

# **BATS, DEVELOPMENT and PLANNING in England**



*These guidelines have been produced as an interim measure. A more detailed version is due to be produced as an English Nature publication when PPG9 has been reviewed.*

(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 for damage or negligence will be accepted.)

**This note provides basic advice on bats for developers 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 when surveys should be undertaken are also briefly covered. Every case is different, and this information must not be used as a substitute for specialist professional advice.**

## **KEY POINTS**

- There are 16 species of bat 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 as early a stage as possible in the development process, preferably at the pre-acquisition or site selection stage, and definitely at the pre-planning application stage.
- If bats are present, plans may need to be redrawn to show how bats can be accommodated within the proposal, and work may have to be programmed around the bats' lifecycle to minimise disturbance.
- If the development would affect bats or roosts, a Licence may be required, issued by Department of Environment, Food & Rural Affairs (DEFRA), and suitable mitigation put in place.
- Developers should engage the services 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 might 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.

Bats tend to be faithful to their roosts, and return year after year to both winter and summer 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 roost 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.*

## **BATS AND THE LAW**

In England bats and their roosts are protected by law. *In summary, it is illegal to kill, injure, or disturb bats, obstruct access to bat roosts, or damage or disturb 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 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 or rest (ie, a bat roost). This is important legislation because it protects bats and roosts from reckless and/or intentional disturbance/damage.
- **The Conservation (Natural Habitats, &c.) 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 eg bridge/tree maintenance works, any demolition, barn conversions, works to churches etc, therefore require a Habitats Regulations Licence. So, in England, before works affecting bats or roosts is undertaken, a Habitats Regulations Licence must be applied for and obtained from the Dept of Environment, Food and Rural Affairs.

In addition, Planning Policy Guidance Note 9 on Nature Conservation needs to be taken account of when considering planning matters.

## **BATS AND THE PLANNING SYSTEM**

PPG9 gives direction to local planning authorities and others in their decision-making with respect to land use and development. PPG9 states that the

presence of a protected species is a “material consideration in considering a development proposal”. Where bats’ presence is possible local authorities should consult with EN as 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 or sometimes even refuse 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 where 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 or destroy a breeding site or resting place of any bat.** Because of this, developers must make every effort to safeguard bats and their roosts. Care should be taken to safeguard bats’ foraging habitats too, and if they form part of the essential land-take of a development, mitigation measures should be put in place. *REMEMBER, undertaking a survey early on in the development process 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 (eg by entering roosts or by handling bats to confirm species identification) will need to be carried out by holders of a Scientific Licence issued by EN. Surveys to ascertain presence of bats in summer roosts or to identify bat activity patterns must be undertaken between May and September. The seasonal nature of bats (see lifecycle above) should be taken into account when programming survey work and planning applications.

It is advisable to collect 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 also be undertaken to investigate any known roosts if there is any possibility of impact; all potentially suitable roost sites such as trees and buildings should be recorded and investigated.

Roost sites within the land-take identified as likely to contain bats 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 also 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) whether roosts are directly affected or not.

**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, must apply for a Habitats Regulations Licence to DEFRA. The application will have to include mitigation measures and monitoring that will continue after the development is completed. The Licence normally takes at least 28 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 in order that the law is not broken.

**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). The BCT has a list of bat group contacts throughout the country, who may be able to help with surveys.

**REMEMBER – if bats or their roosts are likely to be affected by any proposal, either consult EN or obtain a Licence from DEFRA.**

#### Contacts:-

DEFRA, European Wildlife Division, Zone 1/08, Kite Wing, Temple Quay House, 2 The Square, Bristol BS1 6EB Tel 0117 372 8182

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

IEEM, 45 Southgate Street, Winchester SO23 9EH Tel 01962 868626

**The Bat Conservation Trust, 15 Cloisters House,  
8 Battersea Park Road, London, SW8 4BG  
Tel 0207 627 2629  
(Or Lo-call 0845 1 300 228)  
[www.bats.org.uk](http://www.bats.org.uk)**

The BCT is the only national organisation solely devoted to the conservation of bats and their habitats. Write for an information pack and membership details.

**BCT is grateful to Southampton City Council for funding the printing of this leaflet.**