PROTECTED SPECIES ADVICE FOR DEVELOPERS

WILDCAT

Legal protection for wildcats

Wildcats are classed as European Protected Species (EPS) under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). It is therefore an offence to deliberately or recklessly:

- kill, injure, capture or harass a wildcat;
- disturb a wildcat in a den or other structure or place it uses for shelter or protection, or while it is rearing or otherwise caring for its young, or in any way that impairs its ability to survive or breed, or significantly affects the local distribution or abundance of wildcats;
- obstruct access to a wildcat breeding site or resting place (den) , or otherwise deny their use;

and whether or not deliberate or reckless:

- to damage or destroy a wildcat breeding site or resting place.

This means that if wildcats could be affected in these ways by your development, and you take no action to prevent it, you run the risk of committing an offence.

Where impacts that would result in an offence cannot be avoided, a species licence can be issued in some cases to allow the works to proceed. Such licences will only be issued if certain tests are met (see licensing section below). **It is important that any licensing issues are considered as part of your planning application**. This is to avoid a situation where planning permission is secured but the lack of a species licence prevents the development from proceeding.

When a development might affect wildcats

Wildcats have an uneven distribution across the mainland of Scotland north of Highland Boundary Fault. However, our knowledge of the wildcat range is patchy because they are very difficult to see, and to distinguish from hybrids that are the result of mating with domestic cats. For an up to date map of wildcat distribution see the Scottish Wildcat Action website. The map indicates the broad pattern of distribution across Scotland but cannot provide detailed information for individual development sites. Local Record Centres may have additional information that can help determine if wildcats are likely to be present on your development site.

Wildcats mainly occur along woodland edge or in areas where there is a mosaic of habitats including woodland, scrub, rough grassland and moorland. They avoid high mountain areas and intensive agriculture, industrial and urban areas. Wildcat dens are normally found amongst rocky boulders, in tree hollows or under tree roots or dense scrub. They may also use fox earths, badger setts and rabbit burrows. If your development is in suitable habitat within the wildcats range you will need to carry out a wildcat survey.

Carrying out a wildcat survey

When

Wildcats can be surveyed all year round, though the best time to survey is in the

autumn/winter when vegetation has died back and potential den sites and other signs are easiest to find.

How

An initial walk–over survey should be carried out to establish if there are any signs of wildcat presence and potential den sites on or close to your development site, and the extent of wildcat habitat that might be affected. This needs to be carried out by an experienced surveyor, as signs of wildcats can be difficult to detect. A more detailed survey using remote cameras or genetic testing will only be required where there is a need to check evidence of a potential wildcat den that might be damaged or disturbed. Further advice is provided in our guidance note Wildcat Survey Methods.

Where your survey has found no potential dens or evidence of the presence of wildcats on the development site, but there are recent sightings that suggest wildcats may nevertheless be using the site, there are some simple precautionary measures that should still be employed where possible to ensure wildcats won't be affected (see typical mitigation measures below).

Checking dens

The use of trail cameras to check potential wildcat dens can cause disturbance and will require a survey licence from SNH (contact licensing@snh.gov.uk). This intrusive method should only be used where confirming the status of a den is essential in designing appropriate mitigation (see mitigation section below).

Your survey report should include:

- details of any information gathered from the NBN, Local Record Centres or other sources;
- names and experience of surveyors;
- descriptions of habitat surveyed and any limitations to the survey, such as access;
- details of survey methods, including survey area, date, time and weather conditions;
- map showing the location of any wildcat signs and dens in context of the development.

Preparing a wildcat protection plan

If wildcats could be affected by your proposal you will need to prepare a species protection plan.

Your protection plan should include:

- details of how the development is likely to affect wildcats;
- mitigation measures to be employed to avoid any offence and minimise impacts on wildcats;
- summary of any residual impacts once mitigation measures have been taken into account.

Typical mitigation measures:

- avoiding wildcat habitat where possible;
- marking a 200m exclusion zone around any wildcat dens. **Where a 200m exclusion zone is not possible, works will require a licence** (see licensing section below);
- restricting work to daylight hours;
- minimising external lighting and noise from generators at night.
- capping temporarily exposed pipe systems when contractors are off site, to prevent wildcats entering and becoming trapped;
- providing exit ramps from any exposed trenches or holes that might trap a wildcat:

- construction of artificial dens to replace any natural dens that have to be destroyed. **The destruction of any dens will require a licence** (see licensing section below).

Annotated maps and photographs are a useful way of showing the location of the mitigation measures proposed, and how they relate to survey information and construction work. For further details regarding assessment and supporting information see our licensing guidance below.

Licensing development works affecting wildcats

If your development cannot avoid an offence with respect to wildcat, an EPS licence will be required from SNH to allow work to proceed. Such a licence can only be issued if it can be demonstrated that:

a) the purpose of the licence is to preserve public health or public safety or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;

b) there is no satisfactory alternative; and

c) the proposed action will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

There is a presumption against licensing disturbance to breeding wildcat or damage/destruction of a wildcat den while it is being used for breeding. Any licensed activity in these circumstances would have to wait until the wildcat had finished breeding.

For further information on EPS licensing see the following SNH guidance notes:
Guidance notes for application for a licence for European Protected Species;
European Protected Species Licensing Test 1 – Licensable Purpose;
European Protected Species Licensing Test 2 – No satisfactory alternative;
Application for a licence for European Protected Species: Guidance notes on providing supporting information.