

PROTOCOL FOR BATS ON THE RHYDYMWYN VALLEY NATURE RESERVE

Introduction

In 2003, a number of buildings, initially proposed for demolition, were retained specifically for long term bat conservation purposes. Their retention as part of this overall demolition scheme constitutes derogation under the provisions of the Habitats Directive. To prevent deterioration, it is important to ensure that buildings are able to effectively function in the long term as bat roosts. The following protocol facilitates and informs natural and historic heritage conservation works and provides the necessary framework for managing other activities.

Legal status of bats.

In Britain all bat species and their roosts are legally protected, by both domestic and European legislation which includes;

1. The Habitats Directive 1992
2. Wildlife and Countryside Act 1981 (as amended)
3. Conservation of Habitats and Species Regulations 2010 (as amended)
4. The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009

Bats also receive protection under the provisions of the Natural Environment and Rural Communities Act 2006.

The publication at Appendix 1: Bats and the law gives an outline of some of the legislation which needs to be considered.

This means you will be committing a criminal offence if you:

1. Deliberately capture, injure or kill a bat
2. Intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats
3. Damage or destroy a bat roosting place (even if bats are not occupying the roost at the time)
4. Possess or advertise/sell/exchange a bat (dead or alive) or any part of a bat
5. Intentionally or recklessly disturb a bat at a roost and/or to obstruct access to a roost

Various bat boxes and three buildings are known to be used by bats, of these building 45 is the most vulnerable.

The protocol for the three key buildings vary.

Buildings with Previous Evidence of Bat Usage

Source – Rhydymwyn Buildings Bat Survey 12 July 2010

Building Number	Evidence of Bat Usage
45	42 bats observed, droppings observed throughout the building & feeding remains observed.
50	Feeding remains & droppings observed.
58	1 bat observed & droppings observed throughout the building
59	Feeding remains & droppings observed.
65	1 x dropping observed.
97	1 bat observed, feeding remains & droppings observed
108	Droppings observed.
109	Droppings observed.
111	Feeding remains & droppings observed.
114	Feeding remains & droppings observed.
115	Feeding remains & droppings observed.
118	Feeding remains & droppings observed.
119	Feeding remains & droppings observed.

124	Feeding remains observed.
128	Feeding remains & droppings observed.
138	Feeding remains & droppings observed.
139	Droppings observed.
146	Droppings observed.
149	Droppings observed.

Building 45

This is the most vulnerable building as it contains a roost of lesser horseshoe bats (*Rhinolophus hipposideros*). It is not yet known whether this is a secondary roost site or whether it is a main maternity site. The bats roost in the top of the tower section and within the 'ventilation' tubes at the southern end of the building.

Following discussions with species advisory staff at the Countryside Council for Wales, there are concerns regarding the colony of lesser horseshoe bats present in this area and roosting at Rhydymwyn. Interpretation of species monitoring statistics by Countryside Council for Wales staff has revealed that the population here is static, whereas elsewhere in north Wales the populations are increasing. This suggests that the population here is NOT at a Favourable Conservation Status thus, because these bats are extremely vulnerable to disturbance when in the roost, all unnecessary disturbances must be avoided.

As a result of Countryside Council for Wales' advice the following access rules must be followed to avoid disturbance to the bat roost:

- When the bats are not present within Building 45, access is permitted throughout the building to any visitor. October through to April, approximately.
- When the bats are present, access to Building 45 is not allowed except for those person(s) undertaking the following activities:
 - Bat monitoring
 - Bat camera works
 - Building assessment and maintenance
 - Site Management
 - Health and Safety
 - Emergency works
- Those accessing Building 45 under the above conditions must hold an appropriate European Protected Species derogation licence from either CCW or Welsh Government.
- Those with authority to access Building 45 must ensure that any form of disturbance is kept to a minimum (lights, noise, etc).
- Any maintenance works intended for Building 45 can only take place following consultation with Countryside Council for Wales/Welsh Government/CADW/Flintshire County Council as appropriate [list not exhaustive] and may be subject to further ecological investigations by a suitably qualified bat ecologist.

For the purposes of visiting groups then free access is likely to be available to the building from 1st October to 1st April. This time period is subject to amendment depending on monitoring.

Building 58

This locked building appears to be mainly used by bats during the winter months, however, bats have been found in it at all times of the year.

- Those accessing Building 58 must hold an appropriate European Protected Species licence from either CCW or Welsh Government.
- Those with authority to access Building 58 must ensure that any form of disturbance is kept to a minimum (lights, noise, etc).
- Any maintenance works intended for Building 58 can only take place following consultation with Countryside Council for Wales/Welsh Government/CADW/Flintshire County Council as appropriate [list not exhaustive] and may be subject to further ecological investigations by a suitably qualified bat ecologist.

Building 97

This building comprises various rooms. This building is mainly used by bats during the winter months, however, bats have been found in it at all times of the year.

For the purposes of nesting bird monitoring, surveyors are allowed to access the access passages and the first small room at the front where swallows regularly nest as these are unlikely to house roosting bats.

- Those accessing the bat rooms in Building 97 must hold an appropriate European Protected Species licence from either CCW or Welsh Government.
- Those with authority to access the bat rooms in Building 97 must ensure that any form of disturbance is kept to a minimum (lights, noise, etc).
- Any maintenance works intended for Building 97 can only take place following consultation with Countryside Council for Wales/Welsh Government/CADW/Flintshire County Council as appropriate [list not exhaustive] and may be subject to further ecological investigations by a suitably qualified bat ecologist.

If bats are encountered elsewhere within any other buildings, this should be reported to Defra, who will take appropriate advise. No further access to those buildings should take place until clearance has been given. The buildings will be monitored on a regular basis to ensure information on bat usage is current.

Bat Boxes

The bat boxes on site must only be opened and inspected by authorised surveyors who hold an appropriate Countryside Council for Wales bat licence or who are in the presence of someone who holds an appropriate licence.

Bats and Rabies

There have been a small number of cases, mainly in southern England, of bats being found to be carrying the bat rabies virus. The majority of these bats have been the daubenton's bats (*Myotis daubentonii*).

As a precaution, no bats are allowed to be handled on site without the wearing of suitable gloves AND the handler must hold proof of an up to date anti-rabies vaccination certificate.

A decision on whether to send any bats found dead away for rabies testing will be determined on the individual circumstances of each bat.

Any dead or injured bats found on site MUST be reported to Defra.

At times when Defra are not available contact:

CCW Mold Office (01352-706600)
OR
the Clwyd Bat Group (Keith Davies - 01978-760353)

April 2012

Bat Conservation Trust

Bats and the Law

A basic introduction



The legal protection of bats in the British Isles

Which legislation is relevant for bats?

All bat species and their roosts are legally protected in the UK. All bats are listed as European protected species of animals in the European Union's Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora, better known as the Habitats Directive. This Directive is implemented in the UK by the Conservation (Natural Habitats, &c.) Regulations 1994 (better known as the Habitats Regulations).

Amendments to the Habitats Regulations in each country by:

- The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 – in England and Wales
- The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007
- The Conservation (Natural Habitats, &c.) (Amendment) Regulations (Northern Ireland) 2007

mean that, for practical purposes, the protection of bats and their roosts now falls mostly under the Habitats Regulations in all four countries. Further amendments were made in each country in 2008/09. There is also some protection for bats and roosts in England and Wales under the Wildlife & Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).

Isle of Man and the Channel Islands have their own legal systems. Bats and roosts are protected under the Wildlife Act 1990 (as amended) in the Isle of Man, and by the Conservation of Wildlife (Jersey) Law 2000 in Jersey, legislation covering the Bailiwick of Guernsey is under development.

How does the law protect bats?

The wording of the legislation varies slightly across the British Isles and is difficult to summarise succinctly, so you should refer to your country's relevant legislation for the precise wording. This leaflet cannot cover all the offences against bats/roosts, but in summary, it is an offence in the UK to:

- deliberately (or recklessly in Scotland) capture, injure or kill a bat
- deliberately (or recklessly in Scotland) disturb a bat in a way that would (significantly in Scotland) affect its ability to survive, breed or rear young (or hibernate or migrate in England, Wales and Northern Ireland) or (significantly in England, Wales and Scotland) affect the local distribution or abundance of the species.
- damage or destroy a roost (this is an 'absolute' offence)
- possess, control, transport, sell, exchange or offer for sale/exchange any live or dead bat or any part of a bat

In addition to the above:

In Scotland it is an offence to:

- deliberately or recklessly harass a bat, or disturb a bat at a roost
- deliberately or recklessly disturb a migrating or hibernating bat
- deliberately or recklessly obstruct access to a roost



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In Northern Ireland it is an offence to:

- deliberately disturb a bat at a roost
- deliberately obstruct access to a roost

In England and Wales it is an offence under the Wildlife & Countryside Act 1981 (as amended) to:

- intentionally or recklessly disturb a bat at a roost
- intentionally or recklessly obstruct access to a roost

(‘Deliberately’ may be interpreted as someone who, although not intending to injure, kill, etc, performed the relevant action, being sufficiently informed and aware of the consequences their action will probably have.)



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Brown long-eared bat

A person who needs to carry out actions that would result in an offence being committed should apply for a derogation licence from the relevant government department (Natural England, Countryside Council for Wales, Scottish Government, or Northern Ireland Environment Agency). They have powers to grant Habitats Regulations derogation licences in certain circumstances, for certain reasons and with certain terms attached, so that the licence holder remains within the law. Application for a derogation licence should be made in plenty of time, and the services of a bat expert utilised in making the application. It is an offence to make a false statement to obtain such a licence.

It is not illegal for someone to:

- capture a disabled bat solely for the purpose of tending it and releasing it when no longer disabled as long as the person can show that it was not disabled unlawfully by him/her*
- humanely kill a bat as long as that person can show the bat was so seriously disabled, other than by his/her own unlawful act, that there was no reasonable chance of it recovering

These defences only apply if there was no satisfactory alternative and the actions taken were not detrimental to maintenance of favourable conservation status of the species.

* A licence is needed for long-term captives.

Police and court powers

A police officer who suspects with reasonable cause that a person is committing – or has committed – an offence, can stop and search them, search or examine any relevant thing in their possession, and seize it. They can also enter land other than a dwelling house (dwelling or lockfast premises in Scotland) without a warrant, or enter and search a dwelling house with a warrant. Bat-related offences are arrestable.

The potential fine for each offence is £5,000 and, if more than one bat is involved, £5,000 per bat. An offender can also be imprisoned for six months. The forfeiture of any bat or other thing by the court is mandatory on conviction, and items used to commit the offence – vehicles, for example – may be forfeited.

Public bodies including local authorities

The Natural Environment and Rural Communities Act 2006 and Nature Conservation (Scotland) Act 2004 place a duty on public bodies to have regard to the requirements of biodiversity in carrying out their functions. In addition, local authority planning departments should also meet the requirements of Planning Policy Statement 9 (England), Technical Advice Note 5 (Wales), National Planning Policy Guidance 14 (Scotland) and Planning Policy Statement 2 (Northern Ireland).

This leaflet is not intended to answer specialist queries or problems and so you should refer to the relevant legislation for your country for detailed information. Further information on what to do when the law is broken, along with information on bats and their roosts, is available from the Bat Conservation Trust.



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Contacts

Bat Conservation Trust
15 Cloisters House, 8 Battersea Park Road,
London SW8 4BG
Bat Helpline **0845 1300 228** www.bats.org.uk
email investigations@bats.org.uk

Statutory Nature Conservation Organisations (SNCOs):

Natural England
Telephone 0845 600 3078
www.naturalengland.org.uk

Countryside Council for Wales
Telephone 0845 1306 229
www.ccw.gov.uk

Scottish Natural Heritage
Telephone 01463 725000
www.snh.org.uk

Northern Ireland Environment Agency
Telephone 0845 302 0008
www.ni-environment.gov.uk

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*Cover image: Brown long-eared close-up on tree. © John Altringham
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