Derogation Number
DER-BAT-2025-310

EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS, 2011 (S.I. No 477 of 2011)

DEROGATION

Granted under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011, hereinafter referred to as "the Habitats Regulations".

The Minister for Housing, Local Government & Heritage, in exercise of the powers conferred on him by Regulation 54 of the Habitats Regulations hereby grants to **Charles Markey** c/o **7L Architects, 30 Wicklow Street, Dublin 2, D02 Y037** a derogation. It is stated that this derogation is issued:

A. 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
B. As there is no satisfactory alternative, and the action authorised by this derogation will not be detrimental to the maintenance of the population of **bats** referred to below at a favourable conservation status in their natural range.

This derogation authorises the following:

1. Roost disturbance
2. Actions authorised within the derogation

The derogation is issued in respect of the following **bat species**:

- **Brown Long-Eared Bat Plecotus Auritus**

Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Glaspistol Castle, Glaspistol, Clogherhead, County Louth** for **Charles Markey**
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 (**Bat Derogation Licence Application – Glaspistol Castle**), 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 **10th September – 31st December 2025, inclusive**
6. The works will be supervised by bat ecologist(s): **Aoife Joyce, Saoirse Fistzsimons, Noel Fahey, Ryan Connors, David Culleton.**
7. The pre-commencement bat survey (by ecologist) when scaffolding is in place and the "toolbox talk" for all staff working on site are essential to avoid negative impacts to any roosting bats
8. Bat sensitive vegetation removal (best practice) will also be important to ensure no negative impacts on bats roosting in vegetation.
9. 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.
10. 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.
11. 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.
12. The local **NPWS Conservation Ranger - Jennifer Lynch,** jennifer.lynch@npws.gov.ie (01 53 93348)**,** 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.
13. 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 detailing results of works and success of mitigation. **Both documents must be submitted to constitute a derogation return.**

For the Minister for Housing, Local Government & Heritage

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

10 September 2025

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

Derogation Assessment

Name of Applicant: Charles Markey

Location/Name of Project: Glaspistol Castle, County Louth

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 <u>the applicant claims</u> 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, the applicants are relying on the public health and public safety aspect of Reason C in that the proposed works of Glaspistol Castle are necessary to stabilise and conserve the castle ruins to maintain the site and to prevent any further damage or collapse due to its poor condition. It is noted that the proposed works will also assist in preserving the site listed as a protected structure.

The applicants have provided evidence as to the nature and scale of the public health and public safety reasoning and the proposed activity is necessary to achieve the overall objective. 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 evidence for alternative solutions.
The purpose of the derogation is to allow the following activity to take place: conservation of a protected heritage building, without which, the structure would fall into further decline.
The specific situation that needs to be addressed is: a structural assessment has identified large cracks in the walls along with smaller cracks to structural elements such as lintels which require repair. In the interest of public safety, structural repairs works are required to maintain the site and to prevent and further damage.
The alternative solution suggested by the applicant are:

1. "Do Nothing" scenario: *"There are no alternatives to the structural works. The repair works have been designed with specialist architecture in mind to retain the remainder of the castle ruin and to prevent any further damage. The current structure has been identified, by the project engineers, as presenting a high risk and needs to be repaired. If the works are not carried out, the stability of the structure will be compromised and there is a high risk of further damage occurring, if the building were to collapse it would cause damage to the current roosts on site"* - I agree that the "do nothing" scenario is not an option in this instance. Continued structural damage to the site will result in the loss of available roost sites for bats of all species in future. I am unaware of any other solution which could prevent further damage to the structure.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 10 of the accompanying report Supporting Information – Bat Derogation Licence application – Glaspistol Castle.
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):

Although no bats were found during the most recent survey, this castle has been shown to support low numbers of brown long-eared bat in previous years.
Providing pre-commencement surveys take place, including endoscope surveys of suitable crevices, and that any bats located are moved to safety by a licenced ecologist, then I am satisfied that there should be no significant impact on the conservation status of bats in the area.

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 pre-commencement bat survey (by ecologist) when scaffolding is in place and the "toolbox talk" for all staff working on site are essential to avoid negative impacts to any roosting bats
2. Bat sensitive vegetation removal (best practice) will also be important to ensure no negative impacts on bats roosting in vegetation.
3. CR Jennifer Lynch to be the contact person for derogation

[add additional conditions where required]

Signed: Date: September 10, 2025

Position: Ecologist