



**Royal
HaskoningDHV**
Enhancing Society Together

Section 10 Appendix 10.1
Terrestrial Ecology
Legislation

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This report has been prepared by an environmental specialist and does not purport to provide legal advice. You may wish to take separate legal advice'

Species	Legislation (England)	Offences	Licensing procedures and guidance (England)
Bats <i>European protected species</i>	Conservation of Habitats and Species Regulations 2010 (as amended) Reg 41	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. <i>European Protected Species: Mitigation Licensing- How to get a licence</i> (NE 2010) <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 ³ a bat in such a place.	Licence from NE is required for surveys (scientific purposes) that would involve disturbance of bats or entering a known or suspected roost site.
Otter <i>European protected species</i>	Conservation of Habitats and Species Regulations 2010 (as amended) Reg 41	Deliberately ¹ capture, injure or kill an otter; deliberate disturbance ² of otters; or damage or destroy a breeding site or resting place used by an otter.	Licences issued for development by Natural England. <i>European Protected Species: Mitigation Licensing- How to get a licence</i> (NE 2010)
	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 ³ an otter in such a place.	No licence is required for survey in England. However, a licence would be required if the survey methodology involved disturbance.

Species	Legislation (England)	Offences	Licensing procedures and guidance (England)
Birds	Wildlife and Countryside Act 1981 (as amended) S.1	<p>Intentionally kill, injure or take any wild bird; intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built; intentionally take or destroy the nest or eggs of any wild bird.</p> <p>[Special penalties are liable for these offences involving birds on Schedule 1 (e.g. most birds of prey, kingfisher, barn owl, black redstart, little ringed plover).]</p> <p>Intentionally or recklessly disturb a Schedule 1 species while it is building a nest or is in, on or near a nest containing eggs or young; intentionally or recklessly disturb dependent young of such a species.</p>	<p>No licences are available to disturb any birds in regard to development.</p> <p>Licences are available in certain circumstances to damage or destroy nests, but these only apply to the list of licensable activities in the Act and do not cover development.</p> <p>General licences are available in respect of 'pest species' but only for certain very specific purposes e.g. public health, public safety, air safety.</p>
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.	<p>No licence is required in England.</p> <p>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.</p>
Plants <i>Invasive species e.g.</i> Japanese knotweed, hybrid knotweed, giant knotweed, giant hogweed, rhododendron, Himalayan balsam	Wildlife and Countryside Act 1981 S.14	It is illegal to plant or otherwise cause to grow in the wild these species.	<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)</p> <p><i>Managing Invasive Non-native Plants</i> (Environment Agency 2010)</p> <p><i>Guidance on Section 14 of the Wildlife and Countryside Act, 1981</i> (Defra 2010)</p>

Site Designation	Legislation (England)	Protection	Guidance
<p>Special Area of Conservation (SAC)</p> <p>Special Protection Area (SPA)</p> <p>Wetland of International Importance (Ramsar site)</p>	<p>Conservation of Habitats and Species Regulations 2010 (as amended)</p> <p>EC Directive on the conservation of natural habitats and of wild fauna and flora (92/42/EEC).</p> <p>EC Directive on the conservation of wild birds (79/409/EEC).</p> <p>Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 (the Ramsar Convention).</p>	<p>Planning controls are effected through Part 2 of the Conservation of Habitats and Species regulations 2010 (Reg 21) and Part 6 (Regs 61-67).</p> <p>The legislation for the Site of Special Scientific Interest which will underpin each designation also applies.</p> <p>These sites are given protection through policies in the Local Development Plan.</p>	<p>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.</p> <p>England: The <i>National Planning Policy Framework</i> (Department for Communities and Local Government, March 2012), with particular reference to Policy 11. The <i>Government Circular: Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System</i> (ODPM Circular 6/2005 & Defra Circular 01/2005) (the joint Circular).</p>

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

²Deliberate 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.

³Lower 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.

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