

Guidance

Protected species and development: advice for local planning authorities

How to assess a planning application when there are protected species on or near a proposed development site.

From: [Natural England \(/government/organisations/natural-england\)](#) and
[Department for Environment, Food & Rural Affairs \(/government/organisations/department-for-environment-food-rural-affairs\)](#)

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Applies to England

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See coronavirus guidance on:

- [surveying and mitigation works affecting wildlife](https://www.gov.uk/guidance/coronavirus-covid-19-surveying-and-mitigation-works-affecting-wildlife) (<https://www.gov.uk/guidance/coronavirus-covid-19-surveying-and-mitigation-works-affecting-wildlife>)
- [implications for Natural England's development management advice and wildlife licensing](https://naturalengland.blog.gov.uk/2020/04/22/coronavirus-guidance-on-implications-for-natural-englands-development-management-advice-and-wildlife-licensing/) (<https://naturalengland.blog.gov.uk/2020/04/22/coronavirus-guidance-on-implications-for-natural-englands-development-management-advice-and-wildlife-licensing/>).

Many species of plants and animals in England and often their supporting features and habitats are protected. What you can and cannot do by law varies from species to species.

[Biodiversity duty: public authority duty to have regard to conserving biodiversity](#) ([/guidance/biodiversity-duty-public-authority-duty-to-have-regard-to-conserving-biodiversity](#))

[Protected plants, fungi and lichens: advice for making planning decisions](#) ([/guidance/protected-plants-fungi-and-lichens-advice-for-making-planning-decisions](#))

[European protected species policies for mitigation licences](#) ([/guidance/european-protected-species-policies-for-mitigation-licences](#))

[Freshwater pearl mussels: advice for making planning decisions](#) ([/guidance/freshwater-pearl-mussels-advice-for-making-planning-decisions](#))

[Great crested newts: advice for making planning decisions](#) ([/guidance/great-crested-newts-advice-for-making-planning-decisions](#))

Detailed guidance

Local planning authorities (LPAs) should use this guide to assess whether a planning application would harm or disturb a protected species. It will help you decide if you can give planning permission.

This is Natural England's 'standing advice'. This is general advice that Natural England, as a statutory consultee, gives to LPAs. It:

- avoids the need to consult on every planning application
- helps you make planning decisions on development proposals

You must [consult Natural England \(https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice\)](https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice) if a development proposal:

- might affect a [site of special scientific interest \(SSSI\) \(https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities\)](https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities)
- needs an [environmental impact assessment \(https://www.gov.uk/guidance/environmental-impact-assessment\)](https://www.gov.uk/guidance/environmental-impact-assessment)
- needs an [appropriate assessment \(https://www.gov.uk/guidance/appropriate-assessment\)](https://www.gov.uk/guidance/appropriate-assessment) under the Habitats Regulations

Natural England may:

- object to a planning application if it's [likely to harm a protected species on a SSSI \(https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities\)](https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities)
- give you advice about a protected species affected by a planning proposal or on a specific issue that is not covered by this guidance

You should get advice from a qualified ecologist to help you reach a decision if you need it.

You can find one using either the:

[Planning and transport authorities: get environmental advice on planning \(/guidance/local-planning-authorities-get-environmental-advice\)](/guidance/local-planning-authorities-get-environmental-advice)

[Protected sites and areas: how to review planning applications \(/guidance/protected-sites-and-areas-how-to-review-planning-applications\)](/guidance/protected-sites-and-areas-how-to-review-planning-applications)

[Badgers: advice for making planning decisions \(/guidance/badgers-advice-for-making-planning-decisions\)](/guidance/badgers-advice-for-making-planning-decisions)

[Reptiles: advice for making planning decisions \(/guidance/reptiles-advice-for-making-planning-decisions\)](/guidance/reptiles-advice-for-making-planning-decisions)

[Otters: advice for making planning decisions \(/guidance/otters-advice-for-making-planning-decisions\)](/guidance/otters-advice-for-making-planning-decisions)

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- [Chartered Institute of Ecology and Environment Management \(CIEEM\) directory \(https://events.cieem.net/RegisteredPracticeDirectory/Registered-Practice-Directory.aspx\)](https://events.cieem.net/RegisteredPracticeDirectory/Registered-Practice-Directory.aspx)
- [Environmental Data Services directory \(https://www.endsdirectory.com/\)](https://www.endsdirectory.com/)

There are separate guides for:

- developers to [prepare a planning proposal to avoid harm or disturbance to protected species \(https://www.gov.uk/guidance/prepare-a-planning-proposal-to-avoid-harm-or-disturbance-to-protected-species\)](https://www.gov.uk/guidance/prepare-a-planning-proposal-to-avoid-harm-or-disturbance-to-protected-species)
- the [effect of nationally significant infrastructure projects on protected species \(https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf\)](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf)
- [habitats and species of principal importance in England \(Section 41 list\) \(https://www.gov.uk/government/publications/habitats-and-species-of-principal-importance-in-england\)](https://www.gov.uk/government/publications/habitats-and-species-of-principal-importance-in-england)

The [National Planning Policy Framework \(https://www.gov.uk/government/publications/national-planning-policy-framework-2\)](https://www.gov.uk/government/publications/national-planning-policy-framework-2) explains how you should apply government planning policies to a planning proposal. It sets out the mitigation hierarchy of avoiding adverse effects, mitigating for impacts if this is not possible and, as a last resort, compensating for impacts. Further guidance is set out in the [natural environment planning practice guidance \(https://www.gov.uk/guidance/natural-environment\)](https://www.gov.uk/guidance/natural-environment).

Where to expect protected species

Use Table 1 to see where protected species are likely to be present to assess the chance of a development proposal affecting them.

Table 1. Likely habitat for protected species.

Habitat, building or land	Species to look for
Ancient or veteran trees or those with significant decay features	Bats, breeding birds, dormice
Cellars, ice houses, old mines and caves	Bats
Buildings with features suitable for bats (https://www.gov.uk/guidance/bats-surveys-and-mitigation-for-development-projects) , or large gardens in suburban and rural areas	Bats, breeding birds, badgers, reptiles and great crested newts
Traditional timber-framed building (such as a barn or oast house)	Bats, breeding birds including barn owls
Lakes, rivers and streams (on the land or nearby)	Breeding birds, fish, otters, water voles and white-clawed crayfish
Heathland on, nearby or linked to the site (by similar habitat)	Breeding birds, badgers, dormice, reptiles, invertebrates, natterjack toads and protected plants
Meadows, grassland, parkland and pasture on the land or linked to the site (by similar habitat)	Bats, badgers, breeding birds, great crested newts, invertebrates, reptiles and protected plants
Ponds or slow-flowing water bodies (like ditches) on the site, or within 500m and linked	Breeding birds, fish, great crested newts, water voles,

Habitat, building or land	Species to look for
by semi-natural habitat such as parks or heaths	invertebrates and white-clawed crayfish
Rough grassland and previously developed land (brownfield sites), on or next to the site	Breeding bird, reptiles, invertebrate and protected plants
Woodland, scrub and hedgerows on, or next to the site	Bats, breeding birds, badgers, dormice, invertebrates, great crested newts, reptiles and protected plants
Coastal habitats	Breeding birds, fish, natterjack toads, otters and invertebrates

When to survey

Use Table 2 to check that surveys submitted with planning proposals are carried out at the most appropriate time to survey for the presence of protected species and the purpose of the survey.

Table 2. Survey timetable

Species	When to survey (dependent on weather conditions)
Badgers	Any time of year February to April or October to November for

Species	When to survey (dependent on weather conditions)
	bait marking surveys to establish territories
Bats (preliminary roost assessment)	Any time of year (trees are best surveyed without foliage)
Bats (hibernation roosts)	November to mid-March
Bats (summer roosts)	May to August
Bats (foraging or commuting)	April to October for spring, summer and autumn behaviour
Bats (swarming)	August to October
Birds (breeding)	March to August (species dependent)
Birds (winter behaviour)	October to March
Birds (migration)	March to May, August to November (dependent on species)
Dormice	April to November
Great crested newts	Mid-March to mid-June (Mid-April to end of June for eDNA)
Invertebrates	April to September

Species	When to survey (dependent on weather conditions)
Natterjack toads	April to May (aquatic survey) July to September (terrestrial survey)
Otters	Any time of year
Reptiles	April to mid-October
Water voles	Mid-April to September
White-clawed crayfish	July to September

1. Discuss survey requirements with developers

Before you consider a planning proposal, you should discuss the survey requirements with the developer.

Natural England can advise developers on [survey requirements](https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals) (<https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>).

You can get [expert ecological advice](https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals) (<https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>) to help you decide if a survey is necessary. You can also get best practice survey guidance from professional bodies including [CIEEM](https://cieem.net/) (<https://cieem.net/>), species conservation bodies and the [British Standards Institute](http://www.eoebiodiversity.org/pdfs/BS42020.pdf) (<http://www.eoebiodiversity.org/pdfs/BS42020.pdf>).

You should ask for a survey if:

- there's suitable habitat on the site to support protected species

- it's likely that protected species are present and may be affected by the proposed development
- protected species are present but you're not sure if they'll be affected

[Preliminary ecological appraisals \(https://cieem.net/wp-content/uploads/2019/02/Guidelines-for-Preliminary-Ecological-Appraisal-Jan2018-1.pdf\)](https://cieem.net/wp-content/uploads/2019/02/Guidelines-for-Preliminary-Ecological-Appraisal-Jan2018-1.pdf) are useful for assessing if more detailed species or habitat surveys are required.

You should explain to the developer that they may not need to provide a detailed survey if they are able to show that protected species are unlikely to be affected even if they are on or near a development site. They could demonstrate this by explaining:

- their working methods
- the timing of development
- the life cycle and sensitivity of the specific species

[European protected species \(EPS\)](https://www.gov.uk/government/publications/european-protected-species-apply-for-a-mitigation-licence) (<https://www.gov.uk/government/publications/european-protected-species-apply-for-a-mitigation-licence>) have full protection under The Conservation of Habitats and Species Regulations 2017. It's an offence to deliberately capture, injure or kill, or deliberately disturb EPS. It may be possible to use [licensing policy 4 \(https://www.gov.uk/guidance/european-protected-species-policies-for-mitigation-licences#policy-4-alternative-sources-of-evidence-to-reduce-standard-survey-requirements\)](https://www.gov.uk/guidance/european-protected-species-policies-for-mitigation-licences#policy-4-alternative-sources-of-evidence-to-reduce-standard-survey-requirements) which allows, in certain circumstances, for reduced survey work and worst-case scenario compensation to be proposed.

You should:

- make sure developers use a suitably qualified and licensed ecologist to carry out surveys at the right time of year using appropriate methods

- not decide on planning applications until you have received all the necessary surveys

Planning conditions

You should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the proposal on protected species before you can grant planning permission. You can add an 'informative' note to the planning permission to make it clear that a licence is needed.

In exceptional cases, you may need to attach a planning condition for additional surveys. For instance, to support detailed mitigation proposals or if there will be a delay between granting planning permission and the start of development. In these cases a planning condition should be used to provide additional or updated ecological surveys to make sure that the mitigation is still appropriate. This is important for outline applications or multi-phased developments.

2. Assess the information provided with the planning application

You should check the developer has:

- submitted enough information for you to fully consider the effect on protected species and their habitats
- as far as possible, planned to avoid harm or disturbance to protected species and their habitats with the location, layout, design and timing of the development

If the information is not adequate you should ask for further information, such as further surveys or mitigation measures.

You can refuse planning permission if surveys:

- are carried out at the wrong time of year
- are not up to date
- do not follow standard survey guidelines without appropriate justification
- do not provide enough evidence to assess the likely negative effects on protected species

3. Agree avoidance, mitigation or compensation measures

You'll need to agree to any avoidance, mitigation or compensation measures and secure these as part of the planning permission using planning conditions or planning obligations.

Avoid harm or disturbance

To avoid harming or disturbing protected species proposals could:

- reduce the size of the development or alter its layout to retain the site's important habitat features
- plan for construction work to be carried out at specific times to avoid sensitive times, such as the breeding season for wild birds

If it's not possible to completely avoid harm, disruption should be as minimal as possible.

Mitigate for negative effects

If it's not possible to avoid harm, you should discuss suitable mitigation measures with the developer. For example, moving protected species out of your development site.

You should agree a mitigation strategy with the developer to:

- remove or reduce the negative effects of their proposal
- show how they will carry out the mitigation measures

You should make sure the mitigation strategy is:

- effective against the likely effects of the proposed development on the protected species
- adequate for the affected species
- reliable, carried out at the right time and completed in full
- established sufficiently in advance of the development works to benefit the affected species
- measurable - a management and monitoring plan (if required) must be comprehensive and adaptable - it must make sure that it's possible to maintain and measure the population and geographical distribution of the species in the short and long term
- secured - legal agreements must be in place to make sure that the mitigation measures can be maintained in the long term

Use the [mitigation plan checklist](#)

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/934786/biodiversity-mitigation-plan-checklist.pdf) to help you and developers decide if the proposed measures are appropriate.

Compensate for negative effects

If avoidance or mitigation measures are not possible, as a last resort you should agree compensation measures with the developer and put these in place as part of the planning permission. These should:

- make sure that no more habitat is lost than is replaced ('no net loss') and aim to provide a better alternative in terms of quality or area compared to the habitat that would be lost
- provide like-for-like habitat replacements next to or near existing species populations and in a safe position to provide a long-term habitat
- provide alternative habitats further away from the impacted population if the natural range of the species is not going to be adversely affected
- include proposals to connect similar habitats to allow normal species movement

You should ask developers to provide alternative habitats, where appropriate, far enough in advance that the compensation measures are in place before the species are harmed.

Examples of compensation measures include:

- bat lofts or other structures if roosts are destroyed
- new ponds for great crested newts
- new aquatic habitats for water voles

You should:

- attach a planning condition or agree a planning obligation (known as a ['section 106 agreement'](https://www.legislation.gov.uk/ukpga/1990/8/section/106) (<https://www.legislation.gov.uk/ukpga/1990/8/section/106>)) with the developer so that they can put the avoidance, mitigation or compensation measures in place. These can include paying for long-

term management, monitoring or maintenance of the site or restricting development

- ask for a monitoring and review plan so that agreed measures can be adjusted if they do not work as intended
- attach an 'informative' note to the planning permission, for example to explain that the developer needs to take action if protected species are discovered during development

You do not need to consult Natural England about the wording or discharge of planning conditions or planning obligations relating to protected species. Natural England cannot provide advice on this.

Enhance biodiversity

To meet your [biodiversity duty \(https://www.gov.uk/guidance/biodiversity-duty-public-authority-duty-to-have-regard-to-conserving-biodiversity\)](https://www.gov.uk/guidance/biodiversity-duty-public-authority-duty-to-have-regard-to-conserving-biodiversity), you should suggest ways for the developer to:

- create new or enhanced habitats on the development site
- achieve a [net gain in biodiversity \(https://www.gov.uk/guidance/natural-environment#biodiversity\)](https://www.gov.uk/guidance/natural-environment#biodiversity) through good design, such as green roofs, street trees or sustainable drainage

4. Consider if a licence is likely to be granted before you give permission

[Protected species licensing requirements \(https://www.gov.uk/guidance/wildlife-licences\)](https://www.gov.uk/guidance/wildlife-licences) are in addition to the requirements for planning permission. Licences are subject to separate processes and specific policy and legal tests.

You should tell the developer if they're likely to need a protected species licence from Natural England or Defra to allow activities that would otherwise be illegal.

You must be satisfied that if a licence is needed it's likely to be granted by Natural England or Defra before you give planning permission.

For EPS you need to check that:

- the activity is for a certain purpose, for example it's in the public interest to build a new residential development
- there's no satisfactory alternative that will cause less harm to the species
- the development does not harm the long term conservation status of the species

If the developer does not meet the [3 licensing tests](https://www.gov.uk/government/publications/european-protected-species-apply-for-a-mitigation-licence) (<https://www.gov.uk/government/publications/european-protected-species-apply-for-a-mitigation-licence>) for EPS, Natural England or Defra cannot issue them with a licence for their activity. The developer may not be able to implement their planning permission. Natural England cannot provide advice on this. You should seek legal advice if you are not sure about the tests.

[Licensing policies for EPS](https://www.gov.uk/guidance/european-protected-species-policies-for-mitigation-licences) (<https://www.gov.uk/guidance/european-protected-species-policies-for-mitigation-licences>) allow flexibility from industry standards and aim to reduce unnecessary costs, delays and uncertainty, and achieve better conservation outcomes. Where a developer relies on these policies you need to take into account whether Natural England or Defra are likely to grant a licence for the proposed development.

District level licensing (DLL) is a type of strategic mitigation licence for great crested newts (GCN) granted in certain areas at a local authority or wider scale. A [DLL scheme for GCN](#)

<https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes>) may be in place at the location of the development site. If a DLL scheme is in place developers can make a financial contribution to strategic, off-site habitat compensation instead of applying for a separate licence or carrying out individual detailed surveys.

5. Make a decision about a planning application

If the proposal is likely to affect a protected species you can grant planning permission where:

- a qualified ecologist has carried out an appropriate survey (where needed) at the correct time of year
- there's enough information to assess the impact on protected species
- all appropriate avoidance and mitigation measures have been incorporated into the development and appropriately secured
- a [protected species licence](https://www.gov.uk/guidance/wildlife-licences) (<https://www.gov.uk/guidance/wildlife-licences>) is needed it is likely to be granted by Natural England or Defra
- any compensation measures are acceptable and can be put in place
- monitoring and review plans are in place, where appropriate
- all wider planning considerations are met

The [decision making checklist](#) (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/935484/protected-species-decision-checklist.pdf) (PDF, 162 KB, 4 pages) can help support planning decisions.

Standing advice for protected species

Advice for making planning decisions for development proposals that affect:

- [bats, all species \(https://www.gov.uk/guidance/bats-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/bats-advice-for-making-planning-decisions)
- [great crested newts \(https://www.gov.uk/guidance/great-crested-newts-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/great-crested-newts-advice-for-making-planning-decisions)
- [badgers \(https://www.gov.uk/guidance/badgers-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/badgers-advice-for-making-planning-decisions)
- [hazel or common dormice \(https://www.gov.uk/guidance/hazel-dormice-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/hazel-dormice-advice-for-making-planning-decisions)
- [water voles \(https://www.gov.uk/guidance/water-voles-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/water-voles-advice-for-making-planning-decisions)
- [otters \(https://www.gov.uk/guidance/otters-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/otters-advice-for-making-planning-decisions)
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- [white-clawed crayfish \(https://www.gov.uk/guidance/white-clawed-crayfish-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/white-clawed-crayfish-advice-for-making-planning-decisions)
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- [freshwater pearl mussels \(https://www.gov.uk/guidance/freshwater-pearl-mussels-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/freshwater-pearl-mussels-advice-for-making-planning-decisions)
- [natterjack toads \(https://www.gov.uk/guidance/natterjack-toads-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/natterjack-toads-advice-for-making-planning-decisions)

There is also standing advice provided by Natural England and the Forestry Commission for development proposals that affect [ancient](#)

[woodland, ancient and veteran trees \(https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions\)](https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions).

Consult Natural England or the Environment Agency

Natural England

Natural England is a statutory consultee for proposals that affect [sites of special scientific interest and other protected sites \(https://www.gov.uk/guidance/protected-sites-and-areas-how-to-review-planning-applications#check-if-a-protected-site-is-affected\)](https://www.gov.uk/guidance/protected-sites-and-areas-how-to-review-planning-applications#check-if-a-protected-site-is-affected). For all other proposals that might affect protected species, you should use the guidance on this page. Natural England will only provide advice if consulted on other cases in exceptional circumstances.

Email: consultations@naturalengland.org.uk

Natural England Consultation Service
Hornbeam House
Electra Way
Crewe Business Park
Crewe
Cheshire
CW1 6GJ

Environment Agency

Contact the Environment Agency if a proposal is likely to:

- significantly affect aquatic species or water dependent species not covered by this advice

- affect a river or canal and need an environmental impact assessment
- pollute the air, water or land, increase flood risk or affect land drainage and need an [environmental permit \(https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit\)](https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit)

Email: enquiries@environment-agency.gov.uk

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