



Bat Habitats Regulation Bill [HL] HL Bill 24 of 2017–19

Summary

The [Bat Habitats Regulation Bill \[HL\]](#) is a private member's bill introduced by Lord Cormack (Conservative). It aims to make provision to enhance the protection available for bat habitats in the vicinity of a building site and to limit the protection for bat habitats in buildings used for public worship. The Bill received its first reading in the House of Lords on 3 July 2017 and is scheduled to receive its second reading on 27 April 2018.

Setting out the purpose of the Bill, Lord Cormack stated:

Bats must be adequately protected and this Bill recognises that. However, some of the finest monumental brasses, other church monuments and wall paintings have been damaged beyond restoration by bat urine and bat faeces in churches in many parts of the country. This is a real danger that has not yet been adequately addressed. It is not just priceless works of art, among the finest in the country, that are at risk. Some churches have to be cleaned on an almost daily basis for services to take place and the stench can often be overpowering. There is also a serious hygiene risk in churches where refreshments are served after services. This Bill would seek to address these problems by making it possible, in carefully defined circumstances, for bats to be removed from church buildings.¹

Background

At present, all bat species and their roosts are legally protected in the United Kingdom. Through the European Union's [Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora](#), also known as the Habitats Directive, all bats are listed as protected species. This Directive is implemented in the United Kingdom by the Conservation of Habitats and Species Regulations 2010. The legislation means it is a criminal offence to: deliberately capture, injure or kill a bat; intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats; damage or destroy a bat roosting place, even if bats are not occupying the roost at the time; possess, advertise, sell or exchange a bat—dead or alive—or any part of a bat; and intentionally or recklessly obstruct access to a bat roost.²

In 2012, the Department for Environment, Food and Rural Affairs (DEFRA) conducted a review into the national implementation of the European Union's Habitats Directive. In its findings, published in March 2012, DEFRA noted that although implementation of the Directive was "working well", it had identified measures to further improve it.³ In relation to bat species, DEFRA stated that it would work alongside Natural England, the Joint Nature Conservation Committee and organisations such as the Bat Conservation Trust, to develop local pilot studies and initiatives by April 2013, with the aim of exploring and developing new ways to improve the monitoring of European Protected Species and supporting better decision-making concerning them.⁴

On 25 June 2013, a debate on bats in churches and the impact of the Habitats Directive took place in the House of Commons. Sir Tony Baldry (then Conservative MP for Banbury), who tabled the debate, highlighted some of the issues encountered by churches, including bat urine and faeces causing damage to monuments and paintings, in addition to the health of those who visit churches. Consequently, Mr Baldry called on the then Government to “come forward with practical proposals” to deal with the issue of bat habitats located in church buildings.⁵ In response, the then Parliamentary Under Secretary of State for Environment, Food and Rural Affairs, Richard Benyon, contended that the Government sought to “find a solution within the framework of the Directive”.⁶ This included ensuring that “unnecessary” costs for churches were not incurred by asking Natural England to provide guidance on the nature of surveys or actions that may be required to prevent impacts on bats and funding research “to find ways to move bats to less sensitive areas of churches”.⁷

In December 2016, the European Commission published a report examining nature legislation in the European Union, including the Habitats Directive. The report noted that the implementation of the Directive had often led to “administrative burdens”.⁸ For example, reporting obligations for species such as bats, were “frequently encountered in the assessment of plans and projects” in the United Kingdom.⁹ Consequently, the European Commission argued in relation to reducing administrative burdens, that there were “opportunities for enhancing efficiency”, by adopting good practices, such as “increased streamlining” of the monitoring and reporting of species.¹⁰

On 5 September 2017, Sir Christopher Chope (Conservative MP for Christchurch) introduced a bill in the House of Commons, entitled the [Bat Habitats Regulation \(No. 2\) Bill 2017–19](#), which also aims to enhance the protection available for bat habitats in the vicinity of a building site and to limit the protection for bat habitats in buildings used for public worship. It is scheduled to have its second reading on 6 July 2018. In the previous parliamentary session, a similar private member’s bill, with the same title, was also introduced by Lord Cormack. The Bill had its first reading on 7 June 2016, and had many similarities to the provisions of the current Bill. However, the Bill did not receive a second reading.

According to the non-governmental organisation, the Bat Conservation Trust, the Bill would be “disastrous” for bat populations due to the provisions removing the protection given to bats where present in places of worship.¹¹ Instead, it calls for solutions such as improving access to churches for specialist support services, which could help and advise churches to “coexist” with bat populations. The Trust also states that “many churches already coexist with bats without problem, or are even proud to help nature conservation”.¹² However, the Cathedral and Church Buildings Division of the Archbishop’s Council argues that, in some cases, bat populations have posed “severe financial and social problems” for churches and their congregations, with bat droppings restricting church activities, damaging historic artefacts, causing hygiene issues and putting a strain on the volunteers who look after church buildings.¹³

In February 2017, the Heritage Lottery Fund approved development stage funding for the five-year [‘Bats in Churches’ partnership project](#), the final stage bid for £3.8 million will be submitted early summer 2018. This has brought together wildlife, heritage and church organisations to save bat populations and protect churches.¹⁴ The project was tasked with: trialling and perfecting new techniques to enable bats and church congregations to live together; building professional expertise and skill to share solutions with hundreds more churches; and bringing church communities and bat enthusiasts together to create a “shared understanding and appreciation” of historic places of worship and the bat population.¹⁵

Overview of the Bill

The Bill is comprised of four clauses. Clause 1, subsection 1 would provide that no new buildings shall be constructed on a previously undeveloped site unless, prior to its construction, a local bat survey has been conducted and it has been established whether or not a bat habitat is located in the vicinity of the proposed building. Clause 1, subsection 2 states that if a survey concluded that a bat habitat is located in the vicinity of a proposed building, the building shall not be occupied unless or until the developer of the building has provided a bat box or artificial roost for each species of bat located in the vicinity. Clause 1, subsection 3 states that the term 'building' would also include wind turbines (therefore, no wind turbines requiring planning permission could be constructed unless there was compliance with the provision in subsections 1 and 2).

Clause 2 would set out that the European Communities Act 1972, the Wildlife Countryside Act 1981 and the provisions of the Conservation of Habitats and Species Regulations 2010 should not apply to bats or bat roosts located inside a building used for public worship, unless it has been established that the presence of such bats or their roosts has no significant adverse impact upon the users of the building.

Clause 3 would require the Secretary of State to specify by statutory instruments: the criteria to be used in a local bat survey; the meaning of terms, such as "in the vicinity of a building site"; who may conduct the local bat survey; and how the costs of a local bat survey would be met.

Lastly, clause 4 contains the commencement provisions, and states that the Act would extend to England and Wales only.

¹ Text provided by Lord Cormack on request from the Library.

² Bat Conservation Trust, '[Bats and the Law](#)', accessed 26 February 2018.

³ HM Government, '[Report of the Habitats and Wild Birds Directives Implementation Review](#)', March 2012, p 13.

⁴ *ibid.*, p 32.

⁵ [HC Hansard, 25 June 2013, col 31WH.](#)

⁶ *ibid.*

⁷ *ibid.*, col 33WH.

⁸ European Commission, '[Commission Staff Working Document: Fitness Check of the EU Nature Legislation \(Birds and Habitats Directives\)](#)', 16 December 2016, p 58.

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ Bat Conservation Trust, '[Bat Habitats Regulation Bill \(HL 2017\)](#)', 3 July 2017.

¹² *ibid.*

¹³ Cathedral and Church Buildings Division of the Archbishop's Council, '[Bats and Churches Project Gets Lottery Funding](#)', 8 February 2017.

¹⁴ Natural England, '[Bats and Churches to Benefit Thanks to National Lottery](#)', 8 February 2017.

¹⁵ *ibid.*

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