

Detailed guide: Construction near protected areas and wildlife

Updated: Updated the section on 'exceptional cases' for carrying out works without a licence.

Protected areas

You are responsible for finding out if your development is likely to affect a protected area or site. Your planning authority may not grant you planning permission if it damages a protected area or site.

The following areas are protected:

- [national parks](#)
- [areas of outstanding natural beauty](#)
- [sites of special scientific interest \(SSSIs\)](#)
- special areas of conservation (SACs)
- special protection areas (SPAs)
- [Ramsar wetlands](#)
- [local sites](#)
- sites in the process of becoming SACs or SPAs ('candidate SACs', 'possible SACs', 'potential SPAs' and sites of community importance (SCIs) or a Ramsar wetland ('proposed Ramsar site')
- [Marine Conservation Zones](#)

Search the [mapping tool](#) to see if your development is in or near protected land. To find out how your development proposals will be affected by a protected site, [contact your local planning authority](#).

You can [get advice from Natural England](#) if your plans affect protected areas. You might have to pay a fee.

Protected sites

You must consider how your development proposal will affect any nearby SSSI, SPA, SAC or Ramsar site.

Check how your activity could affect an SSSI, SPA, SAC or Ramsar site with the 'risk zone' feature of this [mapping tool](#), or [download the SSSI impact risk zone data](#) for your own software.

Your planning authority may consult Natural England if your activity potentially affects a protected site in the risk zone. They can ask you to change your plans, do the work in a certain way or refuse you planning permission.

Government agencies, councils and other public bodies need to [request](#)

[permission from Natural England](#) for activities that could damage SSSIs.

If your proposal also affects a European protected site which is, or is proposed as, a SAC, SPA or Ramsar wetland, the planning authority will need to do a Habitats Regulations assessment. You may need to give the planning authority extra information to help them do this assessment, eg extra survey information.

Protected species

Many species of plant and animal in England, and their habitats, are protected by law. What you can and can't do by law varies from species to species.

European protected species

European protected species have the highest level of protection and include:

- [all species of bats](#)
- [great crested newts](#)
- [hazel or common dormice](#)
- [otters](#)
- [natterjack toads](#)
- [reptiles](#) (some species)
- [protected plants](#) (some species)
- [large blue butterfly](#)
- [sturgeon](#)

You're breaking the law if you:

- capture, kill, disturb or injure a European protected species (on purpose or by not taking enough care)
- damage or destroy a breeding or resting place (even accidentally)
- obstruct access to their resting or sheltering places (on purpose or by not taking enough care)
- possess, sell, control or transport live or dead individuals, or parts of them

Disturbing a protected species includes any deliberate activity that affects:

- a group's ability to survive, breed or raise their young
- the species' numbers or range in the local area

If you're found guilty of an offence you could get an unlimited fine and up to 6 months in prison.

Other protected species

Other protected species and groups include:

- [badgers](#)
- [water voles](#)

- [wild birds](#)
- [ancient woodland and veteran trees](#)
- [white-clawed crayfish](#)
- [freshwater pearl mussels](#)

You need to [apply for a development licence if your plans affect badgers](#). However for other non-European Protected Species, you can't apply for a development licence. In some circumstances Natural England will consider issuing a licence where there's a conservation benefit for the affected species, such as the water vole.

Exceptional cases

In most circumstances, you should be able to avoid causing harm to protected species by either:

- timing your planned activity
- applying other mitigation methods

In exceptional cases, avoiding harm isn't possible. In these cases the law allows for actions which would normally be illegal if you can show that:

- the activity is lawful, such as development with planning permission
- you've not been able to avoid the impact of the activity

This exception is often called the 'incidental result defence'. You can only use this if you're able to show you've covered all parts of the defence by:

- following good practice in planning and carrying out the works
- trying to reduce the impact of development on the protected species

A court would decide if you have applied the defence properly. You should get professional advice before you use the defence.

Decide if you need a mitigation licence

You'll need to decide if your project will affect a protected species or its habitat, and whether you'll need a licence. You can get expert advice from an ecologist to help you decide.

You should try everything else possible to avoid disturbing the species, blocking access to or damaging its habitat. In most cases you should be able to plan the work to achieve this.

If this isn't possible and your activity will affect the species, you can apply for a mitigation licence. Applying for a licence should be your last resort and only applies to a minority of cases. Your ecologist should help you with your application.

Your ecologist will conduct surveys to show how the species uses the area, and develop mitigation plans to reduce any negative effects.

You'll need to include the survey findings, impact assessments and mitigation

plans (to reduce harm to the species) with your mitigation licence application.

Find out what's required to [get a mitigation licence](#)

Get expert help

If you apply for a mitigation licence from Natural England, you'll need an ecologist to:

- carry out surveys to work out how your activity will affect the species
- develop your mitigation plans
- help with your licence application

You can find an ecologist from:

- the [Chartered Institute of Ecology and Environmental Management](#)
- the [Environmental Data Services \(ENDS\) Directory](#)

Appointing an ecologist isn't required by law, but you'll need expert help with your mitigation licence application.

When you need a survey

Commission a survey by an experienced and qualified ecologist if you think protected species could be present on or near the site you intend to develop. If there's no evidence of protected species, you can continue with your development or planning application.

If the survey shows that protected species use the site, your ecologist will:

- assess the impacts of your development
- adjust the plans if possible
- arrange mitigation strategies to reduce or compensate for any damage
- tell you if you need a mitigation licence from Natural England

Surveys should be done at the right time of year. Read the [how to review planning proposals guidance](#) to find out when you can do surveys.

Mitigation and compensation plans

Your planning authority is likely to refuse planning permission if your proposal would harm protected species. You'll need to show that you've considered the following steps.

Avoid harming the species, eg by locating the works far enough away from protected species.

If you can't avoid affecting the species, reduce harm (mitigate), eg by restoring habitats to how they were before the development.

If avoidance and mitigation aren't possible, compensate for any harmful effects, eg by creating new habitats.

You may need to include a mitigation strategy with your survey report if you're applying for planning permission. The planning authority will review your mitigation plans along with the survey data to assess how your proposals will affect wildlife. If you're applying for mitigation licences from Natural England, you'll include mitigation plans and survey findings as part of your method statement.

Your mitigation strategy should aim to:

- maintain species' population size and distribution
- enhance the population in the medium to long term
- avoid harming other species

Apply for a licence

Licences are free. Allow up to 30 working days for a licensing decision to be made.

Find out how to [apply online, by post or email](#).

You should get planning permission (if it's required) before applying for a mitigation licence.

Get advice about your licence application

You can [get advice from Natural England about your draft licence application](#).

This advice is available for bats, great crested newts and hazel dormice.

You'll have to pay a fee.

Contact

Wildlife licensing

Natural England
Horizon House

Deanery Road
Bristol
BS1 5AH

Email
wildlife@naturalengland.org.uk

Telephone
020 8026 1089

Further information

Find out [what planning authorities look for in applications](#) that affect protected sites and species.