Badgers, Bats and Beavers

Farming with protected wildlife

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Practical Guide

Farming and land management can impact on wildlife species that have legal protection, including the places where they live. This practical guide outlines the implications for farmers of this protection for three of the key species. It provides information about the situations where farmers need to be aware of the law and the licensing process that allows activities to be safely carried out without risk of breaking the law.

BADGERS

The Protection of Badgers Act 1992 not only protects the animals themselves, but also their setts (burrows). It is an offence to intentionally or recklessly damage, disturb or destroy any part of a badger sett or to obstruct access to a badger sett.

The legislation defines a sett as any structure or place which displays signs indicating current use by a badger. In practice, there are different types of sett: main setts are usually large, permanently occupied, with multiple entrances and used for breeding; annex setts are usually close to a main sett and linked to it by paths, with several entrances; subsidiary setts generally have fewer than five entrance holes and are some distance from a main sett; outlying setts usually have one or two entrances. Annex, subsidiary and outlying setts often show varying levels of activity and subsidiary and outlying setts may be unoccupied for periods of time.

Why might I need a badger licence?

Any work that risks damaging, disturbing or obstructing access to a badger sett is likely to require a license to be carried out legally. This could include development work such as building work, footpath or road construction, as well as tree felling, but can also include routine agricultural activities such as cultivation and harvesting of crops or fencing.

The law doesn't specify how far away such activities would have to be to disturb a sett, but guidance from Scottish Natural Heritage (SNH) suggests that activities within 30 metres of a sett have potential to cause disturbance and may require a license to ensure compliance with the law. This means that a licence may be required to cultivate or harvest a field where a badger sett is within 30 metres of the edge of the field. In most cases where the field has been regularly cultivated in the past it is likely that such a licence would be readily issued, unless there are particular site-specific concerns, although it would need to be renewed on an annual basis. Likewise, licences to remove single outlying sett entrances that have appeared in cultivated fields are likely to be approved easily in most cases. At the other end of the scale, licensed removal of a large main sett is only likely to be acceptable as a last resort if no other options exist and will usually require the provision of a new artificial sett nearby. That type of situation is most likely in large developments such as road construction and is unlikely to occur in most farm management situations.

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What types of conditions apply to badger licences?

Site-specific badger licences can be issued for individual sites or, alternatively, a licensed badger ecologist may be used and their licence may cover the required work without the need for a new licence application (although SNH will still need to be notified that the work is taking place). In any case SNH are likely to require an ecologist to oversee work under a site-specific licence, in all but the most low-impact situations. Licences are generally only permitted for works that will affect setts between 1 July and 30 November, when badgers are not breeding, unless it can be proved that breeding is not taking place. This can clearly cause delays to the proposed activities that are being licensed. It is therefore essential to think ahead and consider badgers (and other protected species) at the earliest possible stage in planning activities that may require a licence.

Most licences will require an initial survey to identify the type of sett, other nearby setts and assess the potential impacts of any proposed works. This will be used to develop a Badger Protection Plan, which will consider alternatives to disturbance or damage, detail how the work will be carried out to minimise any impacts and any other mitigation measures. The Plan may identify 'no works' zones around the sett where no activity may take place and 'restricted works' zones where there are limitations on the timing and frequency of activities. If a sett is to be destroyed under the licence, it is essential that badgers are excluded from the sett prior to destruction taking place. Exclusion will typically involve erecting a badger-proof fence around the sett, with a one-way badger gate leading out of the enclosure. The enclosure must be monitored for at least 14 days to ensure that badgers are no longer using the sett before destruction can take place.

Further details of badger licensing can be found at the following link:

https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/licensing/species-licensing-z-guide/badgers-and-licensing

BATS

All bat species in Scotland are European protected species and receive full protection under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). Under this legislation, it is an offence to damage or destroy a breeding site or resting place (roost) of any wild bat species (whether or not deliberately or recklessly) and it is also an offence to deliberately or recklessly disturb a bat in a roost or obstruct access to a bat roost.

Why might I need a bat survey?

Bat roosts are commonly found in buildings as well as mature trees with holes and cavities. Any refurbishment, redevelopment or removal of buildings and any removal of mature trees will require an assessment of the risk to bats to avoid the risk of falling foul of the law. If the work is subject to planning control, the planning authority is likely to insist on a bat survey or assessment being carried out by a suitably experienced and qualified surveyor. If evidence is found that bats are using the site, any work being carried out will require a European Protected Species licence, issued by Scottish Natural Heritage (SNH).

Most bats require only a small entrance hole to access a building (as small as 15 x 20mm), although this is unlikely to be a limiting factor for many farm buildings. Once inside the structure, bats will usually roost out of sight in small crevices and gaps between roof timbers or in walls, or between layers of building material (e.g. between roof cladding and sarking), although some species prefer an enclosed interior space to fly about in before going outside. Roosts can be used for different purposes: some may be used by individuals or small numbers of bats (particularly males) and may not be used every night; some may be used for mating in late summer/autumn and some may be maternity roosts where females give birth. All are protected by law, but a large maternity roost clearly has a higher conservation value than a transient roost used by one or two bats, and this may affect the ease with which a licence can be granted.

Bats often use different roosts at different times of year: roof structures tend to be used mostly during the summer months, while hibernating bats in the winter time often roost in crevices in thick walls where the temperature does not fluctuate too much.

What does a bat survey involve?

The Bat Conservation Trust has developed detailed guidance for carrying out bat surveys and this sets the standards that the SNH licensing team look for when assessing licence applications and should be followed by anyone carrying out a bat survey.

Planning ahead is essential to avoid delays to development work, as bat surveys may require an activity survey that can only be carried out in the warmer months (May-September). If this window is missed, a delay of up to a year is possible.

Preliminary Ecological Appraisal/ Roost Assessment

The starting point for most bat surveys is an initial assessment of the suitability of a building or tree and will determine if it has negligible, low, moderate or high potential for roosting bats. This will be based on the type of building and surrounding habitats. For example, a simple, modern steel-framed shed, with a single sheet roof in an open, arable landscape or an exposed upland farm may have negligible potential for roosting bats, whereas a large traditional steading with an old timber and slate roof close to mature trees, sheltered pasture and watercourses is more likely to have high potential. This preliminary survey can take place at any time of year.

Presence/Absence Survey

If the preliminary appraisal indicates anything more than a negligible potential for bat roosts, it will be necessary to determine whether bats are present. This is most commonly done by carrying out an emergence/re-entry survey, which involves one or more surveyors monitoring the building to watch for bats emerging at dusk or to watch for bats returning to roost at dawn. These surveys must take place between May and August/September. Usually surveyors will use bat detectors to pick up the bats' ultrasonic calls, which help to identify the species as well as draw attention to any bats as they appear.

The minimum number of survey visits required is related to the roost potential of the structure and is shown in the table below. However, one surveyor will only be able to cover two sides of a simple building, so a single visit is likely to require a minimum of two surveyors or one surveyor coming back over two nights. Larger and more complex buildings may require more surveyors or nights to complete a single visit, and this will obviously have implications for the cost of any survey work.

Bat roost potential	Number of survey visits	Dawn or Dusk
Low	1 visit	Either
Moderate	2 visits (at least 2 weeks apart)	One of each
High	3 visits (each at least 2 weeks apart)	At least one of each

Roost Inspection/Roost Characterisation Survey

If no bats are detected leaving or entering the structure after the required number of visits, then it may not be necessary to carry out any further surveys as there may be reasonable confidence that bats are not present. If bats are detected it is likely to be necessary to gather more information about the roost (its size, location, and the type of roost). This may require detailed external and internal inspection of the building, which has the potential to disturb roosting bats. It is therefore essential that any surveyor carrying out such an inspection has a licence from SNH to do so. This type of inspection survey is also the only way of determining use by hibernating bats if a building is thought to have potential for these.

Licensing for Development

If the completed surveys demonstrate that a bat roost will be affected by proposed development work, a development licence will be required for this to go ahead. Some bat surveyors may hold a Bat Low Impact License (BLIMP), which enables them to supervise low impact development work following a survey, without the need to apply for an individual licence for the specific development. BLIMP licences can only be used in situations where only the two most common species are involved (Common and Soprano Pipistrelle) and where the roosts are not used for breeding or hibernation. In all other cases a site-specific license will need to be applied for.

For all bat development licences (including BLIMPs) a bat protection plan will need to be written, detailing the timing and safe method of working around the roost site and mitigation measures to compensate for any lost roost sites. The plan must also consider any alternatives to the proposed development and why these are not possible. For summer roosts it is likely that development work will have to take place in the winter and vice-versa for hibernation roosts.

Further information about bat surveys and licensing can be found at the following links:

https://www.bats.org.uk/resources/guidance-for-professionals/bat-surveys-for-professional-ecologists-good-practice-guidelines-3rd-edition

https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/licensing/species-licensing-z-guide/bats-and-licensing

BEAVERS

Beavers were an historically native species which has been reintroduced to Scotland in recent years. At present it is a localised species, found in Perthshire, Angus, Stirlingshire and Argyll, but it is likely to spread further in future years. As 'ecosystem engineers', Beavers can deliver significant environmental benefits, such as creation of wetlands, coppicing of trees and shrubs and slowing the flow of water for natural flood management. However, in the wrong places, these activities can cause significant problems for farmers and other land managers. This may include flooding of farmland, burrowing into banks and felling of trees. Typically, flooding problems are most likely to occur in low-lying arable areas next to narrow straightened watercourses and less likely in more natural upland watercourses, particularly if there is a wide margin between the watercourse and farmland.

Legal Protection and Licensing

Beavers became European Protected Species under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). This means that the animals as well as their breeding places and resting sites are legally protected from disturbance, damage and destruction. For Beavers, breeding places and resting sites include lodges (which tend to be obvious) and burrows in the bank of a watercourse. Dams are not breeding or resting places in their own right, but they may be used to raise water levels so that the entrances to lodges and burrows are underwater. Removal or damage to dams may therefore cause damage or disturbance to lodges or burrows (which are often difficult to detect).

SNH have provided clear guidance as to the activities that are likely to require licensing. These include:

- Removing older dams (more than 2 weeks old), notching or installing flow devices to them
- Destroying lodges or chambered burrows
- Trapping and relocating beavers
- Lethal control

Activities that are not usually likely to require a licence include:

- Carrying out ongoing land management activities near lodges, burrows or dams (providing they don't damage those structures) e.g. ploughing a field next to a beaver lodge
- Discouraging dam building e.g. through fencing
- Removing new dams (less than 2 weeks old), notching or installing flow-devices to them.
- Protecting banks from burrowing activity
- Destroying short burrows with no end chamber
- Infilling channels/canals created by beavers
- Fitting protectors to vulnerable trees
- Fencing off areas to keep beavers out e.g. from crops or woodland

Further information about beavers and licensing can be found at the following link:

https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/licensing/species-licensing-z-guide/beavers-and-licensing

For more information contact:
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