

**Bats, Badgers, Birds,
Biodiversity and Buildings:
Protected Species and the law**

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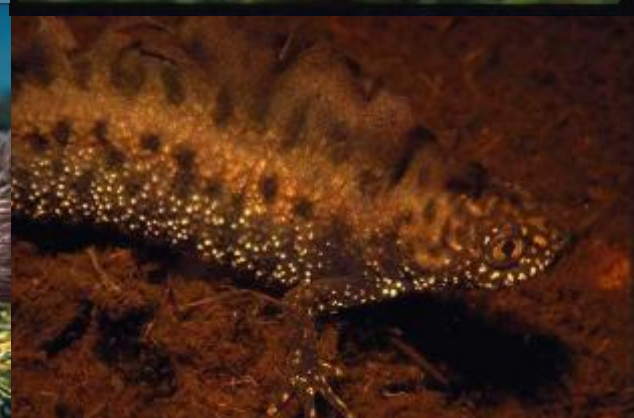
Buildings, biodiversity and the law

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- What is a protected species?
- How are they protected?
- The usual suspects in houses and development
- Best practice, mitigation and licensing

Protected species in Scotland



How are they protected?

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Scottish Wildlife is protected under 3 main pieces of legislation:

- The Protection of Badgers Act 1992
- The Wildlife and Countryside Act 1981
- The Conservation (Natural Habitats &c.) Regulations 1994

Licensing – why and what for?

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- To permit actions that would otherwise be against the law
- Issued to a specified person or persons
- Issued either by SNH or SE
- Are subject to special conditions
- Can only be issued for specific purposes

The biodiversity duty

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Nature Conservation (Scotland) Act 2004

For public bodies and office holders

A requirement to take positive action to further the conservation of the diversity, richness and extent of the natural world

Biodiversity and Building

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When can potential conflicts of interest occur?

- When development is proposed
- When protected species are already present in a building

Badgers, building and development

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- Relatively widespread
- Social; family groups or clans
- Nocturnal, omnivorous
- Variety of sett types
- Wide range of habitats: woodland, farmland, upland, urban

The Protection of Badgers Act 1992

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Protects badgers against:

- Taking, injuring or killing
- Cruelty
- Interfering with a badger sett
- Selling and possession
- Marking and ringing

When is a Development Licence Needed?

(or, what constitutes interfering with a badger sett?)

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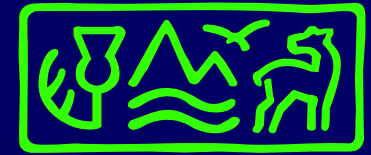


- When the sett could be directly affected
- When actions could disturb badgers within the sett
- General assumption that licence required for activities within 30 metres of a sett (although can be greater)

Note: Development licences cannot be issued to permit killing of badgers or catching/taking badgers

Badgers and development proposals

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Things to consider

- Are badgers likely to be present? (Desk survey)
- If so, site survey required
- Are badgers likely to be affected?
- Prepare Badger Protection Plan
- What will be the impact of the development?
- How can this be minimised/mitigated for?
- Is a licence required?
- Ensure that planning and licensing correspond (a licence will generally only be issued once planning permission has been granted)

Badger Mitigation

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- 9 or 10 species in Scotland
- Historic population declines
- Receive increased protection
- Life cycle: Roosts and hibernacula
- Often use houses as roosts

Bats

(European Protected Species)



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It is an offence to:

- **Deliberately or recklessly capture, injure or kill**
- **Deliberately or recklessly to disturb**
- **Damage or destroy a breeding site or resting place**
- **Deliberately or recklessly obstruct access to any place used for shelter or protection**

But.....

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Exceptions, i.e. 'it's not an offence if.....

- The act was the incidental result of an otherwise lawful operation that couldn't reasonably have been avoided
- If you 'disturb' a bat by removing it from the living space of a house
- If you disturb bats or damage or destroy a roost in a house as long as you had notified and received advice from SNH first.
- You have a licence from SNH or the Scottish Executive

Bats and Development Proposals

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Could the proposals disturb, injure or kill bats or damage or destroy a roost?

If so, the Planning Authority has to ask the following three questions....

- Is there a licensable purpose for the proposal?
- Is there a satisfactory alternative?
- Will the proposals impact on the favourable conservation status of the species in question?

...then a licence must be sought from the Scottish Executive

Incorporating bats into development

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- Retention of existing roosts where possible
- Incorporation of artificial roosts
- Bat Boxes
- Maintaining and creating foraging habitat and links



Bats in Houses

If you have bats in your house....

- Most people unaware that they are living with bats
- Benign – not destructive like rats/mice
- Does not mean that you cannot do anything
- If you need to disturb bats or damage, destroy or obstruct access to a roost in a house, you must inform the local SNH office and allowed time for them to advise
- Innovative solutions to problems can almost always be found.



Birds and Buildings



- All wild birds are protected
- Also eggs and young
- Nests protected whilst in use*
- Cannot obstruct access to a nest
- Some species receive greater protection

*Most species

Birds and Buildings



- No licence is available for development purposes
- General licences for pest species and for threats to health and safety
- Plan in advance
- Consider timing of works
- Mitigation for nest sites and foraging
- Bird friendly building design



Other species

- Pine martens in woodlands and in houses
- Water voles in ditches, burns and canals
- Otters near watercourses and the coast
- Red squirrels in woodlands
- Great crested newts in and near standing water
- Wildcat in woodlands
- Bluebells in woodlands
- Invasive plants e.g. Japanese knotweed



Consequences and how to avoid them

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- Potentially large fines and custodial sentences if offences occur
- If you think protected species may be present, get a survey
- Ask for advice
- Make sure you get a good consultant
- Think ahead

Useful contacts and information:

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SNH – www.snh.org.uk E-mail – Licensing@snh.gov.uk

Scottish Executive: Landscape and Habitats Unit -
<http://www.scotland.gov.uk/Topics/Environment/Wildlife-Habitats>

Bat Conservation Trust – www.bats.org.uk

Scottish Badgers - <http://www.scottishbadgers.org.uk>

Institute of Ecology and Environmental Management -
<http://www.ieem.org.uk>

Thank you