



Bats and the Law

An overview for planning, building and maintenance works

Bats and their roosts are legally protected. In most cases works can take place as long as you plan ahead and follow certain rules.

The Law and Bats

Due to the decline in bat populations in the last century legislation protects all bats and their roosts in the UK. You should always seek advice, www.bats.org.uk, **Bat Helpline 0345 1300 228** if any work you undertake could:

- Disturb a bat or groups of bats in their roost
- Damage or destroy a bat roosting place, even if there are no bats present at the time
- Obstruct access to a bat roost

It is also illegal to capture, injure or kill a bat or possess, advertise, sell or exchange a bat, or part of a bat dead or alive.

Who is the legislation relevant to?

Everybody, but in particular

- Builders
- Roofers
- Property owners/householders who have a bat roost in their property
- Woodland owners, arboriculturalists and foresters
- Planning officers and building surveyors
- Architects
- Demolition companies
- Property developers

Which legislation applies to bats and their roosts?

In England and Wales, the key legislation is the Wildlife and Countryside Act (1981) (as amended) and the Conservation of Habitats and Species Regulations (2010).

In Scotland, the key legislation that applies is the Conservation (Natural Habitats &c.) Regulations 1994 (as amended).

In Northern Ireland bats are listed under Schedule 2 of the Conservation (Natural Habitats etc) Regulations (Northern Ireland) 1995 and in the Republic of Ireland, under Schedule 5 of the Wildlife Act 1976 and Schedule 1 of the European Communities (Natural Habitats) Regulations 1997.

Defences include:

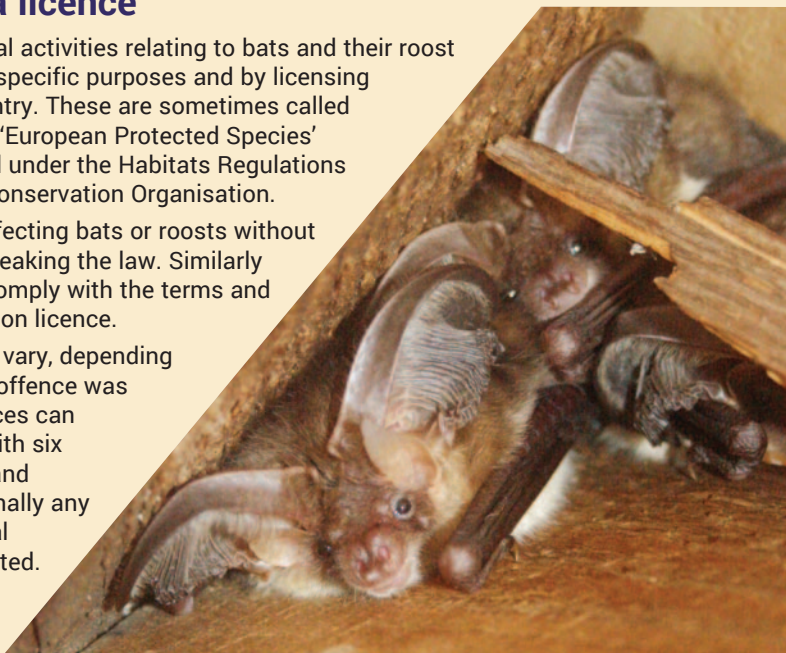
1. Tending/caring for a bat solely for the purpose of restoring it to health and subsequent release.
2. Mercy killing where there is no reasonable hope of recovery (provided that person did not cause the injury in the first place, in which case the illegal act has already taken place).

For work affecting bats or their roosts you may need a licence

Licences to permit illegal activities relating to bats and their roost sites can be issued for specific purposes and by licensing authorities in each country. These are sometimes called 'derogation licences' or 'European Protected Species' licences, and are issued under the Habitats Regulations by a Statutory Nature Conservation Organisation.

If you carry out work affecting bats or roosts without a licence you may be breaking the law. Similarly it is an offence not to comply with the terms and conditions of a derogation licence.

Penalties on conviction vary, depending on where in the UK the offence was committed. Such offences can however be punished with six months imprisonment and unlimited fines. Additionally any profit arising from illegal activity can be confiscated.



Planning and Development

The conservation of bats within the built environment during development is reliant on the delivery of a number of factors;

- the appropriate management and protection of existing roosts and foraging/commuting habitat;
- the provision of new roosting opportunities;
- the provision of new foraging and commuting opportunities; and
- sensitive lighting regimes to keep bat habitats dark.

For these to be delivered, **development proposals must have as much information as possible before applications are submitted for planning permission.**

Legal protection in the planning process

Legislation dictates that any structures which bats use for shelter or protection are protected from damage or destruction whether occupied or not. This legislation has been incorporated into planning policies. This means that planning authorities have a legal obligation to consider whether bats are likely to be affected by a proposed development.

How does this relate to day-to-day planning?

- Where planners have reason to think that development may impact on bats they should ask for information to be provided that allows them to decide the extent of any impact:
 - The authority should request that the developers commission an appropriate survey where there is a reasonable likelihood of bats being present.
 - Local authorities should not consider the application until sufficient information on bats is available to them.
- If a bat survey demonstrates that development is likely to affect bat foraging and/or commuting habitat:
 - Linear features such as tree lines should be retained, and compensatory planting should be considered wherever possible.
- If a bat survey demonstrates that bats and/or a known roost are likely to be affected by the proposed development and planning permission is to be granted:
 - A condition should be placed on the decision notice requiring the developer to apply for, and obtain, a European Protected Species Licence before work commences.

Steps to follow if bats are suspected at a building or development site

- 1 Contract an ecological consultant to:
 - (a) undertake bat surveys following best practice;
 - (b) compile a mitigation plan or method statement if bats are present; and
 - (c) determine whether a European Protected Species licence is required if bats are present.
- 2 Apply for planning permission, submitting the bat survey report and mitigation plan or method statement.
- 3 After gaining planning permission, apply for a European Protected Species licence with assistance from your ecological consultant.
- 4 Carry out works according to the mitigation plan, method statement and/or licence, which may include specific timings, ecological consultant watching briefs during work and the provision of roosting, foraging and commuting habitats and a sensitive lighting regime.
- 5 Plan for a compliance check visit from your ecological consultant to confirm the mitigation plan has been implemented and sign off the licence.
- 6 Plan for monitoring visits from your ecological consultant to monitor uptake of mitigation by bats and submit reports to the relevant Local Planning Authority and/or licensing body.

Please consult the **Bat Helpline 0345 1300 228** if you have any questions about this process. A list of ecologists, searchable by area and services provided, can be found at <http://www.cieem.net/members-directory>



What should you do if you know of a roost or habitat that is under threat from development?

Contact the local planning authority to find out whether a bat survey has been carried out as part of the planning application. Bat survey information can be obtained by phone or by letter; alternatively this information is usually available on the planning pages of the council's website.

The planning authorities have a duty to have regard to bats in all that they do. There is also government guidance indicating that planning authorities should be sure that they have all the information on the presence of protected species on site before they make a decision on the planning application.

If a survey has not been carried out on a proposed development site and you are aware of bats using the site you should at the earliest opportunity inform the local planning authority who should then seek further information from the developers. You are also entitled to see the bat survey under the Freedom of Information Act. Most councils openly provide this information on their websites in the planning section.

If you think the survey work is inadequate (bat survey guidelines can be found on our website) then you can raise your concerns in writing to the council. If bats are found to be roosting on the site, and planning permission is granted, the developer may have to apply for a European Protected Species Licence, which will state certain conditions, e.g. timing, ecologist watching briefs for works and provision of roosting/foraging/commuting habitat for the future.

If you have direct evidence that bats are roosting in a building or tree on the site (seen them emerging from buildings or trees) and unlicensed work is being undertaken, then a crime may be being committed. Such evidence can be reported to the police.

What should you do if you suspect a roost is being damaged or bats are being disturbed?

The damage or destruction of roosts in any circumstance is a criminal offence. Obstruction of access and disturbance of bats will be a criminal offence if the person responsible is aware of the consequences of their actions.

If you know of a location where either of these are happening, you should:

- **Contact the police.** In an emergency you should dial 999, otherwise the Police can be contacted by phoning 101. Explain that you think a wildlife crime is being committed. The Police have access to advice on investigating wildlife crime on their internal POLKA website. Ensure you get a reference number and then let the Bat Conservation Trust know about the incident by emailing investigations@bats.org.uk
- **Contact the Bat Helpline: 0345 1300 228**

We are able to assist the police, batworkers, members of the public and professionals by giving advice and information about bats, roosts and the legislation. Please contact the Bat Conservation Trust for further information about our Bat Crime Investigations work.

Contacts

Bat Conservation Trust,
Studio 15, Cloisters House, Cloisters Business Centre,
8 Battersea Park Road, London SW8 4BG.

www.bats.org.uk

enquiries@bats.org.uk

For details of your local bat group visit **www.bats.org.uk/batgroups**

Statutory Nature Conservation Organisations (SNCOs):

Natural England

0300 060 3900

enquiries@naturalengland.org.uk

Natural Resources Wales

0300 065 3000

enquiries@naturalresourceswales.gov.uk

Scottish Natural Heritage

01463 725000

Refer to www.snh.org.uk
for email contacts

Northern Ireland Environment Agency

0300 200 7856

nieainfo@doeni.gov.uk

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