



## PROTECTED SPECIES ADVICE FOR DEVELOPERS

### BADGER

#### Legal protection for badgers

Badgers and their setts are protected by the Protection of Badgers Act 1992. Offences relevant to development works include:

- wilfully injuring or killing a badger;
- disturbing a badger while it is in a sett;
- intentionally or recklessly damaging or destroying any part of a badger sett, or obstructing access to a sett.

This means that if badgers could be affected in these ways by your development, and you take no action to prevent it, you run the risk of committing an offence.

The Protection of Badgers Act defines a badger sett as '*any structure or place which displays signs indicating current use by a badger*'. To help you make an assessment of what might or might not constitute a badger sett see our [Licensing Guidance: What is a badger sett?](#).

Where impacts that would result in an offence cannot be avoided, a species licence can be issued to allow works to proceed (see licensing section below). **It is important that any licensing issues are considered as part of your planning application.** This is to avoid a situation where planning permission is secured but the lack of a species licence prevents the development from proceeding.

#### When a development might affect badgers

Badgers are found throughout most of mainland Scotland in both urban and rural areas, particularly in the lower lying, more fertile parts of the country. For an up to date map of badger distribution see the [National Biodiversity Network Atlas](#). The NBN Atlas map indicates the broad pattern of distribution across Scotland but cannot provide detailed information for individual development sites. Local Record Centres may have additional information that can help determine if badgers are likely to be present on your development site. Development within the Inverness area should take account of Highland Council's [Badger Policy Guidance Note](#).

Favoured sites for badger setts are where there is dry, sandy soil that is easy to dig. Setts are often located in woodland, hedgerows or in dense patches of scrub on steep banks close to fields. However, setts can also be found in open fields, as well as railway embankments, old quarries, rock cavities and landfill sites.

Any potentially suitable habitat within or close to your development site that could be affected should be surveyed for badgers. As a guide, any work within 30m of an entrance to a badger sett (or 100m for pile driving and blasting work) could result in disturbance of a badger in the sett, or block or damage tunnels that radiate from the entrance to the sett.

#### Carrying out a badger survey

##### When

Badger surveys can be carried out at any time of year but the optimum time is February to April.

## How

Surveys involve a systematic search of suitable habitat for signs of badgers, such as footprints, hair, snuffle holes, latrines and sett entrances (see [Scottish Badgers website](#) for more details). These basic surveys do not require a licence, provided that they are undertaken carefully and with due regard to avoiding damage to setts or to disturbing badgers within setts.

Where a development proposal could impact on one or more social group of badgers, 'bait marking' is a method used to determine group territories and how the site is being used by different social groups. This technique is labour-intensive and requires specialist knowledge and experience. It involves using small harmless, coloured beads in food put out for badgers. These beads can then be found in latrines and dung-pits that the badgers use to demarcate the boundaries of their territory. This allows the territories to be mapped and the consideration of the impact of any loss of habitat on separate groups of badgers. Bait marking does not require a licence provided it is carried out in accordance with best practice by a suitably experienced and competent person.

### Your survey report should include:

- details of any information gathered from Local Record Centres or other sources;
- names and experience of surveyors;
- descriptions of the habitat surveyed and any limitations to the survey, such as access restrictions;
- details of survey methods, including date, time and weather conditions during surveys;
- map showing the location of sett entrances, badger signs, well-used pathways and group territories.

For further advice see this [Best Practice Badger Survey Guidance Note](#).

## Preparing a badger protection plan

If your survey finds badgers, or their setts, that could be affected by your proposal, you will need to prepare a species protection plan.

### Your protection plan should include:

- details of how the proposed development is likely to affect badgers, including damage or disturbance to setts and any impact on foraging areas;
- mitigation measures that will be employed to avoid or minimise impacts on badgers;
- summary of any residual impacts once mitigation measures have been taken into account.

For further advice see this [Badger Protection Plan Guidance Note](#).

### Typical mitigation measures are:

- designing or micro-siting development to avoid damage or disturbance to setts during construction and to minimise disturbance of badgers once the development is operational – a buffer zone of undeveloped land can help minimise future conflicts once a development is complete;
- marking exclusion zones around setts - the boundary of the exclusion zones should be a minimum of 30m from sett entrance (100m for pile driving or blasting work). **Where exclusion zones of the required size aren't possible, works will require a licence from SNH** (see licensing section below);
- felling trees away from badger setts and avoiding blocking any badger pathways;
- avoiding the use of noisy plant and machinery in the two hours before sunset within the vicinity of a sett;
- directing any security lighting away from setts:

- safe storage of chemicals;
- covering any trenches at the end of each working day, or including a means of escape for badgers;
- capping of temporarily exposed pipe systems out of work hours;
- safeguarding key sources of water for badgers;
- planting dense native shrubs around setts to provide added protection (eg. gorse, blackthorn, holly and elder);
- installing underpasses and fencing to enable badgers to cross busy roads safely - for further advice see [Design Manual for Roads & Bridges](#) (Highways Agency 1999);
- enhancement of remaining foraging habitat to offset any significant loss of feeding areas - for further advice see [Managing Land as a Foraging Resource for Badgers](#);
- pre-construction surveys to check for any new setts that may have arisen between the time of the original survey and start of construction work.

Annotated maps and photographs are a useful way of showing the location of the mitigation measures proposed, and how they relate to survey information and construction work.

### Licensing development works affecting badgers

If your development cannot avoid damage or disturbance of a badger sett, a licence will be required from SNH to allow work to proceed. To apply for a licence you will need to complete this [Licence Application Form](#). Every effort should be made to retain setts on the site. However, if the destruction of a sett is unavoidable, a licence would allow this. Under the licence, the badgers would first need to be safely excluded from the sett using a combination of fencing and/or specially designed one-way gates that allow the badgers out of the sett area, but prevent their re-entry. If applying for a licence, refer to our [Guidance Notes for Providing Supporting Information for Badger Licence Applications](#).

Licences are not normally granted for works during the badger breeding season (1 December to 30 June) when they are most sensitive to disturbance. At other times of the year, a licence will only be issued if there are alternative setts available for badgers to move to within the same territory. If there are no other suitable setts available, an artificial sett must be provided, but this must be seen as the least preferred option. The site for an artificial sett must be carefully selected and all work supervised by a badger expert. The most successful artificial setts have been located less than 100m from the original natural sett and constructed at least six months before the badgers are excluded. For further details see [Guidance for the Creation of Artificial Setts](#).

Further information and advice on various aspects above can be found in the SNH publication [Badgers and Development](#).