

BATS GENERAL ADVICE



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SUMMARY

- There are 17 bat species known to breed in the UK, 16 of which are found in Dorset. All bats in the UK are protected under UK and European Law.
- Bats roost in a variety of places, including - trees, buildings (especially roof spaces), bridges, tunnels and caves.
- If you are planning to carry out any work that may harm or disturb bats or their roosts (e.g. building, alteration or maintenance work, including re-roofing, remedial timber treatment, electrical/plumbing in roofs, insecticide treatments, removal of trees/tree surgery, repair of bridges), regardless of whether bats are in the roost at the time, Natural England should be consulted. A bat survey should also be undertaken **before** any work is carried out and a check made with DERC¹, for any existing bat records.
- If a survey shows that bats are found to be using the structure that is to be removed or worked on (e.g. tree, building, bridge), then a European Protected Species (EPS) licence may be required from Natural England, which may only be issued under closely defined circumstances².
- Even if no evidence of bats are found in a survey, but bats are found whilst undertaking work, at any stage, and even if planning permission has been granted (e.g. if bats were found whilst felling trees to provide space for a housing development), work must be stopped **immediately** and the further advice sought from Natural England or the Natural Environment Team.
- A short series of specific advice notes on bats & trees (2a), bats & bridges (2b) and bats & buildings (2c) are also available.

BACKGROUND

Legal Protection

Bats are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and by EC Directive 92/43/EEC, which is enforced in the UK by the Conservation of Habitats & Species Regulations 2010.

The Wildlife and Countryside 1981 Act states that 'it is an offence to 'intentionally'³ or 'recklessly'⁴ damage or destroy any structure or place which a bat uses for shelter or protection. It is also an offence to intentionally disturb a bat whilst it is occupying such a structure or place and/or obstruct the access or entrance to such a place. However, if there is evidence that a place has been used by a bat, it is protected regardless of whether it is currently occupied or not.

All bat species are cited in Annex IV of the Habitats Regulations 1994, which includes animals and plant species of Community Interest in need of strict protection. Under Regulation 39 of this Act, it is an offence to damage or destroy the breeding place or resting site of a bat⁵, or to deliberately capture, kill or disturb a bat. This can be enforced without the need to prove intent.

In addition, Bats are also listed on Appendix 3 of the Bonn Convention and all species except the Common and Soprano Pipistrelles on Appendix II of the Bern Convention. Two bat species (Lesser &/or Greater Horseshoe Bats) are also cited in Annex II, which includes animals and plant whose conservation requires the designation of Special Areas of Conservation.

Defences

Wildlife & Countryside Act 1981: Section 10(3)(c) – A person is not guilty of an offence under Section 9, if they can show that the act was the incidental result of a lawful operation and could not have been reasonably avoided. This defence has now been removed from the Habitats & Species Regulations 2010.

This means that those carrying out activities that cause low level disturbance may be able to rely on the defence under the Wildlife & Countryside Act 1981 or may decide to obtain a licence. However, it is expected that enforcement action in respect of more serious disturbance would be brought under the Habitats & Species Regulations 2010, where such a defence is longer available.

Then defences for bats in dwelling houses have now been removed.

For further information and advice please contact the Natural Environment Team.

Fines

The maximum penalty for each offence in the Magistrates' Court is a Level 5 (up to £5000) and/or six months imprisonment. In addition, items used to commit the offence (e.g. vehicles) may be forfeited.

Other considerations

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation (2005) states that *'in taking decisions, local planning authorities should ensure that appropriate weight is attached to protected species...'*. Accompanying Circular 08/05 states that 'the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat'. For European protected species further strict provisions apply, to which planning authorities must have regard.

UK Biodiversity Action Plan⁶ (UK BAP): Seven bat species are identified as priority species in the UK BAP. These are: greater horseshoe bat, lesser horseshoe bat, greater mouse-eared bat, bechstein's bat, barbastelle and the common & soprano pipistrelles. In addition, three priority habitats are identified as being of particular importance to bats in the UK BAP. These are: ancient &/or species-rich hedgerows, all woodlands and all wetland habitats.

Hedgerow Regulations 1997: This provides for the conservation of 'important' hedges, including constituent trees, as defined in the Regulations. The presence of a protected species (bats) is relevant and included when assessing whether a hedgerow is important. Application to remove a hedge must be made to the local planning authority under the Hedgerow Regulations. A decision on whether the hedgerow is deemed 'important' will be based on a survey.

Bat Ecology

There are almost 1000 bat species world-wide, many of which are in decline. In the UK there are only 16 breeding species, all of which are found in Dorset. All British bats are small, insectivorous and are dependent on available roost sites (e.g. trees, bridges, caves, buildings etc.) and feeding habitats (e.g. woodland, sunny glades and rides, water features, hedges) (Table 1), which are under constant pressure by increased development and population expansion.

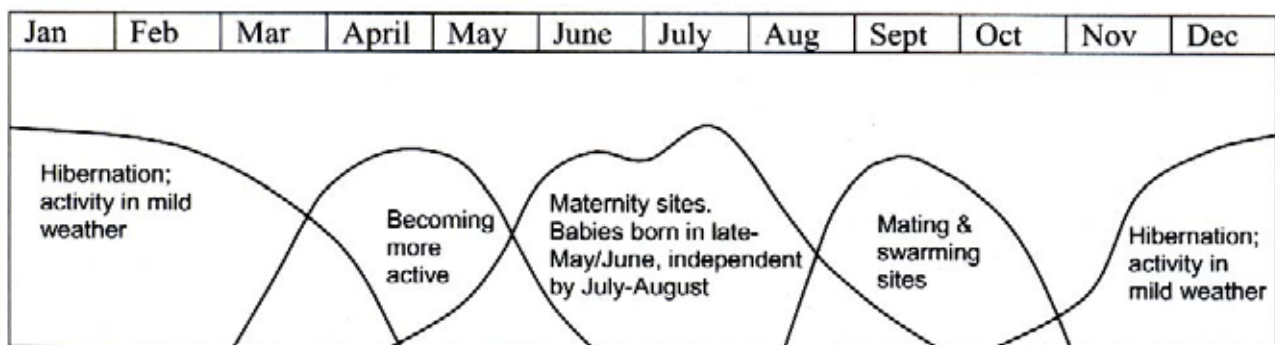
Table 1: Bat Species, status and distribution

Species	Frequency	Distribution	Typical Roosts
Common Pipistrelle	Common	Throughout Britain	Buildings & trees
Soprano Pipistrelle	Common	Throughout Britain	Buildings & trees
Brown long-eared bat	Common	Throughout Britain	Buildings & trees
Lesser horseshoe bat	Local	SW England & Wales	Buildings & underground sites
Serotine	Local	S England	Buildings
Whiskered bat	Uncommon	England & Wales	Trees, buildings & underground sites
Natterer's bat	Uncommon	Throughout Britain	Trees, buildings & underground sites
Daubenton's bat	Uncommon	Throughout Britain	Trees, bridges, buildings & underground sites
Noctule	Uncommon	England & Wales	Trees
Greater horseshoe bat	Rare	SW England & Wales	Buildings & underground sites
Brandt's bat	Rare	England & Wales	Trees, buildings & underground sites
Leisler's bat	Rare	England	Buildings & trees
Barbastelle	Rare	S England	Buildings, underground sites & trees
Bechstein's bat	Very rare	S England	Trees & underground sites
Nathusius' Pipistrelle	Very rare	Throughout Britain	Buildings & trees
Grey long-eared bat	Very rare	S England	Buildings & underground sites

Bats are colonial and roost in groups in trees, buildings, bridges, caves, mines and other structures. Roosts may contain few bats, or they may host several species and many individuals. Different roosts are used at different times of year, as a range of conditions are required for hibernation, mating, and breeding (Table 1). Bats also commute regularly between roosting sites and feeding areas and often use large trees and hedgerows to navigate. A single bat may use as many as thirty different sites throughout just the summer months.

There are a number of stages in the life cycle of a British bat, which are particular to different times of year (Figure 1). As a general guide, bats hibernate from October through to March. From March to May, bats are active and feeding. From May, females form large maternity colonies and give birth to young usually between June and July. From August/September, mothers start to leave the nursery roosts, followed by the young a little later and mating occurs. In October, bats start to look for winter hibernating sites again.

Figure 1: Annual Life Cycle of British Bats



Definitions

¹ Dorset Environmental Records Centre (DERC) - providing data for conservation, ecological and geological work in Dorset. www.derc.org.uk. T: 01305 225081.

² Natural England is the appropriate authority for determining EPS licence applications for works associated with development. Three tests must be satisfied before Natural England can issue a licence under Regulation 44(2) (e) to permit otherwise prohibited acts:

- (i) Regulation 44(2)(e) states that licences may be granted by Natural England “*to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.*”
- (ii) Regulation 44(3) (a) states that a licence may not be granted unless Natural England is satisfied “*that there is a no satisfactory alternative.*”
- (iii) Under Regulation 44(3) (b) a licence cannot be issued unless Natural England is satisfied that the action proposed “*will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*”

³ It will be an ‘intentional’ act if, for example, a contractor continues to cut down a tree, after he/she discovers, or is told that bats roost there.

⁴ It will be a ‘reckless’ act if there is an obvious risk and a person

- recognised the risk and took it anyway, or
- did not consider whether there was a risk

and as a result disturbance or destruction occurred

⁵ A breeding place or resting site of any bat is known as a bat roost. A bat roost is any structure a bat uses for shelter or protection.

⁶ Biodiversity: The UK Action Plan (1994). HMSO. CM 2428.



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