

Bat Conservation Trust

Getting your voice heard



The Planning System

Thank you for your concern for the bats in your area following the potential threat from development.

As a member of your local community, you have specific local knowledge that makes your views important. Understanding the planning system and how to respond to planning applications may enable you to influence development at an early stage, perhaps preventing a harmful development or enhancing a proposal's value to bats and other wildlife. This leaflet aims to give you the knowledge you need.

We are a small charity, and we regrettably cannot get involved in individual cases. We therefore rely on concerned residents like yourself to help us protect bats by bringing matters such as this to the attention of planning authorities and developers. The details contained within the advice pack should assist you in taking relevant action where required.

We have broken this advice note down into five steps to help you understand how the planning system works and what you can expect. Please bear in mind that planning is a matter that is devolved to the countries of Scotland, Wales and Northern Ireland which means that each of these countries might deal with planning in a slightly different way from each other. Also, at the time of preparing this advice note, the UK Government is looking at changes to the planning system in England.

There are five key steps to consider:

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1. Understanding the planning system

Local planning authorities consider planning applications against the Authority's adopted policies which are set out in their Local Development Plan.

1.1 Local Development Plans

Local Development Plans (LDPs) are a collection of documents and maps, prepared by the Local Planning Authority (LPA) and their function is to plan changes to local council areas over the next 10–15 years. This Plan will have gone through an extensive public consultation exercise and in some cases a public inquiry. This is a critical stage in the allocation of land for development. Although these are not a planning consent, it will be the Authority's formal adopted policy that the type and scale of development set out in the Plan will take place subject to other material considerations.

New and proposed LDPs can be viewed on the LPA website. They will also be held in local authority offices and sometimes at main libraries. You can use this information to compare how a planning application conforms to the guidelines set out in the LDPs. For example, if an area of open space has been zoned for housing, there is limited scope for objecting to a housing development for that site and it may be more about getting enhancements built in. Alternatively, if an area is identified in the plan as a Site of Local Nature Conservation Importance it offers support for objections to housing or industrial development on that site.

1.2 Finding out about planning applications

To lawfully build on land, a developer must first submit a planning application to the LPA however there are other ways that developments can take place. Where an application is applied for that does not conform to the LDP, then it may still be considered by the LPA but as a departure from the Plan.

There are several ways to find out about planning applications in your area:

- notices may be posted at the site of the proposed development
- advertisements placed in the local paper
- neighbours or adjacent landowners will be notified
- files at your LPA
- the Planning Portal (England and Wales), local Planning Authority (Scotland), or Planning Service (NI) website.

It can also be helpful to foster a good relationship with your LPA as they may proactively ask you to comment on plans. Once a planning application has been announced, interested parties have to submit their responses before a deadline that will be a minimum of 14 days.

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1.3 Different types of planning application

A planning application can be 'full' or 'outline'. Full planning applications include every detail needed for the LPA to decide whether the proposal can go ahead. Outline applications need to contain only enough information for the LPA to decide whether the principle and broad type of development is acceptable, although the LPA may request further details. If an outline application is approved then the applicant must then submit a 'reserved matters' application that addresses all the outstanding details, such as visual appearance, servicing and landscaping. This must also be approved before development can start.

The differences between these types of planning application can affect the scope of your comments. For example, if you missed an opportunity to comment on an outline application for a development that affects a site and it was approved, then any objections to the follow-up 'reserved matters' application can only relate to the detailed design and layout of the development, not the principle of it.

Once a planning application has been approved, the developer then has an increased legal and financial interest in that land. Unless there has been maladministration by the LPA, then it is virtually impossible to overturn a planning decision.

1.4 Other permissions/ consents

Please note that not all developments/large scale works require planning permission.

Permitted Development Rights - if the development is minor such as a porch, or extension at the rear of the property, or in some cases a loft conversion, provided certain conditions/ limits are met they may fall into a category known as 'permitted developments'. Advice on permitted development rights can be found at [Permitted Development Rights and Biodiversity Advice Note | CIEEM](#)

For listed buildings, listed building consent is required from the LPA where works to extend or alter it will affect its character or appearance as a building of special architectural/historical interest.

Demolition of a building, which is not part of a wider development scheme requiring full planning consent, will usually require the owner to provide a demolition notice to the Building Control department of the LPA. Further information can be found at <http://www.planningportal.gov.uk/permission/>

Some very large-scale infrastructure developments may be granted permission by their own piece of legislation.

Irrespective of whether a planning consent is needed or not, the laws protecting bats still apply.

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1.5 Early involvement

It is very important to get involved at a very early stages in the planning process. This includes the consultation stage of the LDP.

When it comes to a specific planning application, once the objection period lapses, there is little or no opportunity for influencing planning decisions. However, because many applications are subject to delays it is worth contacting the Planning Officer dealing with the case if you are unsure of deadlines.

1.6 Why might you take action?

Your involvement in the planning system may not be limited to objecting to potentially harmful planning applications. In some cases, you may want to object to a proposed development as it will have an impact on the habitat and wildlife in your area but in other circumstances you might want to support an application, as it will be beneficial to biodiversity and be built with consideration for local wildlife. You, or you may also feel that the development could be made more sympathetic to the local environment, enhancing opportunities for biodiversity.

Planning officers will be influenced only by facts, so an important first step is to assess the wildlife value of the site. In some cases, environmental information will be provided by the developer as part of the planning application.

Working in partnership with other NGOs, we have produced a free web-based planning tool kit [Wildlife Assessment Check](#) that you can use.

2. Bats and the law

In the UK, the legislation protecting bats is not straightforward and there are subtle differences between the laws covering England and Wales, Scotland, and Northern Ireland. This guidance note can only give you general pointers and if you needed detailed legal advice then you would have to speak to a lawyer.

The laws protecting bats are:

- England and Wales - [Wildlife and Countryside Act 1981](#) (as amended) and, [The Conservation of Habitats and Species Regulations 2017](#) (as amended)
- Scotland - [The Conservation \(Natural Habitats, &c.\) Regulations 1994](#) (as amended)
- Northern Ireland - [The Conservation \(Natural Habitats, etc.\) Regulations \(Northern Ireland\) 1995](#) (as amended)

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In summary, bats and their roosts are protected by law whether or not the roost is occupied by bats. A roost is defined as any place that a wild bat uses for shelter or protection. It is illegal to damage, destroy or obstruct roosts, or to harm bats. These are absolute offences. When it comes to disturbance however, the offences are qualified in terms of significance and impact.

If the proposed activity cannot take place without contravening the law, then it may still be permissible to undertake damaging activities by being in possession of a valid derogation license from the relevant Statutory Nature Conservation Body. It is an offence not to comply with the terms of the license.

A license can only be issued if:

- There is a purpose which is specified in the legislation eg an imperative and over-riding public interest
- There is no satisfactory alternative
- The actions authorised will not adversely affect the conservation status of the species concerned.

The license will include legally binding measures to avoid harm to bats, avoidance of disturbance at sensitive times and may be to provide suitable habitats for them into the future.

Statutory Nature Conservation Body - licensing authority by country:

- Natural England- 0300 060 3900
- Natural Resources Wales- 0300 065 3000
- NatureScot - 01463 725 364
- Northern Ireland Environment Agency - 0845 302 0008

3. Raising concerns

3.1 How you can help

Contact your local authority or council building control (if it is regarding a demolition and not part of a wider planning application) to find out whether a bat survey has been carried out. If you know bats use the site or bat presence is likely then you are within your rights to request that a survey be completed if one has not been carried out.

The most effective way to contact your local authority is in writing, but we advise that you also follow this up with a phone call to ensure your enquiry is on record. Where possible we would also encourage you to send the letter to the applicant making them aware of possible bat presence.

Local authorities usually acknowledge receipt of letters within five working days so if you do not hear back from the local authority within this time, we suggest that you contact them again. You

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may then need to follow up with them beyond this to request an update. We recommend that you retain a trail of correspondence in case evidence is required later on e.g. if contacting your Local Government Ombudsman if you are unsatisfied with the response from your local authority or if police require this as part of an investigation.

Planning authorities must abide by several rules which, if known, can be used to enforce good practice and protect bats. The sections in the advice pack outline how best to approach this and give good guidance on how to compose an official letter.

You can find details of whether a survey has been carried out and what was found in the planning application documents. Most local authorities publish information on planning applications on their websites, or you can call the office directly and ask how this may be made available to you. You can find more information on the planning process and the website address for your local planning authority on the Planning Portal: <http://www.planningportal.gov.uk/inyourarea/searchapplications>

You could also contact your local bat group for information about bats in the area, especially regarding recorded bat roosts and bat sightings in the county. However, please be aware that bat groups are voluntary organisations and many do not have the resources to respond to planning related enquires. Bat group details can be found at: <https://www.bats.org.uk/support-bats/bat-groups>.

Your local biological record centre may hold information about bats rather than the bat group. Record centre details can be found at: <http://www.alerc.org.uk/find-an-lerc-map.html>.

Please bear in mind that an absence of records does not mean an absence of bats.

3.2 What you should expect of the local authority

The planning authority has a legal obligation to consider whether bats are likely to be affected by a proposed development. If a survey has not already been undertaken to determine the potential for bats on site and/or the presence of bats, and there is a reasonable chance that bats might be adversely affected, the planning authority should request that the developers commission an appropriate survey.

The planning authority should not grant planning consent subject to future bat survey work as the findings of that survey might otherwise materially change the consideration of the development.

If a 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, the planning authority should not grant consent unless they are satisfied that the licensing authority (Section 2) will grant a derogation license. The license will specify planning conditions such as timing of works and mitigation to lessen impacts. If you later suspect that a developer is contravening the conditions of their license, try to check the conditions of the license with the authority that issued it, this varies depending upon the country (see contact numbers below) and alert the local planning office.

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If a survey demonstrates that development is likely to affect bat foraging and/or commuting habitat then linear features such as tree lines should be retained, and enhancement should be considered wherever possible.

If you have viewed the survey report and are not happy with how or when the surveys were carried out, you may wish to look at the 'BCT Bat Survey Guidelines' to check whether best practice guidance has been followed. This can be downloaded in full via our website <https://www.bats.org.uk/resources/guidance-for-professionals/batsurveys-for-professional-ecologists-good-practice-guidelines-3rd-edition> This pack also includes a shortened version of the decision process of surveying and licensing.

Please inform your local authority if you find that insufficient surveying has taken place. Again, we advise that you send a letter and follow up with a call and contact them again if you do not hear back within 5 working days. Please note that for resource reasons we are unfortunately unable to comment on any surveys which have been carried out.

3.3 Documents that may help you

When making detailed comments about a planning application you may want to refer to some of the following documents.

3.3.1 Local Development Plans – see section 1.1

3.3.2 National Planning Documents

Across the UK, Governments publish and issue planning policy guidance (Annex 1) that require LPAs to take account of the conservation of protected species when determining planning applications. This makes the presence of a protected species a material consideration when assessing a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. This requirement has important implications for bat surveys as it means that, where there is a reasonable likelihood of bats being present and being affected by the development, surveys must be carried out before planning permission is considered.

3.3.3 Environmental Impact Assessment (EIA)

For applications that are likely to significantly affect the environment, an EIA must be carried out. The purpose of an EIA is to assess the extent of the development and try to reduce the negative impacts that it will have. Where one must be carried out, a report on the EIA (usually referred to as the Environmental Statement, ES) is submitted as part of the planning application and you should be able to read it on the LPA website. Copies of parts of the ES can often be requested for a small fee but if you are serious about objecting to a planning application it is better to own a complete copy so you have easy access to all the detailed information. This may be expensive and considering pooling resources with other campaigning individuals or organisations may be the best approach. You can include comments about the EIA and the Environmental Statement in your objection letter if you feel it does not comprehensively address all the development's likely impacts on the environment.

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3.3.4 Bat survey reports

For applications where an EIA is not necessary, a bat survey will still be required if the proposed work will affect bats or their roosting sites. LPAs usually publish the survey documents along with the planning application documents on their websites for the public to view, or you can call them directly and ask how this may be made available to you. LPA websites can be found here:

<http://www.planningportal.gov.uk/inyourarea/searchapplications>

The initial decision on whether a bat survey is required comes after consulting a trigger list, which is essentially an assessment of potential for bats to be present or affected by the proposed work. Please refer to your LPA's own trigger list as they will have their own validation requirements for biodiversity in your area.

3.3.5 Other documents

Annex 2 lists, other obligations, and documents that public bodies are required to give regard to, when carrying out their duties.

3.4 Council planning committee meetings

LPAs have planning committees for considering planning applications although not all planning applications will be considered by the committee as some decisions are delegated to a planning officer. The LPA consults with Councils at monthly meetings at which councils can make recommendations to the LPA for approval or refusal.

3.5 What happens to an application once your comments have been submitted?

Once your objection has been submitted it will be considered together with others in the decision-making process.

Letters of objection are normally acknowledged within five working days of their receipt. Objectors should be kept informed about changes to an application or additional information that has been provided by the developers.

It is worthwhile keeping in touch with the LPA for up-to-date information. The final decision may be made many months after the initial application. We recommend chasing up your comments in writing.

With each decision, the LPA issues a decision notice. Where the decision is to grant permission, the decision notice lists any planning conditions which may be attached to the permission. Conditions are mandatory. The notice may also include informatives, which are recommendations and are not enforceable.

If the permission is refused, the notice will list reasons for refusal. The decision notice is not automatically sent out to every objector, but it can be requested from the LPA. We recommend that you request this in your objection as this will be important should the planning application be re-submitted.

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3.6 Appeals against a decision

If a planning application is refused, applicants can take their application to appeal. Third parties (e.g. the general public) cannot generally appeal against a planning decision. However, if you have made an objection to a planning application, which is then refused and the developer appeals, you have the right to make further representations to this appeal, and if an inquiry is held, to appear at the inquiry to make your case. The LPA should get in contact with you with the details of what you have to do when the appeal is lodged.

For more information about how the appeals process works please check the relevant pages for your country (England and Wales: www.planningportal.gov.uk/planning/appeals , N. Ireland: www.pacni.gov.uk , Scotland: www.dpea.scotland.gov.uk).

3.7 Complaining about a Local Planning Authority

Environmental laws are designed to protect the environment from harm. If you have a complaint about the way a planning application was dealt with (rather than the nature of the proposal) you can report it.

The first thing to do is complain to the council. Please refer to your LPA's individual complaints procedure for the best way to do this. See <https://www.gov.uk/complain-about-your-council> – see Section 4 for tips on preparing written objections.

If you are dissatisfied with the way in which the council have responded, then it is best to report the action to the Local Government Ombudsman (LGO). Once they have received your complaint, they will investigate the matter free of charge. In most cases, however, the LPA must have a chance to sort out the complaint before it can be taken to the LGO i.e. 30 days (or their own target if there is one) to 'show reasonable effort to gain a response'. Full details of the complaint's procedure are available on the LGO website: www.lgo.org.uk.

Further information Planning Portal

(England and Wales) - [Planning Portal](#)

(Scotland) - [Getting Started on ePlanning Scotland](#)

Northern Ireland Planning Service - www.planningni.gov.uk

Other relevant [BCT leaflets and publications](#) • Bats and the Law • Bats and Buildings

3.8 Independent Environmental Watchdog

If you still feel that there is case to be answered, then you can complain to an independent environmental watchdog who will decide on the merits of your case and if necessary, they will take this up with the body or government in question. Details about this can be seen at <https://bit.ly/32VWuh2>

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4. Submitting a Written Objection

4.1 Commenting on planning applications

You must send written comments to the Local Planning Authority (LPA) that will be determining the application. When submitting a written comment on an application, whether to object to or support it, you should remember the following:

- All planning applications have a name and a specific reference number that you should clearly refer to.
- State your name, address and other contact details.
- You must act within a set timescale, responding before the consultation deadline (if you don't have a letter from the LPA with this on, you can find it out by ringing them)
- Clearly state why you are objecting or supporting the development. Include the wording 'I/We object' or 'I/We support' in the text. Be concise and polite! Keep your letter short, a maximum of two sides – put any detailed comments in a supporting document if necessary.
- Be specific about important habitats that could be affected and state any eyewitness accounts of bat presence, being specific about any evidence e.g. rather than stating 'there is a bat roost' say 'I have seen bats flying out of the eaves at dusk and counted 50 over the summer'. Give dates and times if possible.
- Refer to records of known roosts in the area from Local Record Centres (find your nearest one at <http://www.alerc.org.uk/find-an-lerc-map.html>) or any sightings of bats by the local bat group.
- If there has already been a refusal for a similar application at the site, refer to the 'reasons for refusal' in the previous decision notice.
- It may be useful when making a submission with a nature conservation element to send copies of letters of objection to other local groups that may support you.
- Planners will also be particularly keen to hear your views on non-wildlife impacts of development such as traffic congestion in the local area, over-burdening of parking spaces and public transport, demands for water from local rivers or resulting pollution in rivers and streams.

If you want your concerns to be taken seriously, do not:

- Include hearsay or information you are unsure about.
- Include unsubstantiated criticism of the LPA or the applicant, e.g., personal circumstances or character.
- Exaggerate your claims.
- Include information unrelated to the development or its impacts.
- Make reference to the effect of the development on property values.

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4.2 Relevant legislation and case law

Ask the LPA how they have taken bats into account and discharged their duties under the relevant legislation see Annex 2. Referencing case law and relevant legislation adds weight to your concerns.

Example paragraphs could include the following:

England

Making planning decisions without due consideration of priority species is contrary to the Natural Environment & Rural Communities (NERC) Act 2006 which applies to all public organisations, including local authorities.

s.40 of the Act states “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.” Under s.41 of the Act, bats are listed by Defra as a priority species for the conservation of biodiversity.

Wales

Section 6(1) Environment (Wales) Act 2016 says “A public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems,...”

Section 3 Well-being of Future Generations (Wales) Act 2015 requires all public bodies to carry out sustainable development to achieve the goals set out in section 4 of the Act and in particular “A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change”.

Scotland

The duty to have regard for biodiversity is contained within Part 1 Section 1 of The Nature Conservation (Scotland) Act 2004.

This can then be further supported using case law such as:

A 2009 case involving granting of planning consent affecting bats without mitigation in place resulted in Cheshire East Borough Council being taken to Judicial Review. A local resident challenged the planning consent and the High Court judgement quashed the planning consent. Subject to the decision of the House of Lords in Berkeley v SSE [2001] 2 AC 603, dealing with obligations under EC law, if a permission is found to have been unlawful in any way, then it should be quashed provided that the outcome, if there had been no unlawfulness, may or might have been different.

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4.3 Additional things to consider

The LPA often imposes planning conditions with planning permission agreements. Planners may welcome suggestions of conditions from interested parties, particularly if they help to make a proposal acceptable. It can be helpful to specify what conditions you think are needed in your letter to the planners.

- Do the proposals retain (as far as possible) any existing wildlife features on the site like ponds and hedgerows?
- Do the proposals use native plants and trees in any landscaping designs?
- Could the development be redesigned, phased or laid out differently to reduce its effects on wildlife?

Care needs to be taken in drawing up conditions and to be useful they must be:

- relevant to planning matters and to the permission
- clear and precise
- enforceable
- reasonable

5. Reporting a suspected bat crime

If you witness an offence that you suspect is being committed (e.g. bats being disturbed, bat roost being destroyed, or access blocked) please inform the Police and request an incident number. You can find more information [here](#). You will need to make a written record of possible offence and even make photographic evidence, but you must not put yourself at risk when doing so.

In many constabularies, there will be a Wildlife Crime Officer but if the Wildlife Crime Officer is not available it should not affect the reporting of the incident, please do so anyway. Please also report this incident along with the incident number obtained from the Police to the Bat Conservation Trust so we can follow this up at investigations@bats.org.uk.

Please be aware that they may have a permission to do this work. If you are aware of a license breach in Scotland, Wales, or Northern Ireland this should also be reported to the police in the same way. If the license breach is in England however, then the matter should be reported to Natural England's Wildlife Enforcement Specialist on 0300 060 1099.

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Annex 1 – Planning Policy documents

Government policy guidance for biodiversity and nature conservation throughout the UK is provided in the following planning guidance and statements

England

- National Planning Policy Framework 2019.
- Circular 06/2005: Biodiversity and geological conservation – Statutory obligations and their impact within the planning system It is important that your concerns have some weight to them, as the planning officers will be influenced only by facts. See the ‘Submitting a written objection’ section for some tips on how to draft your comments.
- Planning Practice Guidance 2014.

Wales

- Future Wales – the National Plan 2040.
- Planning Policy Wales 2021.
- Technical Advice Note TAN 5 Nature Conservation and Planning 2009.

Scotland

- Scottish Planning Policy 2020.
- Planning Advice Note (PAN) 60 Planning for Natural Heritage 2000.
- Circular 6/1995 (revised 2000) Nature Conservation: Implementation in Scotland of EC Directives on the Conservation of Natural Habitats and of Wild Flora and Fauna, and the Conservation of Wild Birds: The Conservation (Natural Habitats, etc) Regulations 1994
- European Protected Species, Development Sites and the Planning System: Interim guidance for local authorities on licensing arrangements.
- Circular 12/1996: Planning Agreements.
- Circular 1/2010: Planning Agreements.
- Annex to Circular 1/2010: Planning Agreements. Planning Obligations and Good Neighbour Agreements.

Northern Ireland

- Strategic Planning Policy Statement 2021.
- Planning Policy Statement 2 Natural Heritage 2013.
- Planning Policy Statement 18: Renewable Energy 2009.

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Annex 2 – other obligations and duties

England

- Section 40 Natural Environment and Rural Communities Act 2006.

Wales

- Well-being of Future Generations Act 2015.
- Section 6 Environment (Wales) Act 2016.

Scotland

- Part 1 Section 1 of The Nature Conservation (Scotland) Act 2004.

Northern Ireland

- Section 1 The Wildlife and Natural Environment Act (Northern Ireland) 2011.
- The Biodiversity Duty – Guidance for Public Bodies 2016.