tunnel emergency lighting will be installed above ground along the walkway which extends from the servant's tunnel.
- The Bat-accessible security gate at entrance to tunnel (which will not impede free movement of bats – design of the security gate was a component of DER BAT 2023-66) remains to be installed.
- Small works to locks on doors etc. to facilitate OPW Fire and Security and operational management requirements;
- Repairs to internal downpipe to annex room to the rear of the circular roost room;
- Complete painting in Housekeepers Room/painting snags elsewhere;
- Minor painting works to some built in cabinetry – mostly in the "housekeepers' room";

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<sup>1</sup> Marnell, F., Kelleher, C. & Mullen, E. (2022) Bat mitigation guidelines for Ireland v2. Irish Wildlife Manuals, No. 134. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage, Ireland

- Install and fix in place some interior fittings including sink support cabinets and two small shelves;
- Cleaning of floors Including washing of flagstone floors;
- Layout of basement rooms with some moveable furnishings and artefacts including kitchen and laundry room items;
- Position some signage and information panels – including bat information panels; and
- Ongoing maintenance and potentially some work to address any residual snags as may be identified within the defects liability period. If such works would require separate derogation application this will be undertaken.
- Maintenance as may become apparent once in operation. If such works would require separate derogation application this will then be sought.

Of the outlined works only two items have any potential to impact on bats:

- (1) Installation of emergency lighting and security door along servant's walkway to extend existing emergency lighting which currently ends at the tunnel
- (2) Repairs to internal downpipe to annex room to the rear of the circular roost room (This was only brought to the attention during monitoring of the Cellar Round Roost Room)

The derogation licence sought is the only available option for works and no suitable alternative exists as per Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations –

- (1) The proposed emergency lighting works (which will be designed having regard to the presence of bats as per DER 2023-66) are necessary in order to comply with regulations and to provide for the availability of an emergency exit from the basement should it be needed for when the house is open to visitors. The OPW have invested considerably in the basement to help to secure the future presentation of the house including the round cellar roost room. A key justification for this investment is the preservation of the house and its presentations a heritage and educational resource for visitors. The educational offering in the basement will include educational information panels on the bats at Emo. Without such investment to restore, manage and maintain Emo Court the future viability of the house would be in jeopardy and would over time fall into disrepair resulting in a loss of a heritage asset and bat accommodation.
- (2) The internal downpipe within the Annex associated with the Round Cellar Roost Room is currently leaking water into the wall structure, and will eventually cause a destabilisation of the wall, rendering it unsafe for use and potentially impacting on the ingress/egress points used to enter the Round Cellar Roost Room. Access will be required to the rear annex of the Cellar Round Roost Room to attend to the missing section of downpipe that is allowing water ingress into the building in that location. This section of pipe needs to be replaced with a new section and a proper connection made into the gully serving this downpipe.

The actions permitted by the derogation licence will not be 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 as is required under Section 54(2) of the European Communities (Birds and Natural Habitats) Regulations as mitigation measures will be put in place to prevent any such impacts.

In order to mitigate against any potential impact on any hibernating bats, the mitigation measure will primarily be time of works, avoiding any impacts. The works with potential to impact on roosting bats are of a small scale (undertaken over at most a period of four weeks (lighting), with the works repairing the down pipe only requiring 1 – 2 days. These works will be undertaken after the 1<sup>st</sup> of March and before 1<sup>st</sup> of May (or with a second window in the event of unforeseen circumstances between September 30<sup>th</sup> and November 30<sup>th</sup>), with works required to be completed December 1<sup>st</sup>, 2025.

This document comprises a report to be submitted with the application for a derogation licence concerning the proposed works as regards:

- Explanation as to how the application qualifies under Regulation 54 (2) (a-e) of the Birds and Natural Habitats Directive for a derogation licence.
- Explanation as to why the derogation licence sought is the only available option for works and no suitable alternative exists as per Articles 16(1) of the Habitats Directive.
- Evidence provided that actions permitted by a derogation licence will not be 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 as is required under Section 54(2) of the EU Habitats Directive.

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## **1 Explanation as to how the application qualifies under Regulation 54 (2) (a-e) of the European Communities (Birds and Natural Habitats Regulations) of 2011 (as amended).**

The purpose of this derogation application falls under Regulation 54 (2) (c) of the European Communities (Birds and Natural Habitats) Regulations of 2011 (as amended) - i.e., "*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*".

Once the largest country estates in Ireland, Emo Court was commissioned and built by the earls of Portarlinton and designed by James Gandon. In 1994, President Mary Robinson officially received Emo Court & Parklands from Major Cholmeley-Harrison on behalf of the nation. The estate has been in the care of the OPW for a quarter of a century.

Owing to the nature and age of the structure, and the location of Emo Court adjacent to woodland area and waterbodies, the structure and *environs* provide suitable habitat for a range of bat species. The Basement level of Emo Court contains a known bat roost that is monitored by Bat Conservation Ireland. There are also other bat roosts on site at the Dower House and Toilet Block. The house is surrounded by formal gardens, parklands, a lake and woodland walks.

Historical properties such as those occurring at Emo Court require constant upkeep and maintenance, but some areas of the buildings occurring are in complete disrepair. In June of 2023, a derogation licence (DER-BAT-2023-66) was issued regarding "Builders Fabric Reinstatement Works, Basement Level, Main House. Phase 4", with Timing of Works with a View to Minimising or Negating Any Impacts on Breeding or Dormant Bats. The vast bulk of this work has been completed in compliance with the conditions of the licence. Returns forms and accompanying reports have been submitted in this regard. There have been no significant negative impacts on bats occurring, with the pre-existing environmental conditions stabilised and enhanced in relation to roosting bats.

There are, however, a small number of outstanding works that were not completed under DER BAT 2023 66, and some additional works which have come to light in the *interim*. This report concerns these works. Emo Court has likely been utilised by roosting bats for centuries. The continued use of Emo Court by both humans and bats requires ongoing repair, maintenance and restoration. As such a derogation to undertake the stated works, which will secure the future of this historic building into the future for use by both people and bats, is being applied for under 54(2) (c) of the European Communities (Birds and

Natural Habitats) Regulations 2011 (as amended) "...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...".

The location of Emo Court is illustrated in Figure 1, Figure 2 and Figure 3. An aerial image illustrating the location of Emo Court relative to the *environs* is illustrated in Figure 4.

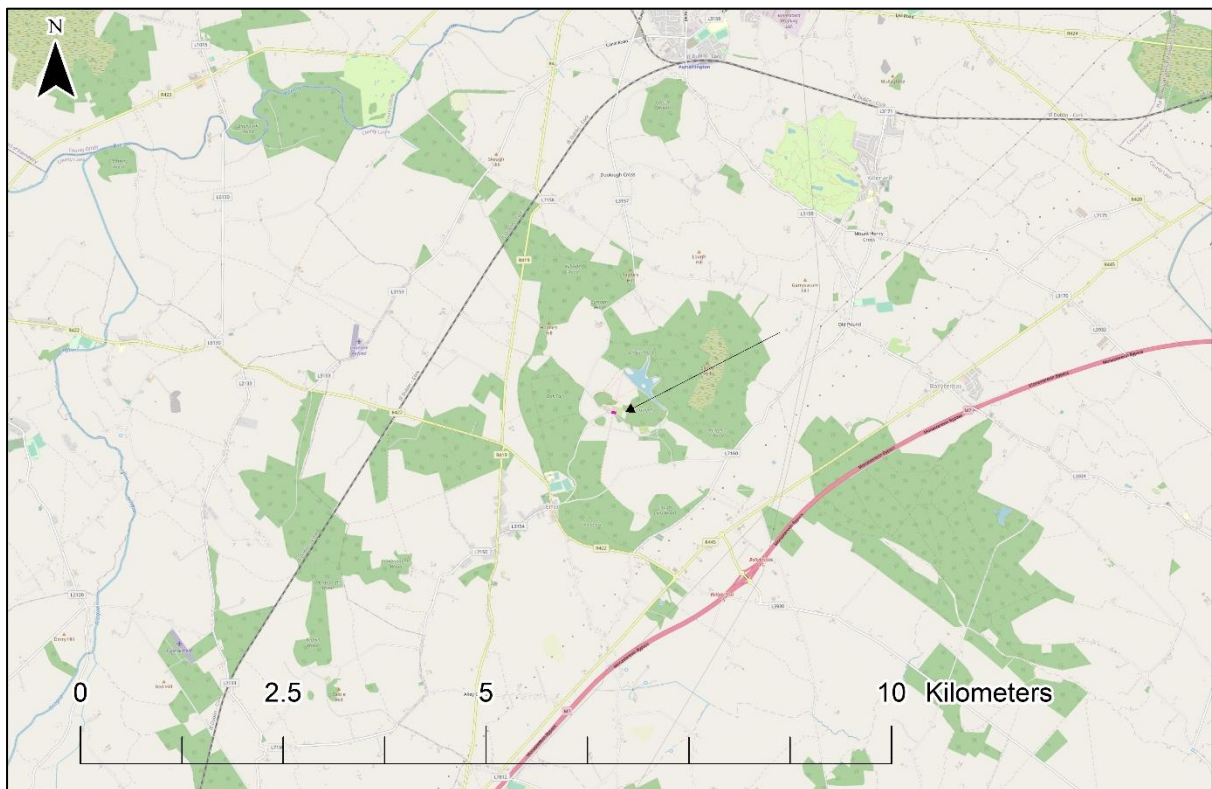


Figure 1: Approximate location of Emo Court (1:50,000)



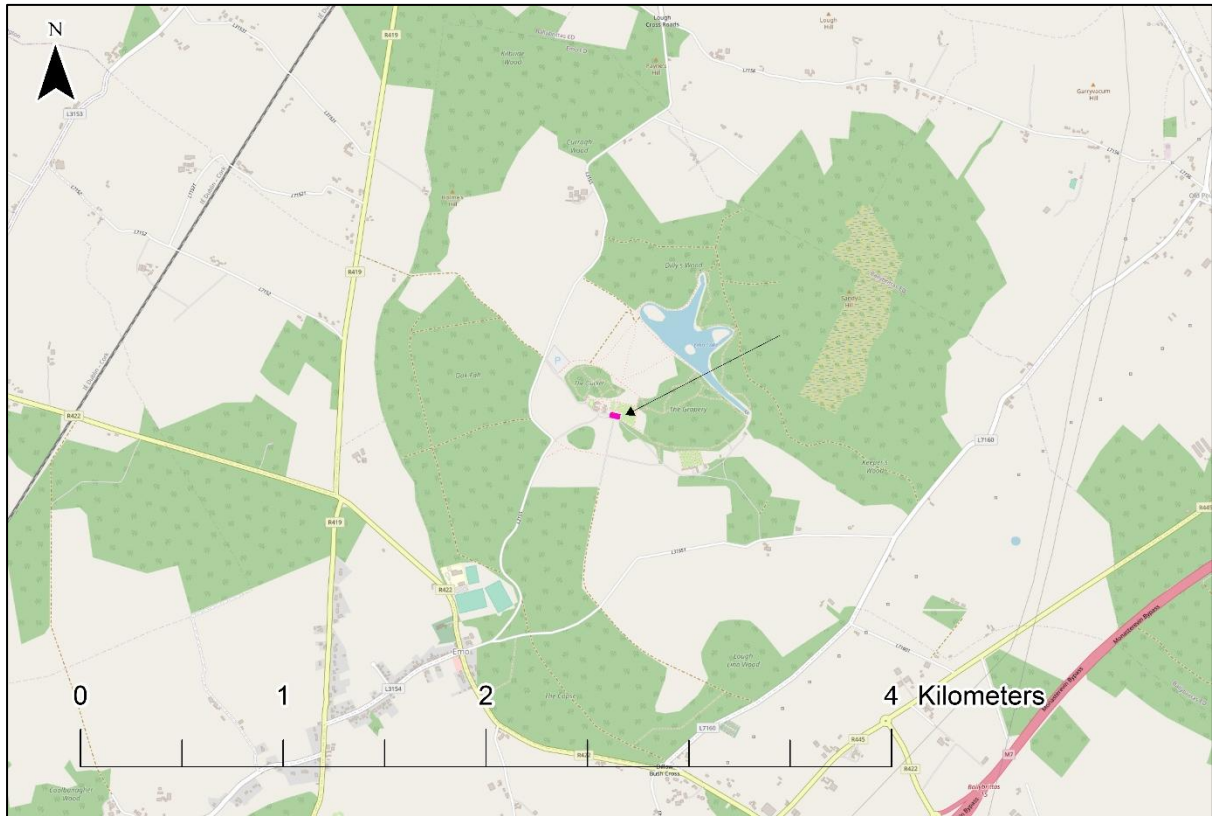
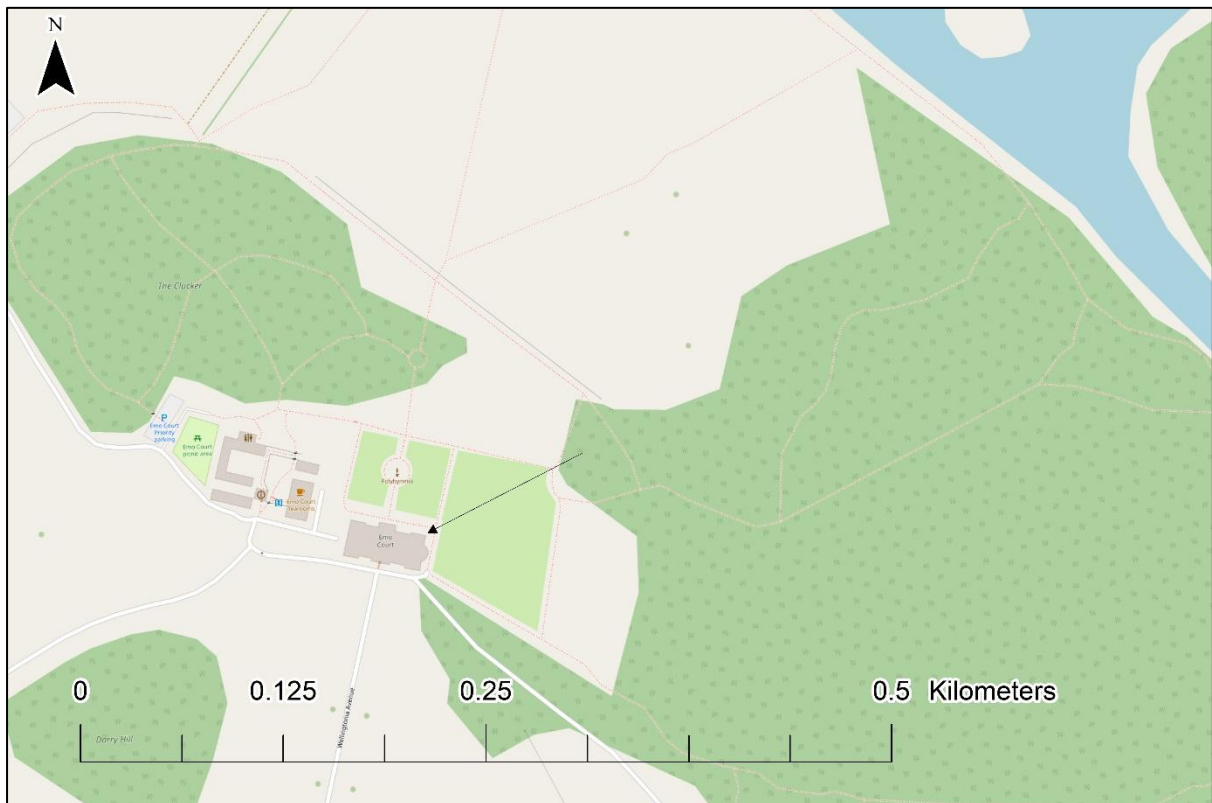


Figure 2: Approximate location of Emo Court (1:20,000)



*Figure 3: Emo Court location (1:2,500)*



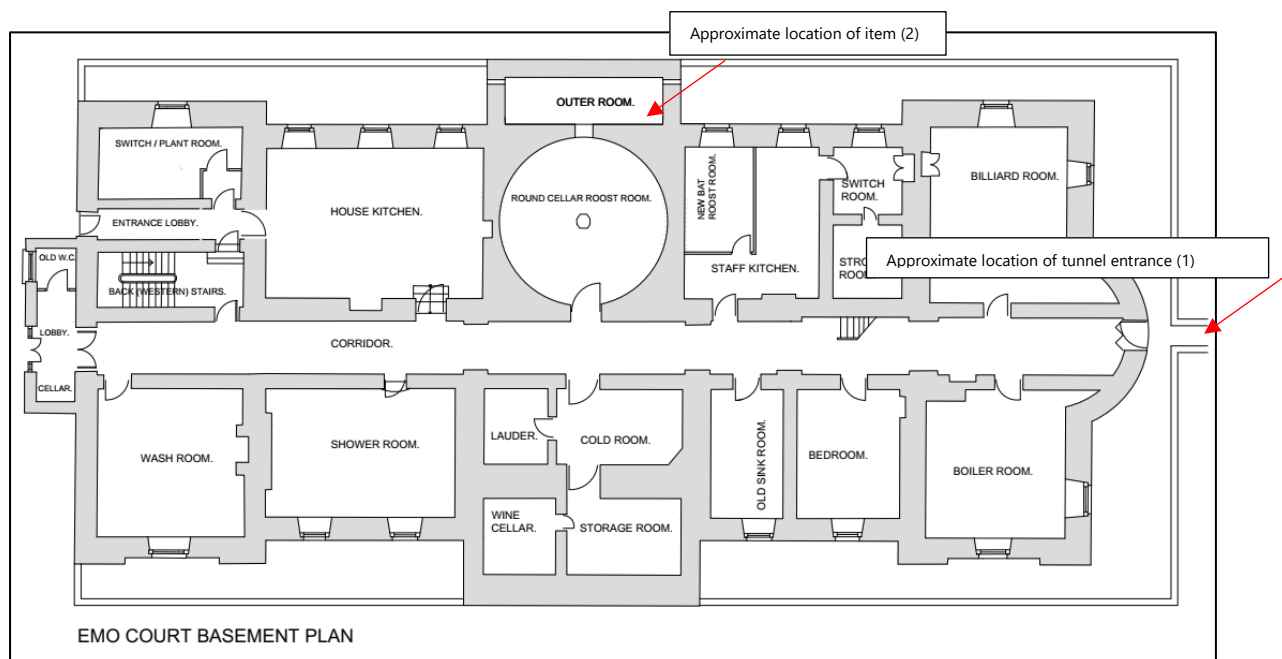
*Figure 4: Emo Court relative to environs*

## 2 Explanation as to why the derogation licence sought is the only available option for works and no suitable alternative exists as per Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations of 2011 (as amended)

The restoration and conservation works are vital to the preservation of the historic structures present at Emo Court. Much of the structure of the main house at Emo Court is in varying states of disrepair, and a programme of works is ongoing to conserve and restore the historic features such as to provide a rich visitor experience and ensure that Emo Court Demesne remains and international tourist destination. It is the aim of the OPW to open the basement level of Emo Court to the Public on March 20<sup>th</sup>, 2025.

There are two aspects of the work under which this derogation is being applied that have the potential impact upon bats:

- (1) Additional Emergency Lighting outside along servant's walkway to extend existing emergency lighting which ends at the tunnel. This lighting will only be activated in the event of an emergency when the tunnel and the walkway extending from it will be usable as an emergency exit. The lighting is controlled from a switch room.
- (2) Repairs to internal downpipe to annex room to the rear of the circular roost room (This was only brought to the attention during monitoring of the Cellar Round Roost Room)



With regards to Item (1), the existing servant tunnel entrance at the side of Emo Court provides the means of emergency exit in the event of a fire, accident, etc. Currently, the emergency lighting

terminates at the tunnel end and there is no lighting of the servant's walkway which extends from the tunnel. During darkness or reduced visibility, emergency lighting (that would only be triggered in the event of an emergency) would be required in order to ensure safe usage of the servant's walkway on exiting via the tunnel. There are records of the tunnel being utilised intermittently by Natter's Bat (*Myotis nattereri*) during the year. Inspections have failed to identify any roosting bats and the tunnel is well pointed, with the only potential roosting sites being around access grates, which are subject to large variations in temperature, being at the surface directly exposed to the elements and made of metal. It is likely that the bats may make use of the tunnel irregularly as a means to travel between the Round Cellar Roost room and adjacent habitat. Images of the tunnel (14/01/25) taken during an inspection during which no indications of roosting bats such as staining, rub-marks, etc were observed are presented in Figure 5. Any disturbance caused by the installation of emergency lighting along the servant's walkway will be transient, limited to the walkway itself (as opposed to the tunnel) and can be mitigated through appropriate timing. Any disturbance caused by the operation of the emergency lighting would be a very rare and transient event and have no significant impact on the local bat population.



**Figure 5: servant's entrance tunnel emergency lighting is in place in the tunnel, but was not extended along the walkway (upper right picture)**

The primary alternative to installing emergency lighting is the "Do Nothing" scenario. In this scenario, the servant's walkway cannot provide a safe emergency exit under conditions of reduced visibility. This would be a health and safety issue which would also impede the planned use of this level as a heritage and educational resource and attraction. The planned use of this level will also ensure that any

maintenance required is observed and undertaken immediately. Given the irregular usage of the tunnel, the lack of any evidence of use by bats as a roost site (there is a significant winters Natterer's bat roost within the Cellar Round Roost room) there will be no negative impact on the local bat population if works are appropriately timed.

Regarding Item (2), the missing downpipe is currently resulting water soaking into a wall associated with the Round Cellar Roost Room, that will impact on the environmental conditions present and may undermine the structural integrity of the wall at basement level. The alternative is the "Do Nothing" situation, which will result in increasing instability of the wall at basement level and may lead to eventual collapse and potentially the destruction of the Round Cellar Roost room. This alternative is not tenable, given that the downpipe can be fixed in a matter of 1 – 2 days, with the works appropriately timed such as to minimise any disturbance of the bats within the Round Cellar Roost room.



**Figure 6: Section of missing down pipe and dampness on wall where pipe requires reinstating**

Having considered the alternatives, the "Do nothing" scenario is not acceptable regarding either Item (1) or Item (2) as the building at Emo Court has a function as both a historic site and as a bat roost.

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The alternative solutions having been considered, the proposed solution is the optimal solution, allowing the preservation and continued use of the structure, while avoiding any impacts on the local bat population.

### **3 Details of any mitigation measures planned for the species affected by the derogation at the location, along with evidence that such mitigation has been successful elsewhere.**

An assessment of bat activity within the cellar Round Roost Room, basement level (basement corridors) and warm roost room were undertaken in December 2024/January 2025 to determine the ongoing success of separation of spaces utilised by bat and people (see attached report). This survey indicated that there was no bat activity observed in either the Basement level corridors, or warm roost room. Assessment of the Cellar Round Roost Room indicated that the three primary species previously recorded – Common Pipistrelle, Natterer’s Bat and Brown Long-eared Bat, continue to utilise the space as a winter roost. During the three-week survey period, the static monitor placed within the round cellar roost room registered a total of 55 bat-related recordings, with Natterer’s bat triggering the vast majority of (43) of recordings. The findings of the 2024/2025 winter season survey would indicate that the Round Cellar Roost Room continues to be utilised by a minimum of three species of bat, with a suggestion that the stabilisation of environmental conditions associated with the works undertaken may have resulted in an increase in the use of the roost by Natterer’s Bat. The primary aim (separation of bats and people to permit use of the basement level while maintaining/enhancing conditions with the Cellar Round Roost Room) of DER BAT 2023-66 has been successfully achieved.

The following site-specific mitigation measures will be implemented:

- The primary mitigation measures to be implemented as regards potential impacts of Item (1) and Item (2) as outlined is the timing of the works. Both the replacement of the missing stretch of down pipe (1 – 2 days) and the installation of emergency lighting (3 – 4 weeks) must be undertaken during the period March 1<sup>st</sup> and May 1<sup>st</sup> in order to mitigate against any potential impact on the bats occurring. A second window between 1<sup>st</sup> October and 30<sup>th</sup> November should also be allowed for in case of unseen circumstances)
- A tool-box talk will be given to all persons working on these two items of work, and an inspection of the tunnel (placement of passive ultrasound monitor for a minimum of one week and an endoscopic examination of any (very limited in number) crevices
- An inspection of the Round Roost Room through the placement of passive ultrasound monitors for 2 weeks prior to works and two weeks post-works will be undertaken, in order to determine bat activity.
- An ongoing monitoring programme at Emo Court should be implemented, monitoring year-round activity at all known roosting sites, in addition to an estate-wide assessment of bat activity in order to identify areas important for foraging/commuting bats and identify unknown roosting sites. This monitoring program should inform bat conservation management for Emo Court Demesne in the context of the ongoing development of the Estate.

In addition to these site-specific mitigation measures, the following general mitigation measures must be employed:

- (1) Should any bats be discovered during works that will be impacted upon, the works will cease, and a suitable ecologist and NPWS will be contacted for instructions on how to proceed;
- (2) All conditions of any Derogation Licence must be complied with;
- (3) Works will be completed within the timeframe as indicated by any Derogation Licence; and
- (4) A returns report must be submitted to NPWS as per any Derogation Licence.



**4 Evidence that actions permitted by a derogation licence will not be 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 as is required under Section 54(2) of the European Communities (Birds and Natural Habitats) Regulations.**

The proposed works for which the derogation is being applied will be timed to mitigate against any significant impacts on the primary bat species occurring (Common Pipistrelle, Natterer's Bat and Brown Long-eared Bat). The appropriate timing of the separation of the Cellar Round Roost Room and exclusion works as previously undertaken in the basement level of Emo Court (as licensed under DER BAT 2023-66) has been demonstrated to have no negative impact on the local bat population. Indeed, the enhancement of the environmental conditions within the Round Cellar Roost Room (for example placement of locked, acoustic and fire-rated doors between the roost room and the main basement), insulation of pipes within the space) through the works permitted under DER BAT 2023-66 appears to have resulted in an increase in the activity within the Round Cellar Roost Room during the surveying period (see attached report of winter surveys).

## **5 Summary of key findings**

Through appropriate timing of works, there will be no negative impact of the proposed works on the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range as is required under Section 54(2) of the European Communities (Birds and Natural Habitats) Regulations.

## **6 Conclusion**

In conclusion, the licence sought, through the mitigation measures prescribed, and guided by NPWS directions, will not be 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 as is required under Section 54(2) of the European Communities (Birds and Natural Habitats) Regulations.