Derogation Number
DER-BAT-2025-343

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 **Christina Todd** of **Dublin City Council, Wood Quay Offices, Dublin 8, D08 RF3F** 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 **Red Stables, St. Anne's Park, Mount Prospect Avenue, Clontarf, Dublin 3, D03 X0C3** for **Christina Todd**
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 Application for lift installation and internal refurbishment work at the Red Stables, St. Anne's Park, Raheny / Clontarf)** 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 **31stOctober – 31st December 2025, inclusive.**
6. The works will be supervised by bat ecologist(s): **Brian Keeley**
7. 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.
8. 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.
9. 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.
10. The local **NPWS District Conservation Officer – Paul O'Flaherty,** paul.oflaherty@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.
11. 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.**

For the Minister for Housing, Local Government & Heritage

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

30 October 2025

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

Derogation Assessment

Name of Applicant: Christina Todd

Location/Name of Project: Red Stable, St. Anne's Park

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 it is clear that the applicants are relying on the health and safety aspect of Reason C for the proposed works at the Red Stables Building in St. Anne's Park, Dublin. As outlined in the accompanying report on page 3, the proposed works are essential to facilitate universal access to the first floor, which contain conference and meeting rooms by installing a lift. At present, there is only access by a single stairway to the first floor, restricting individuals with mobility difficulties. The proposed works also include the installation of a fire escape and emergency alarms addressing the health and safety aspect of the access.

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. As the first floor contains a conference / meeting room, at present this can only be accessed by stairs and therefore reducing its use to the community. The proposed works will allow further access to the public.

The applicants have provided evidence as to the nature and scale of the health and safety reasoning and the social and economic reasoning 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 purpose of the derogation is to allow the following activity to take place:

"The works are essential to facilitate universal access and fire escape to and from the first floor of the building. There will be improved access to the upper floor wherein there is a conference room / meeting room that is used by staff and other groups. At present, this can only be accessed by stairs."
*"*This work is also required for Part M compliance."

The specific situation that needs to be addressed is:
"North range, western attic area:

- *Running a very limited number of additional electrical cables through the attic to serve an additional disabled refuge alarm, to be located in the first floor stair lobby at the western end of the north range. Note the 'wall' adjacent to the roosting bats is a rockwool fire barrier, and any cabling can be pushed through. A small hole will need to be made in the ceiling at the western end of this attic area."*

The alternative solutions suggested by the applicant are:
The applicant has not listed any alternatives. The works are required in order to achieve Part M compliance.

1. "Do-Nothing Scenario" fails to achieve compliance under Part M of the Second Schedule to the Building Regulations of 1997.

Alternative 1:

"Alternative times of year

1. *While this avoids summer maternity roosts in buildings where this occurs, this does not make a difference for this roost. A winter commencement may run into the hibernation period and brown long-eared bat individuals may be present at that time. The period proposed is subsequent to births, the young can fly and the bats are gathered within the western area of the building*."

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 12 of the accompanying report: *only one alternative has been discussed by the applicant.*
It is noted that there is no alternative to the proposed works, as they are obliged to achieve compliance with Part M of the Second Schedule of the Building Regulations 1997.
Any possible alternatives concern altering the timing of works, to reduce impacts on bats. The works as proposed, are designed to eliminate any impacts during the period of breeding.

Regional agrees that it is preferable to potentially disturb these bats during post-breeding periods, and that with the mitigations as outlined in the accompanying report, that the risk of disturbance will effectively eliminated.

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)

A small maternity roost of brown long-eared bats is present at one end of the attic space but is removed from the area proposed for lift installation and ancillary works. There is some potential for minimal disturbance but if the mitigation measures that are proposed in the bat report are implemented then there should be no significant impact on the conservation status of the bats on site

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:

[add additional conditions where required]

Signed: .

Date: October 30, 2025

Position: Ecologist