Wildlife Law
Pre-tutorial information you have already had:

Introduction to…

• International and UK legislation concerning wildlife
  - Wildlife and Countryside Act 1981
  - Conservation of Habitats and Species 2017

• Licensing
  - Personal and development licences
Aim of tutorial
To look at some ‘real life’ case studies of how consultants apply knowledge of laws and regulations

This is not a boring outline of the legislation itself.
Protected Species

Offences include:

• Killing
• Injuring
• Disturbing
• Capturing/transporting/possession
• Obstructing access to a place of shelter
• Damaging or destroying a breeding or resting place
• Selling

These are the main issues we are dealing with on developments.
Key Protected Species

These are the most commonly encountered fully protected species:

• Bats
• Badgers
• Dormice
• Otters
• Great crested newts
• Smooth snake
• Sand lizard
• Reptiles*
• Schedule 1 (WCA 1981) birds and nesting birds*

*not fully protected
Case Study 1
Background

- Paignton in Devon
- On the edge of an urban area
- Council houses and gardens, unoccupied for 8 years. To be demolished and new housing built
- Gardens of rough, long grass on a south facing slope
- Potential habitat for……

Reptiles

+ some limited potential as terrestrial habitat for amphibians
Implications for survey

Survey
Species which might be encountered
Slow worm
Common lizard
Grass snake
Adder? – possibly but unlikely

Personal licences Required for survey?
No. The species likely to be present are not protected from disturbance

Not:
Sand lizard, smooth snake, great crested newt or natterjack toad
Survey findings and implications for project

Findings:

Slow worms!!! 25 were found under the first tile!
Over 3000 were cleared from the site altogether.
Survey findings and implications for project

Implications for project

**Slow worms.** Protected under Schedule 5 of the Wildlife and Countryside Act (1981) as amended. Protected from:

- Intentionally killing and injuring
- Selling, offering for sale, possessing or transporting for the purpose of sale (live or dead animal, part or derivative)
- Advertising for buying or selling

This is the key factor for this project
Survey findings and implications for project

Is a development licence required?

**No.** A licence for killing and injuring reptiles for development cannot be granted under the Wildlife and Countryside Act 1981. Avoidance of this action will be required.
What next?

As ecologists, when we identify impacts we aim to undertake the following (in this order):

1. **Avoidance:** Measures taken to avoid negative impacts completely. Such as changing layouts of schemes.

2. **Mitigation:** Measures to reduce adverse impacts. Such as translocating habitat or species

3. **Compensation:** Measures to offset the predicted negative impact. Such as new habitat creation or improving existing habitats.

4. **Enhancement:** Measures to actually improve conditions (above simply compensating). Could mean enhancements to habitat on or off site.
Mitigation

“Measures taken to reduce adverse impacts” but often a term used by ecologists for a combination of avoidance, mitigation, compensation and enhancement

Option chosen:
Relocation of any reptiles to an alternative ‘receptor site’ to avoid causing an offence of killing and injuring during site clearance works.

Implications (legal and moral):
Welfare of reptiles during and after translocation. Remember the Animal Welfare Act 2006?
Welfare during translocation and at the new site – will they survive?
Reptile translocation

In total over 3000 slow worms were removed from an area the size of approximately 2 football pitches! Placed in a local park and managed for wildlife habitats. ££ paid by developer to local council (owners) to look after the land for the slow worms.
Background

• Barn in a rural area of Devon
• Agricultural fields, ponds and woodland nearby
• Proposed to be converted into accommodation
• Potential habitat for…

Bats

Nesting birds (including barn owls and swallows)
Implications for survey

Survey
Species which might be encountered
Bats
Nesting birds (non - Schedule 1)
Barn owls (Schedule 1)

Personal licences Required for survey?
Yes. If signs of bats are present when the building is entered then a licence for bats (science and conservation) will be required due to possible disturbance. If nesting barn owls, or dependant juveniles are present then a licence to survey for these will also be required. If you do not have these licences (and these species are present) then you should finish the survey immediately.
Survey findings and implications for project

Findings:

1 lesser horseshoe bat was seen within the barn. A later emergence survey identified 6 pipistrelles exiting the building. Evidence of nesting swallows but no barn owls.
Survey findings and implications for project

Implications for project

Bats.

Full protection under Schedule 5 of the Wildlife and Countryside Act (1981) as amended. And…

Protected on Annexe IV of the Conservation of Habitats and Species Regulations 2017 making them European Protected Species. An offence will occur if someone:

Deliberately captures, injures or kills a European Protected Species
Deliberately or recklessly disturbs wild animals of any such species in such a way as to be likely significantly to affect:
(i) the ability of any significant group of animals to survive, breed, or rear or nurture their young; or
(ii) the local distribution or abundance of that species;
Damages or destroys a breeding site or resting place (even if unintentional or when the animal is not present)
Intentionally or recklessly obstructs access to a structure or place used for protection or shelter
Survey findings and implications for project

Implications for project

Nesting birds (non-Schedule 1 species).

Full protection under Schedule 5 of the Wildlife and Countryside Act (1981) as amended. And…
• Kill, injure or take any wild bird.
• Take, damage or destroy the nest of any wild bird while it is in use or being built.
• Take or destroy the egg of any wild bird.
Survey findings and implications for project

Options

Bats
Avoid doing works which would result in an offence
Get a European Protected Species Licence

Nesting birds
Avoid doing works during the nesting season
Prevent birds gaining access to structure prior to the nesting season – but think about implications for bats!

The preferred options
End Result

Building renovated under an EPSL outside of the bird nesting season and period when bats may be breeding. No bats were encountered and opportunities for nesting swallows were retained in other outbuildings on site.
End Result

Pipistrelle crevice access points at wall tops

Raised tile for lesser horseshoe bat access into loft space
Summary

Implications for surveys:
Is there a high potential for species to be present which require you to hold a licence to disturb them?

Considerations for projects:
What species are present?
What are the predicted impacts on each species?
What are the legal implications?
Will a development/mitigation licence be required?
Personal Licences

Certain species are protected from disturbance and surveyors require a licence if a survey technique is considered likely to disturb the species in question. Some examples include:

- **Bats** (internal roost surveys, handling etc.)
- **Dormice** (nest box monitoring, nest tube surveys if in known territory)
- **Great crested newts** (bottle trapping, pitfall traps)
- **Smooth snake** (refugia surveys in known territories)
- **Sand lizard** (refugia surveys in known territories)
- **Barn owl** (building surveys where barn owls are present)
- **White-clawed crayfish** (trapping)
Bat licences

Do I need a licence? - No

- Accompanying a licenced bat worker into a known roost
- Doing a bat survey in a building which is not a known roost
- Conducting an emergence survey outside a roost using bat detectors
- Handling a sick/injured bat and keeping it in your house
Bat licences

Do I need a licence? - Yes

- Entering a building which is a known bat roost
- Handling a healthy bat
- Having dead bats or parts of dead bats in your possession
Licensing

• Personal handling licence (e.g. Bats, dormouse, great crested newts)

• European Protected Species Licence for developments

A personal licence is required to carry out a ‘distrubing’ survey, if a EPS is found then you must STOP and ask a licensed person to carry on.

Dormouse nest box check
Links

Conservation of Habitats and Species Regulations 2017:

Wildlife and Countryside Act 1981:

Natural Environment and Rural Communities Act 2006:
http://www.legislation.gov.uk/ukpga/2006/16/contents