

Fivehead Parish Council.

Environment and Wildlife Legislation, including the updated Wildlife and Countryside Act 1981.

Created by Dave Braddock – July 2023.

Bat Legislation (2015) – Natural England, Defra.

Next update July 2024.

A one stop place for all the community of Fivehead to check the latest legislation for bat protection. Fivehead is lucky enough to have 16 species of bat recorded, some are especially rare, so need protection. This document should hopefully assist as a guide if you are a member of the public and see something going on, a farmer wanting to work on a building, tree or hedgerow, a Parish Councillor replying to a planning application, a resident thinking of doing some building work and a developer considering building on a plot of land or renovating an old building. This document does not cover every legal aspect but is intended to be used as a guideline so professional advice is needed before starting.

If you see something going on in the community that you are not sure about, The Parish Council can be contacted at:

fiveheadpc@gmail.com

Target Audience.

- Parish Council
- Members of the public
- Planning Applications
- Farming Community
- Developers
- Illegal Activity

All bat species, their breeding sites and resting places are fully protected by law - they're European protected species.

You may be able to get a licence from Natural England if you cannot avoid disturbing them or damaging their habitats, or if you want to survey or conserve them.

What you must not do

You're breaking the law if you do certain things including:

- deliberately capture, injure, or kill bats
- damage or destroy a breeding or resting place
- obstruct access to their resting or sheltering places
- possess, sell, control or transport live or dead bats, or parts of them
- intentionally or recklessly disturb a bat while it's in a structure or place of shelter or protection

Either or both of the following could happen if you're found guilty of any offences:

- you could be sent to prison for up to 6 months
- you could get an unlimited fine

Activities that can harm bats

Activities that can affect bats include:

- renovating, converting, or demolishing a building
- cutting down or removing branches from a mature tree
- repairing or replacing a roof
- repointing brickwork
- insulating or converting a loft
- installing lighting in a roost, or outside if it lights up the entrance to the roost
- removing 'commuting habitats' like hedgerows, watercourses, or woodland
- changing or removing bats' foraging areas
- using insecticides or treating timber

In many cases you should be able to avoid harming the bats or damaging or blocking access to their habitats. You'll need an expert to do a bat survey.

The survey will show what type, how many and how the bats are using the building or area so you can plan to avoid harming them.

Bat licences

If you cannot avoid harming bats or their habitats, you can apply for a mitigation licence from Natural England.

You need a licence from Natural England for other activities including:

- surveying
- research
- possessing bats
- some conservation activities

Ecological consultants can register to use a class licence that may avoid the need for an individual licence for certain low impact activities.

Bat roosts

Contact the bat helpline if you:

- think you have a bat roost in or near your house or place of worship and you want to do small scale works or pest control
- have any concerns about the bats

They will give you advice and where appropriate can arrange for one of Natural England's volunteer bat roost visitors to inspect your property.

This is a free service for small-scale building works that do not need planning permission.

The developer must comply with the legal protection of bats.

You should consider if the developer has taken appropriate measures to avoid, mitigate and, as a last resort, compensate for any negative effects on bats in their development proposal.

The developer may need a wildlife licence to carry out their proposal.

When to ask for a survey

You should ask for a survey if a development proposal is likely to negatively affect bats or their:

- roost habitats
- foraging habitats
- commuting habitats

A survey is needed if one or more of the following applies:

- distribution and historical records suggest bats may be present - you can
- the development site includes buildings or other built structures, underground structures or trees that provide roosting opportunities for bats
- the proposals include flood lighting of buildings or green space close to habitats that bats tend to use
- the proposals are close to water bodies, quarries, or natural cliff faces
- it is a wind farm proposal close to a site designated for bats or close to habitats that bats use for commuting and foraging

Absence of a record does not mean there are no bats. It could mean there is no survey data available for that location.

You must check if the ecologist holds the appropriate and up-to-date survey licence to carry out surveys for bats. CIEEM publishes:

The ecologist should also follow the biodiversity code of practice for planning and development (BS 42020:2013)

Bats in buildings

Construction, demolition, extension or conversion proposals could affect a bat roost in a building or barn. You should ask for a survey where roosts are likely if the building or barn:

- has little or no disturbance from artificial lighting
- is close to woodland or water
- has uneven roof tiles and large roof timbers
- has cracks, crevices, and small openings
- has a roof that warms in the sun with a large roof space for flying
- has hanging tiles or timber cladding on south-facing walls and has not been used for several years

Bats underground

Excavation for development could affect bats roosting underground. You should ask for a survey where roosts are likely if the underground site:

- is close to woodland or water, or quarries and old mine workings
- is large enough to maintain a low and stable temperature in winter
- is humid
- has cracks, crevices and rough surfaces

Bats in trees

Tree felling for development could affect a bat roost. You should ask for a survey where roosts are likely if the tree:

- is within ancient woodland or parkland
- is deciduous
- is large and irregular (although individual bats are frequently found in smaller trees)
- has natural cavities, most commonly ash, beech or oak
- is damaged by rot, weathering, woodpeckers or lightning - it can be dead
- has loose bark
- is covered in dense ivy

Wind farm proposals

Wind turbines can affect bats. They can fly into the tower or blades or suffer from air pressure changes (known as barotrauma) if they're located on commuting or foraging routes.

You should ask for a survey if a wind turbine proposal is:

- more than 250 kilowatts (kW) and located near to a site designated for bat populations located within the impact risk zone (IRZ) of a special area of conservation (SAC) or site of special scientific interest (SSSI)
- more than 250kW and located within 50m of features like woodland, hedgerows, canals, rivers, lakes, caves, mines or structures that bats might use

What to survey for

To inform the planning proposal so it can avoid harming bats as much as possible, surveys must:

- be carried out in the most recent, appropriate season
- identify the bat species and size of population
- identify the type of roost and its importance, and any access points used by bats to enter the roost
- identify important flight routes and foraging areas used by bats close to proposed developments

Survey work can include:

- roost inspection
- recording site emergence or re-entry
- recording bat activity and back-tracking
- trapping and radio tagging

Assess the effect of development on bats

Where possible proposals should avoid affecting bats. Where this is not possible, you should look for adequate mitigation or compensation measures in the planning proposal to allow you to make a planning decision.

Species vulnerability

The effect of a proposal on a bat population will need to consider the predicted level of impact based on the:

- conservation status of the bat species affected
- importance of the site for bats at a local and national level

For example, Bechstein's bat is rare and found in southern England and southeast Wales, therefore proposals in these areas could be very significant to the national population of this species. Common pipistrelle are the most common and widespread bat species. The effect of a proposal would be less significant to its national population.

Avoidance, mitigation and compensation measures

To avoid possible effects on bats and their roosts, developers could redesign the proposal to:

- leave bat roosts in place
- alter the timing of works
- change the methods of working

Where this is not possible, you should look for mitigation and compensation measures that are proportionate to the likely effect on the bat species present. The proposal could:

- keep some existing roof voids and roosting places
- create new roosting places within the existing building
- create new roosting places in different buildings
- redesign lighting to avoid roost entrances and foraging habitats

If the destruction of a bat roost is unavoidable, you must make sure:

- there is no net loss of roost sites
- roost types are replaced on a like-for-like basis
- the affected bat population can continue to function as before

Planning and licence conditions

If the proposal is likely to affect bats, the developer must apply for a bat mitigation licence

Before you can grant planning permission, you must:

- make sure any mitigation or compensation conditions you impose do not conflict with the requirements of a bat mitigation licence
- be confident that Natural England will issue a licence

You do not need to consult Natural England on the wording or discharge of any conditions you impose on a planning proposal. Natural England is unable to provide advice on this.

Site management and monitoring

You should consider the need for site monitoring and management. These measures are likely to be needed for a wildlife licence.

A site management and monitoring plan should make sure bat boxes and new roosts remain fit for purpose and accessible to bats.

Monitoring should be proportionate to the sensitivity of the bat species and the effect development would have on its population.

This can include carrying out management works to habitats and additional survey work to check that mitigation measures are working as intended, followed by remedial work if needed.