

**NATURAL ENGLAND EXPLANATORY NOTE FOR LOCAL PLANNING  
AUTHORITIES ON CLAUSE 9.3 and ANNEX D6.1 OF BS42020:2013  
PLANNING CONDITIONS AND EUROPEAN PROTECTED SPECIES  
LICENCES. FEBRUARY 2020**



**This note applies to European Protected Species and England only**

1. Before granting planning permission, the local planning authority should satisfy itself that the impacts of the proposed development on European protected species (EPS) have been addressed and that if a protected species derogation licence is required, the licensing tests can be met and a licence is likely to be granted by Natural England.
2. In addition, under Section 17 of the Crime and Disorder Act 1998, local authorities are required to do everything they reasonably can to prevent crime, including wildlife crime. With regard to preventing offences involving European protected species, this is likely to be most effectively achieved by ensuring that – where relevant – an applicant for planning permission has applied for and, where necessary, obtained a derogation licence from Natural England.
3. Section 9.3.3 of BS42020:2013 therefore states that if the competent authority is satisfied that the three tests can be met, it should impose a planning condition preventing the development from proceeding without first receiving a copy of the EPS licence or correspondence from the relevant statutory body (Natural England) stating that such a licence is not necessary.
4. This approach ensures compliance with the Conservation of Habitats and Species Regulations 2017(as amended) and enables a local planning authority to discharge its obligations under the Crime and Disorder Act and its wider duties under Section 40 of the Natural Environment and Rural Communities Act 2006 in relation to protected species. Where an applicant fails to obtain an EPS licence, but nonetheless proceeds with the development and kills or injures a protected species or damages or destroys its breeding site or resting place, an offence may occur. Enforcement in these cases is normally a matter for the police and the courts. However, the planning authority also has powers to take planning enforcement action (e.g. through a Stop Notice) should development commence where European protected species are present and where no licence has yet been obtained, which could prevent the potential offence from otherwise occurring.
5. Local planning authorities should only use such a planning condition where European protected species have clearly been identified as a material consideration during the determination process and are at risk of harm if development proceeds. Such a condition should not be used where, either: a European protected species is present but the planning authority is satisfied that the works can proceed without committing any offence; or where the LPA is unsure whether or not European protected species may be present and/or harmed (in this case further information should be required before granting the planning permission).
6. It is not necessary or appropriate for a local planning authority to consult Natural England over the imposition or discharge of such a planning condition and Natural England is unable to provide advice on this. This would impose a further administrative burden on both bodies and is unnecessary where EPS are a material consideration. Where an EPS licence has been granted by Natural England, applicants should send a copy of the EPS licence to the local planning authority. Where advice on a licence has been sought but Natural England has confirmed that a licence is not needed, this advice should also be sent to the local planning authority with the planning application. Natural England provides advice to applicants on protected species licences under its [Discretionary Advice Service](#).