

Bat Conservation Trust



Bat Related Crime – report update

Covering July 2004 to April 2007



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1 Summary

This report updates the 2003 report *Bat Crime, is the legislation protecting bats?* Bat related crime continues to occur at a worrying level. One hundred and seventy bat related crime incidents were recorded by the Bat Conservation Trust between July 2004 and April 2007. Furthermore, anecdotal evidence from bat workers, the general public, building and forestry professionals indicate that this is a drop in the ocean. The building development and maintenance sector accounted for 66% of the incidents – a similar proportion to that reported in 2003's Bat Crime Report. The Bat Conservation Trust also received approximately 40 additional calls about possible incidents during this time that are not included in this report. In most of those cases, potential evidence had already been destroyed and could not be followed up.

2 History

The Investigations Project started in April 2001, as a two-year collaborative project between the Bat Conservation Trust (BCT) and the Royal Society for the Protection of Birds (RSPB). Joan Childs, RSPB Investigations Officer, was seconded to BCT for two days per week to record bat related crime. The aim of the project was:

- To record bat offences and determine their extent and type
- To determine if the current legislation was adequately enforced and working to protect bats
- To assist the police in their role of investigating bat crime by providing training, advice, practical help and resources
- To recommend how to enhance the protection of bats and their roosts using the legislation as a tool.

During the two years, 144 offences against bats or their roosts were recorded, but were thought to be the tip of the iceberg because most incidents occur on private land and remain undetected. It was also considered that there was reluctance amongst bat workers, SNCOs and the public to report incidents to the police. Two thirds of those incidents were caused by the building and construction industry.

In 2004 the Project was re-launched, funded by BCT resources and donations from bat groups. Retired police inspector Steve Kourik was employed for two days per week as Investigations Officer from July 2004, and in August 2005 Alison Rasey took over the post.

The objectives of the Investigations Project have developed further since 2001 and include:

- Recording of bat related crime
- Providing encouragement, training and advice for the police, SNCOs and bat workers to ensure incidents are reported, investigated, and the law enforced ie prosecutions are taken forward where appropriate
- Targeting the main perpetrators of bat related crime for education and awareness raising initiatives, such as the production of best practice guidelines to improve work practices
- Improve areas of policy to reduce opportunities for ignoring the legislative protection given to bats; this involves land use planning policies and, at local government level, survey requirements prior to demolition
- Highlighting good practice for bats

3 Incidents notified to BCT between July 2004 and April 2007

Between July 2004 and April 2007, 170 bat related crime incidents were recorded by the Bat Conservation Trust – an average of 5.2 per month. This compares with an average of six per month for the 2003 report. This slightly reduced average is not considered by BCT to represent a reduced number of bat related crime incidents occurring overall because the number of incidents notified to BCT is likely to represent only a small fraction of those that actually occur. Table 1 shows the main causes of incidents that occurred between 2004 and 2007, compared with those reported in these categories between 2001 and 2003. (The 'other' category for 2004-2007, significantly higher than that reported in 2003, includes pest control related incidents (4%), vandalism (4%), deliberate killing (4%) and sale of bats on internet auction sites (4%).)

Table 1 Proportions of incidents, categorised by the main cause of the incident occurring, for the two reporting periods

* For 2003, 144 incidents were reported over 24 months and for 2007, 170 incidents had been reported over 33 months

Main causes of incidents occurring	2003*	2007*
Building & development/building maintenance	67%	66%
Tree surgery & felling	9%	6%
Deliberate exclusion	9%	3%
Disturbance	6%	2%
Other	9%	23%

Table 2 shows the proportions of bat related incidents categorised by incident type, reported between July 2004 and April 2007, again compared with those reported between 2001 and 2003.

Table 2 Proportions of incidents, categorised by incident type, for the two reporting periods

** For 2007 exclusion/obstruction incidents are recorded as damage/destruction.

Incident type	2003	2007
Damage or destruction of a roost	80%	74%
Disturbance of bats at the roost	10%	18%
Exclusion or obstruction of a roost	7%	-**
Disturbance of bats away from the roost	1%	4%
Possession of bats	1%	0%
Sale of dead bats	1%	5%

The 2007 figures for disturbance of bats at the roost include incidents involving sonic deterrents, building and building maintenance works, and killing of bats. The proportion of incidents taking place at the roost accounts for over 90% in both 2003 and 2007 figures. Incidents at the roost can affect whole colonies and so are particularly worrying as they can have huge impacts on bat conservation. The 2007 figures for disturbance of bats away from the roost include six incidents of deliberate killing of bats. The majority of incidents involving the sale of dead bats were found on Ebay.

3.1 How were the incidents dealt with?

The following is a breakdown showing how the 170 incidents notified to BCT during this reporting period were dealt with:

170 incidents were reported between July 2004 and April 2007. Of those 170 incidents:

9 were not passed to the police or SNCO for action

124 were passed to the police in time for action

37 were passed directly to the SNCO for action

(ie 161 incidents were taken forward further)

Of those 161 incidents:

15 incidents were not dealt with due to police inaction

3 incidents were not dealt with due to CPS inaction

27 incidents resulted in no police (or CPS/PF action) due to insufficient evidence
(this also includes cases where the culprit could not be identified)

(ie 116 incidents were taken forward further)

Of those 116 incidents:

6 outcomes are unknown as no response from police/SNCO

2 offences were dealt with by the RSPCA

51 offences dealt with by SNCO, LPA legal agreement, company management***

(ie 57 incidents were taken forward further by the police)

Of those 57 incidents:

23 are being investigated or are going to court at the time of writing

18 offences were dealt with by way of police advice/verbal warnings

4 offences were dealt with by police written warnings

1 offence resulted in a formal reprimand

6 offences resulted in cautions

5 offences resulted in prosecutions

Of those 5 prosecutions:

5 prosecutions were successful

Total Fines were £3,400

*** SNCO includes licensing bodies, company management refers to pest control company management

Some of the incidents within this reporting period are still being investigated by the police, Crown Prosecution (CPS) or Procurator Fiscal (PF) at the time of writing, or are due to be heard in court. The total fines notified to BCT during this reporting period amount to £3,400 and compare with £2,600 for the two years between 2001 and 2003.

4 The reasons for bat related crime

Unlike some other wildlife crimes like egg collecting or badger baiting, bat related incidents tend not to result from ‘organised crime’ – but rather as a consequence of other work. The majority of incidents seem to be reckless rather than intentional or deliberate, although damage to roosts or disturbance of bats where they are known to be present but the perpetrator continues his/her actions regardless is all too common.

Because bats are highly dependent on man-made structures like houses, churches and barns for roosting, they are particularly vulnerable to building works, conversions, demolitions, timber treatment and maintenance activities in buildings. These activities constitute offences if they damage or destroy roosts, or kill, injure or disturb bats in any way.

A significant number of incidents occur when ownership of a house changes; in many cases previous owners or existing neighbours are aware of a roost, but if new owners are not they may sanction building or maintenance works without appreciating the legal implications. A recent incident involved cavity wall insulation of a newly purchased property that was known by locals, but not by the new owner, to have a bat roost. With moves by the government to encourage improved household insulation, similar incidents are likely to become more commonplace. A database of bat roosts that can be searched by professionals prior to their clients’ commitment to purchase would help solve this situation. Currently there is no central database where roost information can be reported, held and easily accessed by this sector.

Bats are also vulnerable to deliberate actions to injure or disturb (usually because of our intolerance of them).



(Image © JJ Kaczanow)

The building development and maintenance sector remains the biggest perpetrator of bat related crime.

5 Target areas and actions to reduce bat related crime

From the breakdown of incident type recorded by the Investigations Project, it is clear that the major perpetrators remain the building development and maintenance sector, which includes works such as window replacements, re-roofing, soffit and fascia board replacement – as well as building renovations, demolitions and barn conversion works.

Some of the less common incidents during the period of this report include:-

- A bat flushed down the toilet (apparently the householder thought it had come up from the sewer)
- Juvenile bats ‘found’ in a box (we can surmise that development or maintenance works disturbed a maternity colony)
- Deliberate killing of bats by children

A major aim of the Project is to increase awareness of the legal protection that bats and roosts have, and the fact that roosts remain legally protected even if bats are not present at the time. This is particularly relevant to developers, those in the building trade, and householder DIY enthusiasts. Another important aspect is to improve legal and procedural guidance to bat workers and formal enforcement agencies, and also to mobilise assistance/advice to prevent an incident occurring or, more usually, to follow up with appropriate action after an incident has occurred.

The target group for education includes not only those who directly damage, destroy or obstruct bat roosts or disturb bats through the course of their work, but also those who overlook their responsibilities of highlighting bat issues to third parties, such as planning authorities.

5.1 The building professions and building maintenance

Two thirds of incidents recorded between 2001 and 2003 were related to the building and development professions. This trend has continued between July 2004 and April 2007. BCT continues to develop its work on raising the profile of bat legislation within these target audiences. This means targeting local planning authority officers, as well as the builders and developers themselves. Local authority building regulations and/or planning officers are the first port of call before a building is demolished or renovated and therefore are both important groups to educate; they can prevent incidents occurring by requiring wildlife surveys before approval for certain works.

Over 80% of incidents involve illegal damage, destruction or obstruction of a roost, or disturbance at a roost. This has important conservation implications for bats since summer roosts provide shelter for up to several hundred or even in excess of a thousand bats during the breeding season. Because bats' reproduction is slow (each breeding female has on average less than one baby bat per year), and breeding females gather from an area often extending to several square kilometres to give birth in one roost site, destruction of a summer roost can greatly reduce the number of viable juveniles for the whole year for that area. This can be catastrophic for the local bat population.

Case study

Prosecution involving a barn conversion – highlighting the need for improved planning conditions

August 2005 saw the successful conviction of a developer who was fined £700 for destroying a roost in the course of converting a barn in Buckinghamshire. Planning permission was sought in 2002, the presence of bats came to light during the planning process, and was confirmed by a professional bat survey. Planning permission was given for the conversion and the applicant was informed, by the planning department, of the legal protection afforded to bats and their roosts. However neither the recommendations in the ecologist's report nor the need for a licence from Defra were made a condition of the planning permission. The defendant proceeded with the barn conversion works without taking account of the bats. He pleaded guilty to charges of destroying a breeding site or resting place of a bat, but the fine was reduced not only because of his guilty plea but also because of the misleading advice from the local planning authority.



The planning process should take account of bats for barn conversions

Because incidents related to building development and maintenance are all too common, BCT runs a 'Bats & Buildings Awareness' course for builders, surveyors, pest controllers and architects. In conjunction with the Mammals Society, BCT also runs a 'Planning and Protected Species' course that is aimed primarily at local authority planners. Training of local authority planners specifically on bat issues was also undertaken in north Wales in 2006 to address issues in an area of importance for lesser horseshoe bats. The BCT plans to develop this further as part of its training programme. The relatively recent PPS9 and its guidelines, proposed updates to TAN5 and NPPG14, and changes to the Habitats Regulations provide a timely opportunity to do this.

Not all demolitions go through the planning process. Those that don't sometimes require a Notice under the 1980 Buildings Act in England and Wales or the 2003 Buildings (Scotland) Act in Scotland to be served on the Building Regulations department of the local authority. In response, local councils can, if they feel it is appropriate, require a survey for protected species prior to demolition even if planning permission is not involved. Protected species surveys are currently rarely asked for under these acts, and BCT is trying to raise awareness of this facility. Some incidents are reported to BCT where buildings have been demolished and potential evidence of bats destroyed, and BCT considers that councils should request bat surveys, where appropriate, for buildings proposed for demolition. S40 of the Natural Environment and Rural Communities Act 2006 places a duty on all local authorities to have regard to the conservation of biodiversity in exercising their functions.

In January 2007 BCT employed, for the first time, a Bats & the Built Environment Officer to focus on communication of best practice to all sections of the building industry. Dr Carol Williams was appointed to this post which runs for two years.

5.2 Forestry work and tree surgery

Tree and forestry professionals also contribute to the bat related crime statistics. Although the overall number of bat/tree incidents recorded is small, anecdotal evidence suggests that the incidence of damage to roosts and disturbance of bats is far higher than the recorded figures indicate.

Case study First prosecution for damage to a bat roost in a tree

In May 2005 Hart District Council in Hampshire was convicted for damaging a bat roost in a tree and fined £1,750. In 2004 a survey of the tree had been undertaken which recommended that a bat survey should be carried out before any works to the tree. However, the Council failed to carry out the bat survey, and a tree limb that contained a maternity roost of Daubenton's bats was removed. This was the first time a case involving damage of a bat roost in a tree was successfully prosecuted.

When planning works to trees, always make assessments for the likelihood of bats



(Image © A Furrer)

Because of the high risk of encountering bat roosts when undertaking tree works, the BCT runs a course called 'Arboriculture and Bats: a guide for practitioners' in conjunction with the Arboricultural Association. In addition, 'Woodland Management for Bats' has been published by the Forestry Commission for England and Wales in partnership with BCT, CCW and NE. Both aim to strike a balance between the needs of bats and the diverse objectives of woodland and tree management, assisting practitioners to stay within the law.

5.3 Pest control

Anecdotal evidence suggests that the incidence of entry (by pest controllers) into bat roosts is very common, and risks disturbance to bats or damage to roosts. Many pest controllers are not aware of how to tell the difference between bat and mouse droppings, and so treat bat roosts for mouse infestation. Others continue with pest control measures in bat roosts knowing that bats are present, but seem to be unaware of the wildlife legislation. Some cite the time it takes for a licensed bat worker to visit as being a reason to continue without contacting the SNCO (in practice many want a visit instantly or at least the same day). One incident notified to BCT during this reporting period involved bats that had been caught on and killed by adhesive rodent traps (see image below). A similar incident that occurred during this reporting period was not notified to BCT in time to be recorded in this report.



The image left shows six bats caught on an adhesive rodent trap. This incident (involving a householder) was concluded by the SNCO rather than by the police.



Adhesive rodent traps can be purchased from high street shops. BCT would like to see them available only to professional pest controllers, with strict guidelines for their use.

Prior to this reporting period there has been successful prosecution of a pest control company following an incident where brown long-eared bats were killed on adhesive rodent traps.

Another area of concern for BCT is the increasing use of sonic pest deterrents. Three incidents were notified to BCT where their use was probably intended to deter bats

BCT is now working with the British Pest Control Association and the National Pest Technician's Association to produce guidelines for pest control professionals. The NPTA has kindly allowed BCT to attend (free of charge) its annual exhibition in Birmingham for a number of years. This is very helpful in highlighting bats and the legislation to pest control professionals. The BCT's 'Bats and Buildings: an awareness course' is also relevant to pest control professionals.

5.4 Which incidents are processed with a view to potential prosecution?

In many cases it is not in the public interest or in the interest of bat conservation to take cases to court. In other cases there is insufficient evidence to take the case to court. Some incidents arise out of genuine errors of judgement, fear or even ignorance, and these may be best dealt with by advice or, in extreme cases, a formal caution. To achieve the best outcome for bats we must focus on cases likely to succeed in court that send a clear message of deterrent to other potential offenders.

A partnership approach between the police, bat workers, SNCOs and BCT is important in identifying which cases should go forward to court. Sometimes education alone will provide the best outcome.

Case study

Two boys formally reprimanded for reckless damage

Two 13-year old boys were formally reprimanded for criminal damage and recklessly damaging a bat roost. The incident occurred in 2005 and involved a hibernation site in a Victorian icehouse (right) in Hertfordshire. The icehouse was protected by a two-metre high metal door with a hatch cut in it for bat access. The two offenders chipped away the brickwork around the hinges and removed the metal door. They then started a small fire in the base of the roost and threw in cans of deodorant that exploded inside the roost. This was an unusual case because the boys were formally reprimanded for a wildlife crime as well as criminal damage.



As is evident in the statistics in Section 3.1, 37 of the 161 incidents taken forward were, at the outset, considered most appropriately dealt with by the SNCO rather than the police. Some other incidents, after consideration by the police, were also considered best dealt with by the SNCO or other body such as the RSPCA, or local planning authority via legal agreement.

Case study

Formal caution given to householder

In January 2006 a formal caution was given to a London householder who admitted disturbing bats at a roost. In August 2005 the householder sprayed fly killer into a bat roost. The access to the roost was under hanging tiles. A number of bats flew out, and the householder contacted the council who told him bats were protected. The householder then contacted English Nature (now Natural England) who established that an offence had been committed. After liaison between the bat worker, EN, the police and BCT, it was decided that a formal caution would be the best conclusion; the householder had admitted guilt, and had not tried to cover up the crime.

However, there are cases where prosecution is the best option, as Kelvin Jones (National Wildlife Crime Unit's Operation Bat Project Officer) said: "The law is there for a reason, and that reason is to protect these very vulnerable animals. We would always much rather prevent damaging incidents from happening in the first place, rather than have to enforce the law by taking prosecutions forward. Timely intervention and education will always be our first choice. However, for repeat offenders and those who have a blatant disregard for wildlife legislation, prosecution may be our only option."

Getting the right message across is the key to reducing bat related crime. This message is not just about getting successful prosecutions – the aim is to achieve the best for bats, in the long term, and misguided prosecutions may simply 'drive things underground' and be counter-productive. The aim must be to enhance bat biodiversity and contribute towards the favourable conservation status of all our species.

There are, however, individuals (sometimes whole industries) who either don't acknowledge that bats and roosts are protected or who, knowing the consequences of their actions, disregard both the welfare of bats and the law by proceeding anyway with

damaging and/or disturbing works. It is this group that causes the most concern. BCT considers that police and bat workers would gain the most for bat conservation by focussing on the following situations:-

- 1 **Emergency situations in which prompt or timely, action will prevent a crime from happening.** If by taking action early we can prevent a crime occurring, that should be our preferred option.
- 2 **Situations in which the motives behind the commission of the offence show a deliberate disregard of the law.** In these cases an organisation or individual understands what they are doing, is aware of the potential consequences, but goes ahead anyway.
- 3 **Situations involving audiences (such as builders, timber treatment companies) that have shown a prolonged disregard for bat legislation.** The RSPB/BCT two-year project showed that the great majority of bat related crime is committed by the building and construction industry.
- 4 **Situations involving roosts of rare bats or more than one bat species.** In these cases the impact may be particularly severe.

Each incident needs to be judged on its own merits when deciding the best course of action; even if an incident falls into one of categories 2-4 above prosecution may not always be the best approach. However, by prioritising these cases the police, often assisted by bat workers, can focus limited resources to achieve the best outcome for bat conservation.

Case study

Householder prosecuted for intentionally killing bats

In March 2005 a householder from Fife was found guilty under Section 9 of the Wildlife & Countryside Act of intentionally killing six bats that had been roosting in his house. Scottish Natural Heritage had already been advising the householder about the bats which had been roosting in the property for some time. The householder used a dinghy paddle to attack the bats in his loft because they had got into his children's bedroom. He was fined £450.

Case study

Building contractor fined for damage to a roost

In August 2006 work was carried out that damaged a bat roost already known to Scottish Natural Heritage. The roost (in a house) was in use at the time of the works and the evidence, bat droppings and urine streaks on the window, could be clearly seen. The builder was charged under the Habitats Regulations, pleaded guilty and was fined £300.

Bat droppings stuck to a window indicating bats are roosting in the property



(Image © BCT)

Case study

Building contractor fined for destroying a bat roost

In the summer of 2004 a building known to be a hibernation site for at least two (possibly whiskered) bats was demolished illegally. The building had been surveyed in December 2003 and the findings relayed to the builder. There appeared to be some confusion as to who had actually demolished the building because the builder responsible for the site denied any involvement, but was willing to plead guilty to the offence. A fine of £200 was given which was disappointingly low.

The aim is to encourage compliance with the legislation rather than have to prosecute after an incident has occurred. However, prosecution of appropriate cases with a proportionate penalty is important in encouraging compliance. Other areas of work undertaken by BCT to encourage compliance include education, provision of information, and also lobbying for improvements in legislation and policy together with its improved implementation. Enforcement really is the last line of defence, and so we need to use enforcement appropriately to persuade society to comply with the legislation.

Operation Bat

In 2004 wildlife crime priorities were identified by the Association of Chief Police Officers, the Joint Nature Conservation Committee and statutory nature conservation organisations. Bats were included as one of these priorities and, as a result, Operation Bat was launched in 2004. Operation Bat is the standard operating procedure police use in dealing with bat related crime matters, and it provides a clear and concise procedure to be followed from the time that a bat incident is first reported to the police until its conclusion. The Bat Crime report published in 2003 gave, for the first time, actual figures to help quantify the level of bat related crime and, in the wake of this, Operation Bat was welcomed.

However, there is concern that Operation Bat is not yet increasing the delivery of cases to court where evidence seems strong and court appropriate. BCT considers that Operation Bat has been successful to an extent, as anecdotal evidence indicates a higher level of awareness, amongst police officers, of the legal protection afforded to bats. However, some cases are still ‘falling by the wayside’ within the police, sometimes not properly investigated even though the incident appears a clear-cut offence. Sometimes the police and CPS/PF perceive that there is a lack of evidence and, without having discussed the case with the bat worker, SNCO or BCT, inform the perpetrator that no further action will be taken, thereby potentially closing the case prematurely. Further training on bat issues and basic bat biology/behaviour may help resolve this. (In other cases evidence is indeed lacking and this highlights a training need for bat workers on evidence gathering and recording, and on the importance of detailed historical information on known roosts. See 6.4)

There is still some reluctance to report wildlife crime incidents to the police. This could be because some think it is too trivial compared with other police priorities. However, sometimes there seems to be a lack of resources or willingness on behalf of the police to follow up incidents and BCT sees this as an important issue to overcome. Overall, officers assigned as Wildlife Crime Officers are excellent at following up incidents, but all too often we hear of cases that are stalling because other priorities have been set for the dealing officer. This does not encourage bat workers to report cases. BCT would like to see Home Office targets for the appropriate resolution of wildlife crime incidents in order to push wildlife crime up the agenda.

In January 2007 BCT was delighted to hear that Kelvin Jones was appointed to the National Wildlife Crime Unit for one year as Operation Bat Project Officer. In the four months that Kelvin has been in post so far it is BCT’s view that initial responses to bat related crime have improved within police forces, with improved investigation of incidents. BCT is grateful to all concerned in getting this post established, and is hopeful that maintenance of this post will be considered beyond January 2008.

BCT would like bats to remain a police wildlife crime priority for the time being, possibly with a review in the autumn of 2008. The Operation Bat resources will need to be substantially updated in line with legislative changes.

6 Other areas of concern

6.1 Out of time

It is important that cases do not ‘time out’ because of police or CPS (PF in Scotland) inaction. It is important to bring all cases to a conclusion as the whole system has to work for a successful prosecution. Inaction gives the impression that bat related crime is not taken seriously and that can give the wrong message to individuals or industries who might seek to take advantage.

6.2 Paltry fines and magistrates’ training

Experience to date has shown that, even when a case is successful, the penalties handed out do not act as a deterrent to all offenders. Although fines seem to have increased slightly since the 2003 report, BCT and others are still working to raise awareness of the importance of appropriate penalties for wildlife crime. A key element of this is the training of magistrates involved in considering bat related incidents, so that the seriousness of the offence is reflected in the severity of the penalty; destruction of a roost site can have huge adverse impacts on the bat population of an area and should incur a steep penalty. BCT is working on generic impact statements to assist SNCOs and the police with statements on the conservation impact of an incident. This will help magistrates to set appropriate penalties.

6.3 Lack of planning authority consultations

Cases in which planning permission has been granted for works that will affect known bat roosts are a matter of concern. Some cases have been notified where the SNCO and/or the local bat group have been aware of a roost, but because there is no facility for passing this information to the planning authority as a matter of routine an offence has occurred when planning permission is implemented. The planning officer dealing with the application needs to be aware that bats are (or could be) an issue, so that appropriate consultations are undertaken, appropriate surveys required and mitigation made a condition if necessary. Currently many planning permissions are being given which have not taken account of either known or unknown bat roosts, with the result being that works could either break the law or be held up whilst the bat issues are appropriately dealt with. Consideration should be given to screening all planning applications, perhaps using the Somerset model below which is included in PPS9's Guide to Good Practice:-

The Somerset Environmental Records Centre – example of good practice

Planners and ecologists in Somerset have developed an efficient mechanism for taking biodiversity information into account in the development control process. The Somerset Environmental Records Centre (SERC) has developed an electronically-based consultation system with South Somerset District Council over a four month period to March 2004. This entails the planning authority emailing to SERC weekly batches of all applications received, complete with GIS digitised application boundaries and application type codes. SERC runs this GIS table against all relevant biodiversity information held in GIS (over 2,000 evaluated sites, habitat parcels and 250,000 records of important species) using its bespoke application 'BioPlan'. For developments identified by the software as potentially having an impact on biodiversity, customised data search output is generated. This shows the relevant biodiversity information in the vicinity of the proposed development site. The data searches are then emailed back to the planning authority ecologist and, where relevant, to third parties such as English Nature.

Extract from *Planning for Biodiversity and Geological Conservation: A Guide to Good Practice* (March 2006, ODPM)

6.4 Time and cost implications for volunteer bat workers obtaining sufficient information to get cases to court, and for those acting as witnesses

This has been highlighted by a 2006 case in the north of England in which an office block containing a maternity roost known to Natural England was clad entirely in metal. The roost was known to Natural England and had also featured on local TV and in the newspaper. Concerns were that the roost access had been obstructed rendering the roost unusable and potentially entombing any bats still inside. Despite much cost and effort being expended on this case, it was not taken forward by CPS for a number of reasons:-

Case study

Insufficient information to take incident forward

Planning permission was given for metal cladding an office block, but the bat roost was not flagged up during the planning process. When a volunteer bat worker saw the office block had been clad, she contacted NE and together they met the person responsible for the works on site. An undertaking was given to remove a section of the cladding within four days and when this did not happen the police were informed. At a further site meeting with the police it was agreed to cut two slots in the cladding to try to re-establish access, and to drill into the wall so that a fibrescope could be used to establish whether there were dead/dying bats in the roost. A third site meeting was arranged to facilitate this, but no bats were seen by the bat worker using the fibrescope, although there were a few bat droppings inside the building on the fifth floor. (It is important to note that the roost access point had not been precisely located before because it was above the 4th floor in a six-storey building. Knowledge of the precise location of the bat access was vital in taking this case forward, even though the office block had been clad in its entirety.)

Despite bat workers feeling this was a strong case, and consequently much volunteer and professional time expended, the incident did not result even in a caution. CPS decided there were too many weaknesses to proceed with the case, including:

- a) The last time bats had been recorded as using the roost was in 2002, although a bat was recorded as flying in the building in February 2006 and a few bat droppings were found on the fourth and fifth floors in June 2006 – a good indication that the roost was still used
- b) Failure to identify the exact access point in 2002 (the argument being that the bats could access/exit their roost elsewhere, even though the office block walls had been completely clad)

- c) An absence of dead bats
- d) The roost should have been considered during the planning process but was not.

These reasons lead BCT to believe the following is required to ensure cases are taken forward:

- a) Bat workers should monitor known roosts regularly to prove the roost is still being used. This has significant time implications as several visits may be needed to establish continued use of a single roost. Given that bat workers are informed of previously unknown roosts each year the time implications of monitoring the increasing number of known roosts render this impossible
- b) Accesses need to be pinpointed, preferably photographed, and forwarded to the local SNCO/biological records centre
- c) The internal structure and precise location of the roost (even in a cavity wall/between floors) should be known in case internal inspection is needed at a later date. This is very difficult in practice
- d) Bats must be considered during the planning process, since failure of the planning department to consider them could be cited as a defence.



(Image © D. Gregory)

In practice it is very difficult for volunteer bat workers to take some of these requirements forward. Barriers to delivery include (a) the vast amount of time needed, (b) access to specialist equipment such as fibrescopes with camera attachments, monitoring equipment, detailed building plans, and (c) technical difficulties to overcome such as possibly the need to drill into structures to gain camera access and so on. Despite the issues that CPS had with the above case which meant it could not be taken forward, batworkers remain convinced that, knowing the biology and life habits of bats, and the way in which the metal cladding is attached to the building, this roost has been obstructed and rendered unusable. BCT would like to explore further how similar cases can be concluded satisfactorily for bat conservation.

7 The Future

BCT considers that its work on investigations needs to have a fairly broad remit, not least one of educating and lobbying to try to prevent incidents from happening in the first place. BCT is well placed to continue with this aspect, and welcomes the fact that Kelvin Jones' post is responsible for recording and following up bat related incidents within the police.

Changes to the Habitats Regulations in all four countries of the UK, the strengthening of planning guidance for protected species, the upcoming standardisation of planning application forms and the 'biodiversity question', and the NERC Act 2006 will all hopefully strengthen the protection given to bats and roosts. However, to be effective there must still be the real threat of prosecution and appropriate penalties to encourage compliance by all individuals and sectors of the community – both public and private.

Next moves and considerations

BCT

- In some cases, CPS/PF and magistrates need convincing of the seriousness of a bat-related incident, and the importance of taking it forward to prosecution giving appropriate penalties. It is important that an impact statement from a bat expert is included in submissions– ie what impact the incident will have on the species. BCT will write generic impact statements for bat workers to use; statements for five species to be completed by December 2007.
- BCT to consider taking forward a Judicial Review where bat issues have not been adequately considered in the planning decision-making process.

The Police

- Wildlife crimes need to be recorded on National Standards for Incident Recording (NSIR) as a matter of procedure. Police need training on how to input wildlife crime into NSIR.
- BCT would like to see more dedicated wildlife crime officers. Regular review should be undertaken to assess whether the need for wildlife crime officers is being met in each police force.

SNCOs

- Consideration needs to be given as to how resources can be increased to enable building/roofing/pest control emergency visits to be undertaken within two days.
- To require precise roost access information, such as photographs, to be submitted with all roost visitor forms in the event that proof is needed that a roost has been obstructed.

Local authorities

- Consideration to be given to screening all planning applications for protected species (as in the Somerset example). For bats this would need a central database of all known roosts.
- Building Regulations departments should be aware that bat surveys can be requested under the Buildings Act for buildings that are to be demolished without planning permission.

All (including bat workers)

- A database of known bat roosts needs to be made accessible to building surveyors
- Lobby for adhesive rodent traps to be available only to pest control professionals
- It is impossible for bat workers to monitor known roosts regularly to prove continued use in the event of a damage/destruction incident. Therefore, consideration needs to be given as to how roosts that have not been monitored in, say, the past three years, are classified. Are they still roosts for the purpose of taking cases further?
- Training for the police/CPS/PF/magistrates on the importance of bat related crime and following it up, local authority planners on the importance of considering protected species as part of the planning application, bat workers on the importance of accurate recording of roosts and evidence recording, SNCOs on the importance of following up incidents.

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Glossary

BCT	Bat Conservation Trust
CCW	Countryside Council for Wales
CPS	Crown Prosecution Service
EN	English Nature (Now Natural England)
EPS	European Protected Species
NE	Natural England
NERC	Natural Environment & Rural Communities
NPTA	National Pest Technician's Association
NSIR	National Standard for Incident Recording
NWCU	National Wildlife Crime Unit
PF	Procurator Fiscal
PPS	Planning policy statement
RSPCA	Royal Society for the Prevention of Cruelty to Animals
SERC	Somerset Environmental Records Centre
SNCO	Statutory Nature Conservation Organisation
SNH	Scottish Natural Heritage
WCO	Wildlife Crime Officer