



Badger Trust policy on development

Planning issues

1. Badger Trust recognises that the demand for housing and other forms of development will, in many cases, have a negative impact on badgers, their setts and their foraging areas. Badger Trust considers that the planning system must ensure that these negative impacts are minimised.

2. The presence of badgers and their setts must continue to be a “material consideration” within the planning process because failure to do so would be detrimental to the welfare of badgers. Forcing badgers into close proximity with humans would also lead to increased reports of nuisance and damage to gardens and other property.

3. Badger Trust considers that local planning authorities should always follow the guidance in Planning Policy Statement 9 (PPS9) (<http://www.communities.gov.uk/documents/planningandbuildings/pdf/147408pdf>). This guidance states that local planning authorities should adhere to a number of key principles to ensure that the potential impacts of planning decisions on biodiversity and geological conservation are fully considered. Interpreting this guidance specifically for badgers means that:

- planning decisions should be based on up-to-date information about badger habitats (the location of their setts and foraging grounds);
- planning decisions should aim to maintain, and enhance, restore or add to, badger habitats; and
- the aim of planning decisions should be to prevent harm to badger habitats. Where a planning decision would result in significant harm to badger habitats which cannot be prevented or adequately mitigated against, then planning permission should be refused.

4. Badger Trust does not need to be a statutory consultee in the planning process. However, its affiliated local badger groups represent a valuable source of information and expertise regarding badgers in their own areas that should be fed into the planning process. Some local planning authorities do consult local badger groups when the presence of badgers is known in the area of, or close to, the proposed development. Badger Trust regards this as “good practice” and would encourage all local planning authorities to follow this practice.

5. Badger Trust strongly advises local authorities to seek advice from knowledgeable and responsible sources such as local badger groups or the Trust itself when drawing up their Local Development Frameworks (LDFs) as these should contain policies to protect badgers, their setts and their foraging land. They should target development away from areas where there would be a substantial negative impact on badgers.

- 6.** It follows from the guidance in PPS9 that the results of appropriate badger surveys (setts, foraging areas etc.) and of appropriate mitigation measures should be available to local planning authorities and their planning committees in advance of applications for planning permission being determined. Badger surveys should not be restricted to the site but should include land within 500m of the site. In the case of a proposed road, the survey should include a 1km corridor, 500 metres either side of centre line of the proposed road. It is also important that when mitigation measures are required, they are completed before work on the development takes place.
- 7.** There are occasions when badgers occupy a site after planning permission has been given and before construction begins. Systems should be in place to ensure that any negative impacts on badgers are mitigated before work commences.
- 8.** When an application for outline permission for a development involving a number of phases is considered, the initial badger survey should cover the whole area of every phase. Mitigation measures proposed should cover the whole area, and should not need to be redesigned when reserved matters are considered for later phases.
- 9.** When agreed mitigation measures involve the provision of tunnels, fencing and wildlife corridors, the provision and maintenance of these features should be included as a requirement in a Section 106 agreement. An effective enforcement process should be in place to ensure that measures in the Section 106 agreement are implemented. Mitigation measures should be scheduled and work supervised, finished and signed off, before the development is occupied or the road is opened. The measures must be maintained to ensure they remain effective and a period of monitoring should be part of the section 106 agreement to ensure that the mitigation measures are working.
- 10.** Local planning authorities should be aware of their duty to ensure that all development activities do not breach the conditions of the Protection of Badgers Act 1992. Where developers are seen to be in breach of the Act, systems must be in place to prevent the activities continuing.
- 11.** Planning permission should only be granted when the effect on badgers can be adequately mitigated. In many areas, the density of existing and proposed development means that maintaining sufficient areas for badgers to forage could be a significant consideration when planning applications are considered. Badger setts should not form part of private gardens in new developments and private gardens should not be part of any scheme to compensate for loss of foraging land. Planning permission should not be granted in circumstances where badgers are confined by the development with no “green” access or “corridors” to other foraging areas.

Licensing Issues

- 12.** Badger Trust considers that the embargo on licences for development purposes being issued within the period 30 November to 1 July should continue. It considers that Natural England, Countryside Commission for Wales and Scottish Natural Heritage should issue licences only when information concerning the relationship of the sett(s) involved to those setts in the surrounding area is available. Badger Trust considers that development licences to close a sett should be issued only if it is clear that badgers have an alternative sett within their own territory to which they can relocate, and that the arrangements for the availability of foraging land are satisfactory. Main setts must not be closed unless an alternative sett is available or an appropriate artificial sett can be constructed nearby (Badger Trust can provide information on organisations with experience in designing and constructing artificial setts).