

Appendix 11.3 – Summary of Relevant Nature Conservation Legislation

Species	Legislation (England & Wales)	Offences	Licensing procedures (England & Wales)
Bats <i>European protected species</i>	Conservation of Habitats and Species Regulations 2010 (as amended) Reg 40	Deliberately ¹ capture, injure or kill a bat; deliberate disturbance ² of bats; or damage or destroy a breeding site or resting place used by a bat. [The protection of bat roosts is considered to apply regardless of whether bats are present.]	A Natural England (NE) licence in respect of development is required in England or a licence from the Welsh Assembly Government in consultation with Countryside Council of Wales (CCW) in Wales. <i>European Protected Species Guidance Note</i> (NE 2009) <i>Bat Mitigation Guidelines</i> (English Nature 2004) <i>Bat Workers Manual</i> (JNCC 2004)
	Wildlife and Countryside Act 1981 (as amended) S.9	Intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb a bat in such a place.	Licence from NE or CCW is required for surveys (scientific purposes) that would involve disturbance of bats or entering a known or suspected roost site.
Badger	Protection of Badgers Act 1992	Intentionally kill, injure or take a badger; disturb a badger in its sett; or intentionally or recklessly damage, destroy or obstruct access to a badger sett. [It is not illegal to carry out disturbance activities in the vicinity of setts that are not occupied.]	Licences for development activities involving disturbance or sett interference or closure are issued by Natural England (NE) or Countryside Council for Wales (CCW). Licences for activities involving watercourse maintenance, drainage works or flood defences are issued under a separate process. A licence may be required for any work within the vicinity of a sett that is likely to cause disturbance to badgers. Licences are not granted from December to June inclusive because cubs may be present within setts. <i>Badgers & Development</i> (NE 2007)

¹ Deliberate capture or killing is taken to include “accepting the possibility” of such capture or killing

² Deliberate disturbance of animals includes in particular any disturbance which is likely a) to impair their ability (i) to survive, to breed or reproduce, or to rear or nurture their young, or (ii) in the case of animals of hibernating or migratory species, to hibernate or migrate; or b) to affect significantly the local distribution or abundance of the species to which they belong. Lower levels of disturbance not covered by the Conservation of Habitats and Species Regulations 2010 remain an offence under the Wildlife and Countryside Act 1981 although a defence is available where such actions are the incidental result of a lawful activity that could not reasonably be avoided.

Species	Legislation (England & Wales)	Offences	Licensing procedures (England & Wales)
Great crested newt <i>European protected species</i>	Conservation of Habitats and Species Regulations 2010 (as amended) Reg 40	Deliberately ¹ capture, injure or kill a great crested newt; deliberate disturbance ² of a great crested newt; deliberately take or destroy its eggs; or damage or destroy a breeding site or resting place used by a great crested newt.	Licences issued for development by Natural England or from the Welsh Assembly Government in consultation with the Countryside Council for Wales. <i>European Protected Species Guidance Note</i> (NE 2009) <i>Great Crested Newt Mitigation Guidelines</i> (English Nature 2001)
	Wildlife and Countryside Act 1981 (as amended) S.9	Intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb a great crested newt in such a place.	Licences issued for science (survey), education and conservation by Natural England or the Countryside Council for Wales.
Adder Common lizard Grass snake Slow worm	Wildlife and Countryside Act 1981 S.9(1) (part); S.9(5)	Intentionally kill or injure any common reptile species.	No licence is required in England or Wales. However an assessment for the potential of a site to support reptiles should be undertaken prior to any development works which have potential to affect these animals.

Site Designation	Legislation (England & Wales)	Protection	Guidance
Special Area of Conservation (SAC) Special Protection Area (SPA) Wetland of International Importance (Ramsar site)	Conservation of Habitats and Species Regulations 2010 (as amended) EC Directive on the conservation of natural habitats and of wild fauna and flora (92/42/EEC). EC Directive on the conservation of wild birds (79/409/EEC). Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 (the Ramsar Convention).	Planning controls are effected through Part 2 of the Conservation of Habitats and Species regulations 2010 (Reg 21) and Part 6 (Regs 61–67). The legislation for the Site of Special Scientific Interest which will underpin each designation also applies. These sites are given protection through policies in the Local Development Plan.	Formal Appropriate Assessment is required before undertaking, or giving consent, permission or other authorisation for a plan or project which is likely to have a significant effect on such a site. <i>Planning Policy Statement 9: Biodiversity and Geological Conservation</i> (ODPM 2005) and the accompanying joint Circular (ODPM Circular 6/2005 & Defra Circular 01/2005) for England or Technical Advice Note 5 in Wales (http://wales.gov.uk/desh/policy/planning/tan5/tane.pdf;jsessionid=XVm1JX3L3cLZTqb3RcQy2L20Lhcgkv0FPY5tJkL9fVMh9G1196W!!-582746490?lang=en).

<p>Site of Special Scientific Interest (SSSI)</p>	<p>Wildlife and Countryside Act 1981 (as amended)</p>	<p>It is an offence to carry out or permit to be carried out any potentially damaging operation. SSSIs are given protection through policies in the Local Development Plan.</p>	<p>Owners, occupiers, public bodies and statutory undertakers must give notice and obtain the appropriate consent under S.28 before undertaking operations likely to damage a SSSI. S.28G places a duty on all public bodies to further the conservation and enhancement of SSSIs. <i>Planning Policy Statement 9: Biodiversity and Geological Conservation</i> (ODPM 2005) for England or Technical Advice Note 5 in Wales (http://wales.gov.uk/desh/policy/planning/tan5/tane.pdf;jsessionid=XVm1JX3L3cLZTqb3RcQy2L20Lhcgkv0FPY5tJkL9fVMh9G1196W!!-582746490?lang=en).</p>
<p>Key Wildlife Site (KWS)</p>	<p>There is no statutory designation for KWSs and they are therefore not subject to specific legislation.</p>	<p>KWSs are given protection through policies in the Local Development Plan.</p>	<p>Development proposals that would potentially affect a LWS would need to provide a detailed justification for the work, an assessment of likely impacts, together with proposals for mitigation and restoration of habitats lost or damaged. <i>Planning Policy Statement 9: Biodiversity and Geological Conservation</i> (ODPM 2005) for England or Technical Advice Note 5 (http://wales.gov.uk/desh/policy/planning/tan5/tane.pdf;jsessionid=XVm1JX3L3cLZTqb3RcQy2L20Lhcgkv0FPY5tJkL9fVMh9G1196W!!-582746490?lang=en) in Wales.</p>

Habitats & Species	Legislation (England & Wales)	Guidance
<p>Species and Habitats of Principal Importance for the Conservation of Biodiversity</p>	<p>Natural Environment & Rural Communities Act 2006 S.40 (which superseded S.74 of the Countryside & Rights of Way Act 2000).</p>	<p>S.40 of the NERC Act 2006 sets out the duty for public authorities to conserve biodiversity in England and Wales. Habitats and species of principal importance for the conservation of biodiversity are identified by the Secretaries of State for England and Wales, in consultation with NE and CCW, are referred to in S.41 of the NERC Act for England and S.42 for Wales. The list of habitats and species was updated in 2008: England: http://www.ukbap-reporting.org.uk/news/details.asp?x=45 Wales: http://www.biodiversitywales.org.uk/wales_biodiversity_partnership_documents-134.aspx The habitats and species listed are not necessarily of higher biodiversity value, but they may be in decline. Habitat Action Plans and Species Action Plans are written for them or are in preparation, to guide their conservation. Ecological impact assessments should include an assessment of the likely impacts to these habitats and species.</p>

Biodiversity Action Plan (BAP) Habitats & Species	No specific legislation, unless it is also a species or habitat of principal importance as described above.	<p>The Biodiversity Action Plan (BAP) is the UK's initiative to maintain and enhance biodiversity in response to the Convention on Biological Diversity signed in 1992.</p> <p>The original BAP list of species and habitats, prepared over 10 years ago, was used to form the new list of species and habitats of principal importance. However some of the species have been taken off the new list and additional species and habitats have been included.</p>
Hedgerows	The Hedgerows Regulations 1997	<p>Under the regulations, it is against the law to remove or destroy certain hedgerows without permission from the local planning authority. In general, permission will be required before removing hedges that are at least 20 metres in length, over 30 years old and contain certain species of plant. The local planning authorities will assess the importance of the hedgerow using criteria set out in the regulations.</p> <p>See: http://www.defra.gov.uk/farm/environment/landscape/hedgerows.htm#legal</p>
Controlled invasive plant species such as Japanese knotweed, hybrid knotweed, giant knotweed Giant hogweed Rhododendron Himalayan balsam	Wildlife and Countryside Act 1981 S.14 (a amended)	<p>It is illegal to plant or otherwise cause to grow in the wild these species.</p> <p>Any contaminated soil or plant material is classified as controlled waste and should be disposed of in a suitably licensed landfill site, accompanied by appropriate Waste Transfer documentation, and must comply with section 34 of the Environmental Protection Act 1990.</p> <p><i>The Knotweed Code of Practice</i> (Environment Agency 2006) http://www.ea-transactions.co.uk/static/documents/Leisure/japnkot_1_a_1463028.pdf</p> <p>2010 guidance published by Defra: http://www.defra.gov.uk/wildlife-pets/wildlife/management/non-native/documents/section-14-guidance.pdf</p>