

REPORT CONCERNING APPLICATION FOR DEROGATION REGARDING REMOVAL OF
BUILDING O AT THE MAGAZINE FORT, PHOENIX PARK, CO DUBLIN
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Summary

Under Derogation Licence DER-BAT-2023-28, granted under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended), a package of works has been undertaken at the Magazine Fort, Phoenix Park, Co. Dublin. Returns forms have been submitted with regard to DER-BAT-2023-28. No negative impacts on bats were associated with these works.

One of the primary ecological constraints pertaining to any development at the Magazine Fort site is to ensure that there are no significant negative impacts on the local bat population. This is a key OPW objective in any project as well as recognising that all Irish species of bat are listed in Annex IV of the Habitats Directive and must be strictly protected at all times².

A derelict wooden shed (Building O) requires dismantling and removal from the site in order to permit conservation and restoration works to proceed. This building has been recorded as being used irregularly by small numbers/individual bats. The building does not provide suitable habitat for roosting, and use is likely limited to resting while eating prey (Brown Long-eared Bat were recorded from within the structure in March/April 2025).

Regarding examples of development with potential impacts on bats, the National Guidelines³ 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.

Building O comprises a modern wooden shed in a state of disrepair and requires removal for the site to be made safe. 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. In the absence of the restoration and conservation works, the Magazine Fort, will fall into further disrepair and eventually be lost.

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 – the habitat present does not present conditions suitable for roosting bats. While

²Mullen E, Marnell F and Nelson B (2021). Strict protection of animal species – Guidance for Public Authorities on the Application of Articles 12 and 16 of the EU Habitats Directive to development/works undertaken by, or on behalf of a Public Body. NPWS

³ 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

a small number of bats utilise the structure irregularly, the removal of the structure will have no significant impact on the local bat population. An ecologist will inspect the building prior to the removal of the roof of Building O to ensure that there are no impacts on any bats.

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.

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"*.

These conservation and restoration works are required in order to preserve the historic fabric of the Magazine Fort, which has fallen into disrepair posing a health and safety risk. The works will contribute to a world-class visitor experience at the Magazine Fort. Without the conservation and repair works, the buildings will deteriorate further. The continued existence of the Magazine Fort, which represents a significant historic site, requires ongoing repair, maintenance and restoration.

The dismantling and removal of Building O, a modern delapidated wooden shed, is required as a component of the restoration/conservation works and to make safe the site for future access by the Public. As such a derogation to dismantle and remove Building O 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 Magazine Fort is a Recorded Monument (RMP No. DU018-007019) under the National Monuments Acts 1930 - 2004 (as amended). The Magazine Fort is also a Protected Structure (RPS: 6760) in the Dublin City Council Development Plan 2016-2022. The location of Building O relative to the Magazine Fort is illustrated in Figure 1, Figure 2, Figure 3 and Figure 4.



Figure 1: Approximate location of Magazine Fort (1:25,000)

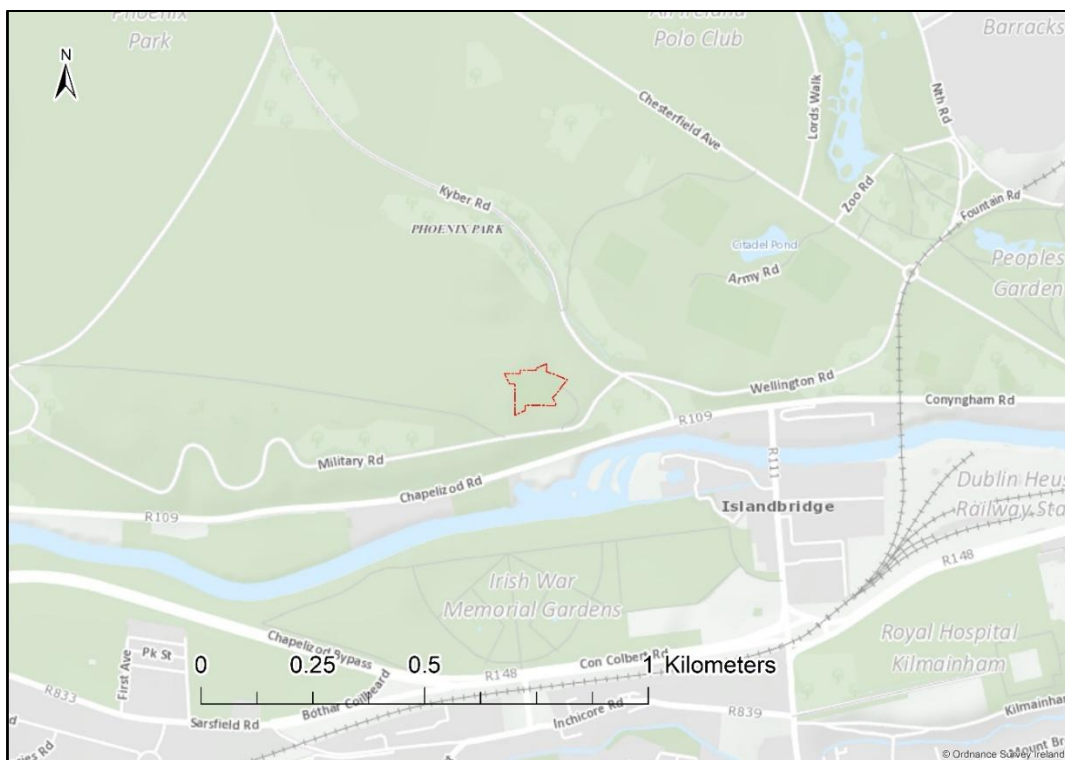


Figure 2: Approximate location of Magazine Fort (1:8,000)



Figure 3: Location of Magazine Fort overlain on satellite imagery with location of Building O indicated(1:2,000)

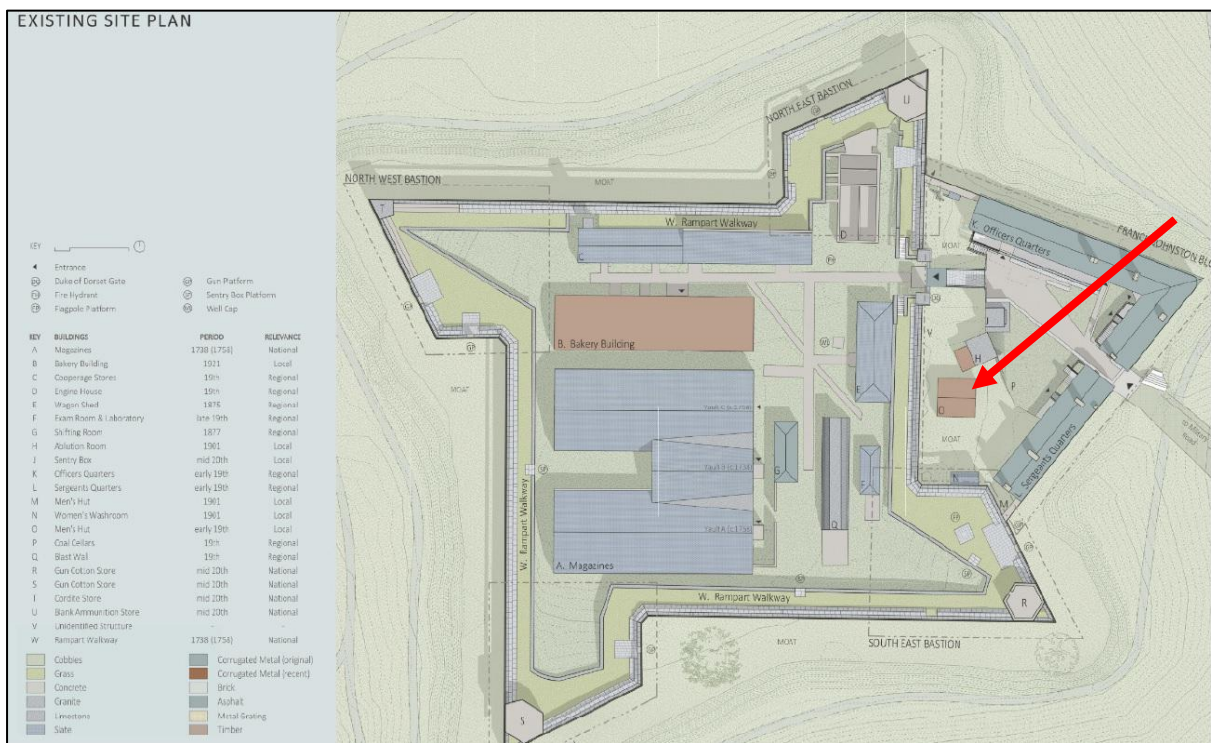


Figure 4: Site plan indicating location of Building O



Figure 5: Exterior of Building O



Figure 6: Interior of building O

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 ongoing restoration and conservation works are vital to the preservation of the historic structures present within the Magazine Fort, a Recorded Monument (RMP No. DU018-007019) under the National Monuments Acts 1930 - 2004 (as amended) and a Protected Structure (RPS: 6760). Many of the buildings are in an advanced state of disrepair and without works will over time disintegrate, resulting in the loss of the historic fabric of the structures. Building O is a modern addition, and is in an advanced state of decay, requiring removal to allow the preservation of historic structures and to permit the area to be safely visited by the public.

The only realistic alternative is the "Do Nothing" scenario. In this scenario, Building O is not removed. Under this scenario, the structure will fall into a further state of disrepair losing structural integrity and collapsing. This structure in its present state hampers the ongoing conservation works owing to health and safety concerns.

Having considered the alternatives, the "Do nothing" scenario is not acceptable as this interferes with the conservation of the Magazine Fort.

The alternative solutions having been considered, the proposed solution is the only viable solution, owing to the nature and state of disrepair of Building O. An aerial image, captured in 2022 indicates the state of repair of Building O.



Figure 7: Aerial view of Building O

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.

While the structure of Building O is not suitable for roosting purposes, the structure was monitored during the period 31/03/25 – 07/04/25 utilising a Pettersson D500X passive ultra sound monitor placed within the structure. On two occasions (01/04/25 and 04/04/25) Brown Long-eared Bat were recorded within the structure – almost certainly while resting to consume prey. Activity levels indicate an individual bat utilising the structure for this purpose.

The Primary mitigation measure will, therefore, comprise of the dismantling of the structure during the day, with the roof removed as quickly as possible, following an inspection by an ecologist to ensure that no bats are present. the work of dismantling Building O will take approximately three days (two weeks including scaffolding and recording).

The following general mitigation measures must be employed:

- (1) Should any bats be discovered in the course of works, the works must 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 (Brown Long-eared Bat). The appropriate inspection and timing of the dismantling of the building will ensure that the actions 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.

5 Summary of key findings

Through appropriate inspection and 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.