



Bats, Development & Planning in England

Specialist Support Series

This note provides basic advice for developers, planning officers and others who come across bat issues in the context of the English planning system. It provides information about where bats live, how they may be affected by development, their legal protection and what should be done to avoid breaking the law. Survey methods and survey timing are also briefly covered. Every case is different, and this information must not be used as a substitute for specialist professional advice. These guidelines have been updated following the publication of Planning Policy Statement 9 (PPS9).

The information provided here is believed to be correct. However, no responsibility can be accepted by the Bat Conservation Trust or any of its partners or officers for any consequences of errors or omissions, nor responsibility for loss occasioned to any person acting or refraining from action as a result of this information and no claims for compensation or damage will be accepted.

Key points

- There are 17 species of bats in England. They and their roosts are protected under UK and European legislation. English Nature (EN) should always be consulted by planning authorities if proposed development affects bats or roosts.
- Local planning authorities are required to take account of the presence of bats as a material consideration when determining planning applications.
- It is advisable for developers to investigate the presence of bats at an early stage in the development process, i.e. at the pre-acquisition or site selection stage. Survey results need to be available to planning officers to enable determination of a planning application.
- If bats are present, plans can sometimes be altered to accommodate bats within the proposal, and work programmed around the bats' lifecycle to minimise disturbance.
- If the development would affect bats or roosts, a Habitats Regulations Licence will need to be applied for from the Department for Environment, Food and Rural Affairs (DEFRA), and suitable mitigation put in place.

Developers should engage the service of an experienced bat consultant with a track record of dealing with bat licensing issues.

Lifecycle of bats

Most bats are colonial and roost in groups or singly in trees, buildings, caves, mines and other structures. Many different sites are used at different times of the year. These can be within the same building/structure or several kilometres apart. They hibernate during winter months to conserve energy. Roost damage or disturbance to bats at this time can affect their survival because they cannot replenish the energy used in "waking up".

In late spring females gather together at a maternity roost to give birth. Damage/disturbance to roosting colonies at this time will also have significant adverse effects on the bat population for that area (especially if it causes the mothers to abandon the roost; the babies will die). By the end of the summer these maternity roosts are generally vacated, with the mothers and juveniles finding alternative roosting places (until they hibernate in late autumn for the winter months).

Bats tend to be faithful to their roosts, and return year after year to both summer and winter roosts; this is why roost sites are protected even if the bats are not there at the time. All roosts are important, and disturbance of bats in their winter or maternity roosts is particularly devastating to the bat population for that area. Bats are found not only in old buildings, trees and rural areas, they regularly roost in new structures in urban areas, even flat-roofed extensions!

Bats and the law

In England bats and their roosts are protected by the law. In summary, it is illegal to kill, injure, or disturb bats, or to damage, disturb or obstruct access to bat roosts because of the following legislation:

- **Wildlife & Countryside Act 1981** provides protection for all bats and their roosts and requires consultation with English Nature (in England) before carrying out activities that might harm or disturb bats and/or their roosts.
- **Countryside & Rights of Way (CROW) Act 2000** adds the word "reckless" to the offence of disturbing a bat or damaging/destroying a place a bat uses for shelter (i.e. a bat roost). This is important legislation because it protects bats and roosts from reckless and/or intentional disturbance/damage.
- **The Conservation (Natural Habitats, Etc.) Regulations 1994 (otherwise known as the Habitats Regulations)**. Under this legislation it is an offence to damage or destroy a breeding site or resting place of any bat, or to deliberately capture, kill or disturb a bat. Most development and maintenance works affecting bats and/or roosts e.g. bridge/tree maintenance works, demolition, barn conversions, works to churches etc, therefore require a Habitats Regulations Licence for work to take place legally. So, in England, before works affecting bats or roosts are undertaken, a Habitats Regulations Licence must be applied for and obtained from DEFRA.

In addition, Planning Policy Statement 9 on Biodiversity and Geological Conservation (and its accompanying Circular and Good Practice Guidelines) needs to be taken into account when considering planning matters.

Bats & the planning system

PPS9 gives direction to local planning authorities and others in their decision-making with respect to biodiversity and land use and development. ODPM Circular 06/2005/Defra Circular 01/2005 that accompanies PPS9 states that the presence of a protected species is a material consideration when considering a development proposal that could harm the species or its habitat.

Where bats' presence is possible, local authorities should consult with English Nature (EN) as a part of the planning process; an assessment to include a bat survey will be needed if bats are likely to be affected. It is the planning authority's job to assess each application to ascertain the most appropriate approach. It may attach conditions to any permission to safeguard protected species and habitats. Conditions may dictate the timing of certain works, management of sites following development, and require a Habitats Regulations Licence to be obtained before work can start.

However, even if conditions are not attached to the planning permission, the law still applies. It is always an offence to intentionally or recklessly disturb a bat (this includes capture and killing), damage, destroy or obstruct access to a breeding site or resting place of any bat. Because of this, property developers must take every effort to safeguard bats and their roosts; remember that a Habitats Regulations licence may be needed if bats or roosts are to be affected.

Care should be taken to safeguard bats' foraging habitats too; if they form part of the essential land-take of development, mitigation measures should be put in place. REMEMBER, undertaking a survey early on in the development processes can save time and money later on.

Surveys prior to planning applications

Expert advice should always be obtained, and surveys undertaken by experienced bat specialists. Surveys that may disturb bats or roosts (e.g. by entering roosts or by handling bats to confirm species identification) will need to be carried out by trained bat specialists who hold a licence to disturb bats; in England this is issued by EN. Surveys to ascertain presence of bats in summer roosts or to identify bat activity patterns should be undertaken between May and September. The seasonal nature of bats (see lifecycle above), and differences between species requirements, should be taken into account when programming survey work and planning applications. Advice on when any development work should commence also requires an understanding of the lifecycle and particular species.

It is advisable to obtain at an early stage information on roosts/bat activity close to the proposed development; contact the local bat group or biological record centre as they may have details about the site.

All areas directly affected by the land-take of a scheme and its immediate surroundings should be surveyed to identify habitats of likely value for bats. Surveys should be undertaken to investigate any known roosts if there is a possibility of impact; all potentially suitable roost sites such as trees and buildings should be recorded and investigated.

Roost sites (and potential roost sites) within the land-take must be monitored by experienced surveyors to confirm their status by determining the season of use, species and number of bats involved.

Bat activity or landscape surveys should be undertaken in areas affected by the development to ascertain, for instance, feeding areas that may be isolated by a scheme. These surveys may also be required where development is proposed within foraging ranges of bats at

nationally/internationally important sites (SSSIs/SACs), even if roosts are not to be directly affected.

What if bats are going to be affected by the development proposal?

This depends upon whether or not the proposal is for alterations to a dwelling house.

If it is a dwelling house, then the planning authority will notify EN about the proposal and any mitigation measures; EN will advise as to whether the proposal should be carried out, and may require further mitigation and specify timing of the works.

If the proposal would affect structures other than a dwelling house, then a bat specialist, on behalf of the developer, should apply for a Habitats Regulations licence to DEFRA. The application will include mitigation measures and monitoring that will continue after the development is completed. The licence normally takes around 30 working days to be considered by DEFRA, and work must not start unless/until the Habitats Regulations licence is granted.

What if bats are found only after development has started?

Work must cease and EN must be contacted immediately. EN's advice must be followed.

How do I commission a bat survey?

The Institute of Ecology and Environmental Management (IEEM) produces a list of consultants. As not all are experienced in bat matters, you need to ask about his/her past experience. Local bat groups may have knowledge of bat specialists who undertake consultancy in their area, as may the Bat Conservation Trust (BCT). BCT has a list of bat group contacts throughout the country.

REMEMBER that English Nature will need to be consulted if bats or their roosts are likely to be affected by any proposal and a licence may need to be obtained from DEFRA.

Contacts

DEFRA, National Wildlife Management Team, EPS Licensing, RDS, Burghill Road, Bristol, BS10 6NJ
Tel 0845 601 4523

English Nature, Northminster House, Peterborough, PE1 1UA
Tel 01733 455000

IEEM, 45 Southgate Street, Winchester SO23 9EH
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