

Appendix 7.1 Ecology Legislation

Species	Legislation	Offences	Licensing Procedures and Guidance
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. Guidance documents: <i>NE Standing Advice for protected species 2013</i> <i>European Protected Species: Mitigation Licensing- How to get a licence</i> (NE 2013) <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.
Birds	Wildlife and Countryside Act 1981 (as amended) S.1	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. [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).] 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.	No licences are available to disturb any birds in regard to development. 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. General licences are available in respect of 'pest species' but only for certain very specific purposes e.g. public health, public safety, air safety. Guidance documents: <i>NE Standing Advice for protected species 2013</i>
Adder Common lizard Grass snake Slow worm	Wildlife and Countryside Act 1981 S.9(1) and S.9(5)	Intentionally kill or injure any common reptile species.	No licence is required. 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. Guidance documents: <i>NE Standing Advice for protected species 2013</i>
Rabbits, foxes and other wild mammals	Wild Mammals (Protection) Act 1996	Intentionally inflict unnecessary suffering to any wild mammal.	Natural England provides guidance in relation to rabbits, foxes (which are also protected under the Wildlife and Countryside Act 1981 from live baits and decoys) and other wild mammals, on their website. Lawful and humane pest control of these species is permitted.
Plants <i>Nationally protected species</i>	Wildlife and Countryside Act 1981 S.13 (Schedule 8)	Intentionally pick, uproot or destroy any wild plant on Schedule 8	Licences can be issued by Natural England for specific purposes only, such as science and education or conservation purposes. There is no provision for licensing the above actions for development operations under the Wildlife & Countryside Act 1981 (as amended). No licence is required for survey in England. Guidance on survey techniques is available from Natural England. Guidance documents: <i>NE Standing Advice for protected species 2013</i>
Plants <i>All plants</i>	Wildlife and Countryside Act 1981 S.13	To uproot any wild plant without authorisation.	No licence is required. The land owner's permission is required.
Plants <i>Invasive species e.g. Japanese knotweed, hybrid knotweed, giant knotweed, giant hogweed, rhododendron, Himalayan balsam</i>	Wildlife and Countryside Act 1981 S.14	It is illegal to plant or otherwise cause to grow in the wild these species.	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. Guidance documents: <i>The Knotweed Code of Practice</i> (Environment Agency, 2013 version 3) <i>Managing Invasive Non-native Plants</i> (Environment Agency 2010) <i>Guidance on Section 14 of the Wildlife and Countryside Act, 1981</i> (Defra 2010)

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.

Site Designation	Legislation	Protection	Guidance
Site of Special Scientific Interest (SSSI)	Wildlife and Countryside Act 1981 (as amended)	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.	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. Guidance documents: The <i>National Planning Policy Framework</i> (Department for Communities and Local Government, March 2012), with particular reference to Policy 11, and the joint Circular.
Local Nature Reserve (LNR)	National Parks and Access to the Countryside Act 1949 S.21	LNRs are given protection through policies in the Local Development Plan.	LNRs are generally owned and managed by local authorities. Development proposals that would potentially affect a LNR 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. Guidance documents: The <i>National Planning Policy Framework</i> (Department for Communities and Local Government, March 2012), with particular reference to Policy 11, and the joint Circular.
Local Sites (e.g. Sites of Importance for Nature Conservation)	There is no statutory designation for local sites.	Local sites are given protection through policies in the Local Development Plan.	Development proposals that would potentially affect a local site 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. Guidance documents: The <i>National Planning Policy Framework</i> (Department for Communities and Local Government, March 2012), with particular reference to Policy 11, and the joint Circular.

Habitats & Species	Legislation	Guidance
Species and Habitats of Principal Importance for the Conservation of Biodiversity	Natural Environment & Rural Communities Act 2006 S.40	S.40 of the NERC Act 2006 sets out the duty for public authorities to conserve biodiversity in England. Habitats and species of principal importance for the conservation of biodiversity are identified by the Secretary of State for England, in consultation with Natural England, are referred to in S.41 of the NERC Act for England. The list, known as the 'England Biodiversity List', of habitats and species can be found on the Natural England web site. The 'England Biodiversity List' is used as a guide for decision makers such as public bodies, including local and regional authorities, in implementing their duty under Section 40 of the NERC Act 2006 to have regard to the conservation of biodiversity in England when carrying out their normal functions. Ecological impact assessments should include an assessment of the likely impacts to these habitats and species.
Biodiversity Action Plan (BAP) Habitats & Species	No specific legislation, unless it is also a species or habitat of principal importance as described above.	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. The UK BAP was used to draw up the 'England Biodiversity List' and has been succeeded by the UK Post-2010 Biodiversity Framework in 2012, due to a change in government strategy by all UK countries, focussing on managing the environment as a whole rather than dealing with different aspects of biodiversity and environment separately. However, the UK BAP list of priority habitats and species continue to be regarded as conservation priorities in the UK Post-2010 Biodiversity Framework (JNCC & Defra 2012).
Hedgerows	The Hedgerows Regulations 1997	Under the regulations, it is against the law to remove or destroy certain hedgerows without permission from the local planning authority in England. 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 authority will assess the importance of the hedgerow using criteria set out in the regulations. See Defra and Natural England websites for further guidance and information.