

BADGERS



Summary

- If you are planning to carry out any work close to an occupied badger sett and may harm or disturb the badgers or their setts, for example by re-routing a footpath, erecting a fence or developing a site, Natural England should be consulted.
- Plan ahead. Check with Dorset Environmental Records Centre (DERC) for any known badger setts. Get a suitably qualified person to carry out a badger survey at the earliest opportunity and at a suitable time of year, before any work is started.
- If a survey finds evidence of badgers then a licence may be required from Natural England. This will permit actions that may disturb the badgers, including most types of building work within 20m of a sett and the use of very heavy machinery within 30m of a sett. Disturbance will only be allowed between 1st July and 31st October.

Legal Protection

Badgers are protected under the Protection of Badgers Act 1992. It is illegal to willfully kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so; to intentionally or recklessly interfere with a badger sett by damaging or destroying it; to obstruct access, or any entrance of, a badger sett and to disturb a badger when it is occupying a sett.

A badger sett is defined as *'any structure or place, which displays signs indicating current use, by a badger.'* This can include culverts, pipes and holes under sheds, piles of boulders, old mines and quarries, etc. 'Current use' does not simply mean 'current occupation' and for licensing purposes it is defined as 'any sett within an occupied badger territory regardless of when it may have last been used'.

Licences

Licences are granted by Natural England to interfere with badger setts for development purposes. Licences are not normally issued during the breeding season, which is between 30th November and 1st July, and cannot be issued retrospectively. Activities that necessarily involve disturbance should therefore be programmed to take place outside of this period. Licences are usually only issued after full planning permission has been granted.

However, it is wise to undertake a badger survey prior to submission of a planning application to ensure that the development proposals and appropriate mitigation is in place for the badgers to survive on the site and the requirements of the licence met. Natural England welcome pre-application discussions.

Fines

The maximum penalty for each illegal sett interference, badger death or injury is a £5000 fine and/or up to six months imprisonment.

A person is not guilty of an offence if it can be shown that the act was 'the incidental result of a lawful operation and could not have been reasonably avoided'; only a court can decide what is 'reasonable' in any set of circumstances.

Ecology

Badgers live in family or social groups of related mature and young adults and cubs. Each group has a territory that contains water and food resources to support it throughout the year and a number of underground tunnel systems called setts in which the badgers live. Not all setts serve the same purpose and they can be categorised according to their use, i.e. main, annex, subsidiary,

and outlier. However, the status of a sett can change over time, particularly if other setts have been disturbed, or land use changes have fragmented or removed feeding opportunities.

Badger setts are found in a wide range of habitats, including woods, hedgerows, dense patches of gorse and scrub particularly those close to grazed pasture and lawns, but also quarries, railway embankments, landfill sites and housing estates. Badgers also favour sites where the ground is dry and relatively easy to dig, i.e. chalky and sandy soils.

Badgers eat a wide variety of foods. A large proportion of their diet consists of earthworms, but they are opportunistic foragers and will also feed on fruit, berries, small mammals, birds, carrion, insects and other invertebrates at various times of the year, often when earthworms are difficult to find.

Badger Disturbance

Work that disturbs badgers whilst occupying a sett is illegal without a licence. Badgers could be disturbed by work near the sett, even if there is no direct interference or damage to the sett.

Irrespective of whether or not a licence is required, it is good practice to take appropriate measures to protect a sett from accidental damage or disturbance during the construction phase and, in some cases, thereafter, i.e. by including badger protection zones on development sites.

Natural England has issued some guidelines on the types of activity, which it considers should be licensed within certain distances of sett entrances, e.g. using heavy machinery within 30m of any entrance to an active sett; using lighter machinery (i.e. wheeled vehicles) particularly for any digging within 20m; light work e.g. hand digging or scrub clearance within 10m.

Survey

Where badgers are present or likely to be present, the planning authority may require a survey to be undertaken. This will enable the authority to take account of the presence of badgers, by considering the importance of a sett and the implications of its loss or disturbance, as well as, the likely effects of any development on the occupants.

A development site may not contain a badger sett, as such, but may be part of a social groups' territory and relied upon as an important feeding area. Therefore it is important to extend the initial survey beyond the boundary of the proposed development in order that an assessment can be made of the extent of the territory and any loss that may result. The territory is the minimum area capable of supporting the badger group.

Signs of badgers include: entrance to badger sett – shape of capital 'D' with flat side downwards at least 20cm wide; tufts of hair caught on barbed wire fences; badger paths; footprints; latrines – small excavated pits in which droppings are deposited; 'snuffle holes' – where badgers have searched for insects and plant tubers; day nests – bundles of grass and other vegetation where badgers may sleep above ground; scratch marks on trees (usually near the sett).

Mitigation

Mitigation covers a wide range of measures that aim to minimise the impact of a development on any resident badger population, by ensuring no loss of setts, and incorporating badgers' foraging needs enabling them to remain in the area and find sufficient food.

Losses of badger foraging habitat need to be minimised, either by avoiding them and/or by compensatory habitat creation and enhancement. This may be achieved by provision of short grass areas for foraging, planting of native trees and scrub species to provide additional cover and food and provision of corridors to allow access to foraging areas.

Please contact the Natural Environment Team for more information: 01305 224290
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or Dorset Badger Group via www.dorsetbadgergroup.co.uk