



Badgers, Protection and the effectiveness of the Badger Protection Act 1992

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Project Proposal

Aims and Objectives:

- To investigate the threats faced by badgers in relation to the laws protecting the welfare of Badgers with some local case studies.
- And to evaluate the effectiveness of the current law.

An Introduction to badgers

The badger's black and white striped face is well known and it varies considerably. In most cases, the badger's body colors appear grey. Variations to this colour include white (albino and semi-albino), melanistic (black) and erythristic (ginger-brown) badgers (Kruuk, 1989).

Typical signs of badger habitation (adapted from Kruuk, 1989)

- A rounded oval tunnel (broader than high) with diameter of at least 25 cm.
- Badger footprints, claw marks and soil smoothed around the entrance.
- Badger hairs may be found in or around the entrances. Hairs are coarse and banded with black and grey or white.
- Distinct tracks leading to and from tunnel entrances.
- Hay, bracken used as bedding will be found nearby.
- Dung pits, latrines and scratching posts are often present.
- Scratching marks on certain trees/posts nearby.

Characteristic features of a Sett are (adapted from Kruuk, 1989):

- Several holes with large spoil and bedding heaps at the entrance
- Well-worn paths to and from the sett at the entrances.
- Annexe setts are often found close to main setts may not be in continuous use.
- Subsidiary setts are like annexe setts, but are fewer and do not have obvious connecting paths and are not permanently in use.
- Outlying setts can be found away from main setts and with no main paths present and these are sometimes used.

Within Britain, badgers are widely distributed in areas where there is well-grazed cattle pasture, but they also occupy mixed and arable farmland and forests.

Each clan is dominated by a male (boar) and female (sow). The size of a clan's range varies depending on food supplies. A badger territory may be from 40 to 180 hectares in size. Main setts are the largest and most important; each group usually has only one main sett, which is normally in continuous use and is the breeding sett.

The largest part of the badger's diet is earthworms (*Lumbricus terrestris*). When earthworms are not readily available, during dry weather, badgers switch to other food sources such as beetles and ground-living insect larvae; wasp nests are frequently dug up and the grubs eaten, carrion, small mammals, fruits and nuts (Kruuk, 1989).

Pressures faced by Badgers

In history, badgers were hunted for their hair, pelts and medicines. The products were thought to clear ailments including rheumatism and asthma. Even now in eastern European countries, badgers are hunted for meat and lard (██████████ - personal communication, 2009).

Badger digging has been a part of the countryside culture, just as much as fox hunting for many decades. The connection between these beasts and the farmers, huntsman and gamekeepers is a horrifying, but a real affair. There is a real hate betrayed towards badgers by framers because of links with TB and by gamekeepers pursuing their guards on ground nesting birds, which are a big business nowadays.

The ██████████ Badger group was formed in 1986 when the badger population around the area almost brought to extinction. Since then the badger populations are now re established, apart from certain areas of sparse numbers, which have not been yet solved.

Case Study (with consent of the ██████████ Badger Group, March 2009) Specific Incidents of illegal Poisoning and Trapping

1. A few years ago, a hen's egg was found at ██████████ containing an illegal poison. A police raid found a syringe and other suspicious items but not enough evidence for prosecution.
2. Shortly after that, a dead jay and a piece of cake containing the poison mevinophos were found outside a badger sett in ██████████. Sheep roamed freely in the area and the land was open to public access.
3. In 2007 at three setts in the ██████████ and ██████████ area potatoes were found which had been cored out and filled with metaldehyde poison. Again, police and DEFRA were involved but there was not enough evidence for prosecution. (See Fig 1)

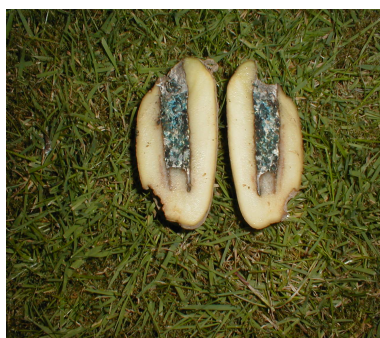


Fig 1.



Fig 3.



Fig 4.



Suspicious were confirmed and quantified in a major professional survey commissioned by [REDACTED] Badger Group.

Fig 2.

4. During the [REDACTED] professional survey, a badger was found in a snare attached to a loose log that had been dragged away until it became stuck. A vet estimated the badger had been snared for 2 to 3 days and noticed scars from a previous snaring incident. (See Fig 2.)

5. A snare was found ready for setting, attached to a fence on an obvious badger path. To set the snare would be illegal. (See fig 3.)

6. Brushwood guide barriers directed towards snares were found in [REDACTED] Wood without the permission of the landowner, [REDACTED] Council.

7. In 2005 a "Stink pile" lures baited with dead birds, rabbits etc. were found frequently at [REDACTED]. These were surrounded by brushwood guide barriers with snares at each entrance. (See fig 4.) These are no longer found.

8. Snares including loose log "drag snares" have been found frequently near [REDACTED], some quite close to badger setts.

These outline the situation, which has emerged over the years. It has become obvious that an unexplained reduction in badger activity has occurred in the area bordering the major shooting estates around [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Badgers continue to thrive normally just outside of these areas.

A 2007 update of the Peak Malpractice report by the RSPB indicates further suspicious death or disappearance of peregrine, hen harrier, goshawk and raven.

As with many mammals, loss of habitat through development may also be a locally important threat to badger populations.

Other human activities impact on badger populations. One of the most important causes of mortality is road traffic accident, which account for 25-30% of adult mortality.

It is also fair to say that changes in populations are also caused by factors such as environmental conditions. Hot dry weather throughout the summer and autumn leads to hard ground, where foraging conditions are not suitable; earthworm numbers are especially affected in dry weathers.

For years and years, humans believed that animals never felt pain and had no feelings. It was an accepted right that humans were hierarchy of the world and owned all living things. Thankfully this attitude changed in the early 19th century and now we consider that all animals feel stress and pain, just like we do. (Graham Shepard - Personal communication – 2009)

In 1824 the RSPCA was formed by several people, one Richard Martin MP (AKA humanity Dick). This is now the oldest and largest animal welfare organisation in the world. Through out the history of animal protection, the RSPCA has played the active role of the creation of legislation and its enforcement. (Wiki.org.uk/RSPCA – April 2009).

The History of wild animals and Badger protection

([www.badgerland.co.uk/Animals/legal history](http://www.badgerland.co.uk/Animals/legal%20history))

- 1822: Act to Prevent the Cruel and Improper Treatment of Cattle was passed; this was the first Parliamentary legislation for animal welfare in the world.
- 1835: The Protection of Animals Act made bull, bear and badger baiting, as well as cock and dog fighting illegal.
- 1876: The Cruelty to Animals Act was passed.
- 1911: The Protection of Animals Act. Established the concept of "causing unnecessary suffering". This again excluded protection for wild animals.
- 1921: Progress was made when it became illegal to hunt animals, which do not have a "reasonable means of escape" - animals regarded as captive only.
- 1973: The Protection of Badgers Act was successful in securing the safeguard of badgers, although landowners were still authorised to kill badgers.
- 1981: Stronger legislation for badgers with the passing of the Wildlife and Countryside Act. Landowners right to kill badgers is removed and penalty fines are increased.
- 1985: The Wildlife and Countryside Act was amended and those that were caught attacking badger setts were committing an offence, unless they could prove otherwise.
- 1991: The Badger (Protection) Act was passed.
- 1996: The Wild Mammals (Protection) Act is passed, finally achieving security for all wild mammals, although hunting remained legal.
- 1996: The League joined forces with the RSPCA and IFAW to form a new assembly. The CPHA (The Campaign for the Protection of Hunted Animals).
- 2002: Hunting with dogs is banned in Scotland.
- 2004: The law was changed to make it easier to prosecute people who interfere with badger setts.
- 2005: Hunting with dogs is officially banned in England.

The Badger Protection Act 1992

([www.Office of Public Sector Information.gov.uk/acts/acts1992](http://www.Office%20of%20Public%20Sector%20Information.gov.uk/acts/acts1992) – Nov 2008)

This is an Act to consolidate the:

- Badgers Act 1973,
- The Badgers Act 1991 and
- Badgers (Further Protection) Act 1991

There are over 300,000 badgers in Great Britain. Badgers are now a protected species under the Badgers Act 1973, Badgers Act 1991 and the Protection of Badgers (Further Protection) Act 1991 and the Protection of Badgers Act 1992, which prevents the killing, injuring or taking of badgers or the interference with their setts.

Enforcement

(www.Office of Public Sector Information.gov.uk/acts/acts1992 – Nov 2008)

If a person is found committing an offence under the Badger Protection Act, or has committed an offence that evidence is to be found on that person or any vehicle or article he/she may have with him, a police officer may:

- Stop and search that person and any vehicle or article on that person
- Seize anything which may be evidence
- In some cases, arrest that person without warrant if he fails to give his full name and address.

Penalties and Punishment

(www.Office of Public Sector Information.gov.uk/acts/acts1992 – Nov 2008)

- A person guilty of an offence is liable once convicted to face imprisonment for a term not exceeding six months, a fine of up to £5000 or even both penalties depending on the severity.
- Community service is also a punishment given. This can be anything of up to 200 hrs served.
- Where an offence was committed against more than one badger the maximum fine shall be determined as separate offences in respect of each badger.
- Where an arrest has been made, vehicles, tools and other items may be confiscated until further notice. These will also count as evidence.
- Where a dog has been used in or was present at the crime, an order for the destruction or other disposal of the dog will be summonsed, along with reasonable expenses of destroying or otherwise disposing of the dog.
- And disqualifying the offender, for keeping dogs for a set period of 1 year.

Threats in conjunction with the current Law:

There are several threats faced by badgers, directly followed by the laws that may protect them from those dangers.

- 1) Roads: An estimated 50,000 badgers are killed on roads in Britain every year.
(www.dorsetbadgergroup.co.uk - Jan 2009)

A person is *not guilty* of an offence under the badger Act (1992) if: unavoidably killing or injuring a badger as an incidental result of a lawful action for example a road traffic incident.

- 2) Deliberate Snaring and poisoning: Sometimes pesticides or harmful poisons such as cyanide are placed at the sett or badgers foraging grounds by farmers as an attempt to remove badgers from their land.
(www.badgerecology.org - Dec 08)
- 3) Illegal Hunting, Badger baiting and digging with dogs: One of the most common methods used by badger diggers is to send terriers into the sett. Once the badger is in the underground tunnels, the baiters will dig into the sett and

extract the defenseless badger. Sometimes the act occurs at the sett or the badger is taken away for fighting with many dogs. Before being thrown to the dogs, they are hit with spades sometimes to stun them or break their strong jaws. They never escape death.
(www.badgerecology.org - Dec 08)

An individual is *guilty* of an offence if he/she wilfully kills, injures or takes, or attempts to kill, injure or take, a badger.

A person is *guilty* if they attempt to kill, injure or take a badger.

And a person is *guilty* if he/she has in his possession of any dead badger or any part of, or anything derived from, a dead badger.

(www.Office of Public Sector Information.gov.uk/acts/acts1992 – Nov 2008)

- 4) Interference with and destruction of setts: Sometimes Rocks or boulders are placed at the entrances of the sett. Farmers or Baiters may often do this to enclose the badger in its sett.

(www.badgerecology.org - Dec 08)

- 5) New roads and other developments: Badger setts destroyed, disturbances and injury to badgers and cubs have been recorded against developers and building site workers.

(www.dorsetbadgergroup.co.uk- Feb 2009)

It is the responsibility of the developer to demonstrate that his/her proposals will not have a detrimental impact on badgers. This is likely to involve the implementation of appropriate actions to safeguard the animals, their setts and their foraging habitat.

A person is *guilty* of an offence if he/she interferes with a badger sett by doing any of the following things:

- Damaging or destroying a badger sett
- Obstructing access or any entrance of, a badger sett
- Allowing a dog to enter a badger sett
- Or disturbing a badger when it is occupying a badger sett

- 6) Accidental deaths by various 'pest control' methods, usually aimed at foxes and rabbits: traps or snaring are common forms of eradicating foxes from farmland.

(www.badgerecology.org - Dec 08)

- 7) Badger culling by DEFRA in relation to Bovine TB in cattle: Mass culling in areas effected by Cattle TB. The methods, which are talked about, are:

- 1). Fumigation with carbon monoxide or hydrogen Cyanide into a badger's sett,
- 2). Poisoning using Anticoagulants, Calciferol, Zinc phosphide, 3). Shooting free moving badgers and 4). Using traps to capture badgers for shooting.

All methods are talked about in detail for their effectiveness, humaneness and potential environmental impacts.
(Department for the Environment, Food and Rural Affairs - 2009)

The legislation was originally intended to protect badgers from badger-baiting/digging. Defra, however can grant licences to kill and take badgers and interfere with their setts for preventing the spread of the TB disease.

Licences

(www.Office of Public Sector Information.gov.uk/acts/acts1992 – Nov 2008)

Applying for a licence

In such cases the appropriate licensing authority must be consulted over the need to apply for a licence. Licensing authorities will advise on how to apply, if compliance with all conditions specified in the licence is reached.

These may be one of the following:

- To kill or take badgers or to interfere with a badger sett for the apparent purpose of preventing the spread of the disease of bovine TB.
- For scientific or educational purposes or for the conservation of badgers. For example, immunisation against disease.
- To interfere with any badger sett within an area specified in the licence by any means so specified.
- For ringing and marking. The device is specified in the licence.
- For the preservation, or archaeological investigation, able to interfere with a badger sett within an area specified in the licence.
- To interfere with a badger sett within an area for the purpose of any agricultural or forestry operation.
- For any operation for the maintenance or improvement of any existing watercourse or drainage works.
- To remove badgers or to interfere with a badger sett for the purpose of preventing serious damage to land, property, crops and poultry.
- To interfere with a badger sett by any means for controlling foxes to protect livestock, game or other wildlife.
- For a development, to interfere with a badger sett within an area specified in the licence by any means so specified.

The licence given may be revoked at any time. A person who contravenes or fails to comply with any condition imposed on the grant of a licence is guilty of an offence.

Badgers and TB

(Information cited from the DEFRA website. Last updated 2007/8) Date accessed: Jan 09

Cattle TB is an infectious disease of cattle caused by the Bacterium *Mycobacterium bovis* (*M. bovis*) that affects the lungs and causes breathing problems and general deterioration in health of an animal.

In April 1971, a dead badger was found near a farm in Gloucestershire where there had been a recent outbreak of TB. The badger was tested, and found to have the disease. An investigation by Ministry of Agriculture Fisheries and Food began and further tests on dead badgers from Gloucestershire (mainly road traffic casualties), and by April 1973 they had confirmed the presence of bovine TB in 36 out of a total of 165 badgers. The connection between cattle infection and badgers was so significant that the MAFF began to kill badgers in areas where they posed a threat to the health of cattle. Since then, thousands of badgers have been culled in response to TB outbreaks because of evidence that badgers could spread the disease.

Cattle with TB can prove very infectious to other cattle, with the result that the entire herd can be killed to try and eradicate the problem. Cattle TB can also infect and cause TB, not just in badgers, but deer, rats, goats, pigs, dogs and cats, as well as many other mammals, including humans.

“Good news” - On 19th March 2009, the Environment Secretary Hilary Benn announced the deployment of injectable badger TB vaccine which will be used in six areas where there is a high incidence of bovine tuberculosis (bTB) in cattle. Vaccination will start in 2010 and continue for at least five years. The project will focus on the development and effectiveness of the vaccine and trends in the disease. Under the natural England licence, the training of personnel to trap and vaccinate badgers will commence this year as well.

This project is funded by the Bovine TB Eradication Group for England and Researches to name a few.

There are also several actions that are to be taken by all farmers to reduce the risks of TB in herds. These guidelines are set by DEFRA and are found on its website. The information is readily available online, or a phone number to order the document. Some ideas are as follows:

Keeping badgers away from stored cattle feed, being aware of high risk sites, protecting the herds from other cattle and Maintaining clean husbandry techniques so that there is no food easily available that may encourage badgers onto farm property. Such appliances as electric netting and fences may be deterrents.

It looks like this is going a step in the right direction. DEFRA and farmers are facing the problem of TB without the ultimatum of killing entire badger populations. A vaccine that works and that is maintained, could be the solution.

Department for the Environment, Food and Rural Affairs.org.uk (last modified March 2009)
- Accessed April 2009.

HAVE FAITH IN NATURE:

Well done to Derbyshire

OVER the last few weeks badgers in Somerset and Gloucestershire have been shot in a poor attempt (which has not been scientifically proven) to reduce TB in cattle.

In addition to this, the lack of forensic checks on the thousands of animals shot is highlighted as the most serious failing in this operation.

It has been revealed that DEFRA will only examine the

carcasses of 120 badgers out of the 5,000 badgers shot. The rest will be incinerated.

That's only 2.4% - what kinds of answers are expected from this?

What if none of the badgers examined have the disease - will DEFRA admit to this appalling blunder? I very much doubt it.

For the people who are new to the debate, I suggest researching the Brian May's "Save Me campaign" (www.save-me.org.uk) this will no doubt enlighten you! Sign the e-petition online - every vote counts.

I was so pleased to read the Derbyshire Times a few weeks ago and learn that our labour led local authority will not back plans to cull free running badgers.

It's great to hear that Derbyshire Wildlife Trust are planning and will be introducing a vaccination programme next year.

I am optimistic this will prove that Knowledge and Good management practices are the essential criteria in eliminating TB in Cattle and Badgers - a positive step forward indeed.

Maybe in five years' time (or less), Derbyshire will take UK leadership in the control of TB - a County of rural pride and faith in nature.

LEAVE BADGERS ALONE:

Cull is just a cheap option

IN RESPONSE to the article in last week's Derbyshire Times, I am outraged that MPs in our area have supported the trials to shoot free-running badgers in the UK.

Many thanks to our MP, Dennis Skinner for opposing the trial culls.

MPs voted 298 to 237 in favour of continuing the culls - WHY?

In 1996, there were a series of culls like this - the scientific evidence concluded in 2007 that badger culling is not effective and cannot meaningfully contribute to the future control of cattle TB.

So why do it now? Answer: A cheap and easy option for the government.

No evidence has ever been exclusively proven that badgers pass the disease to cattle.

Has anyone thought that key transmitters of TB might be rats and mice?

They have access to cow sheds, travel distances and the likelihood of cows coming into contact with them is much higher than the odd badger.

TB also spreads simply from cow to cow. The government should listen to the scientists and take the corrective action(s) for long term control of the disease - where are the vaccinations?

The decline in our bees and pollinating insects, the demise of hedgerow habitats, not to mention severe pollution to our surface and ground waters amongst a fine few problems created by lack of government understanding contributing to poor farming methods. Come on DEFRA - Give us some answers.

Conclusions and the effectiveness of the current law

The strengthening of legislation starting from 1973 alongside the current law may have reinforced the numbers. However, without information on levels of persecution, this is impossible to confirm. There is strong evidence that crimes against badgers still occur and will continue to do so because it can be very hard to enforce the law.

Through what I have interpreted whilst reading various articles on Badger cruelty, I am truly compassionate about these creatures and the cruelty involved when a badger is hunted or baited for “fun” is beyond the belief of many. Tortured to death over hours, a badger suffers serious injuries until it gives up the fight and dies. The so-called sport is driven by a sense of adventure and promotion of a macho image, so breaking the law could well be part of the enjoyment!

The number of convictions given from badger baiting offences is just a handful by the year, although it is said that thousands of badgers die every year through this barbaric action, although I think that this is underestimated and a lot of badgers are killed and disposed of in silence.

What I acknowledge from many pressure groups and organizations is that it is still often unfeasible to gather enough evidence against farmers, gamekeepers and organised gangs who trap and kill badgers. Offenders often escape sentences and reduced fines by using the excuse that they were digging for foxes and this cannot be proven either way. To avoid arrest many lawbreakers are traveling long distances into other counties to dig setts.

During the 2015 attempt by the Government to weaken the Hunting Act with a legal mechanism called a Statutory Instrument, it was encouraging to know that many Conservative MPs would have voted against any weakening – this is predominantly due to the non-stop advocacy work done by organisations like the League Against Cruel Sports.

WHAT IS THE LEAGUE DOING TO PROTECT BADGERS?

The League has battled to protect badgers from badger baiting for many years, with undercover investigations exposing the cruelty involved. In the early 1990s, League investigators intercepted a coded message in a blood sports magazine, and from that information they discovered a horrific incident of badger baiting, in which three badgers were subjected to attack. The League took out a private prosecution leading to five men being jailed. It also has many other campaigns (league.org.uk)

- Report snares – the wire ‘nooses’ left in the countryside to catch animals. The snares are set illegally and can lead to injury and death to a wide range of animals, including badgers, hares, cats and dogs.
- Animal Crime watch is the League’s confidential hotline where you can report cruelty to animals in the name of sport by telephone, email or using the online form.

Conservation

There are many local groups throughout the UK that have been formed by enthusiasts wishing to protect and study badgers. A few of their objectives include protecting badgers from diggers and baiters by re-enforcing setts and helping with care and rehabilitation of injured badgers.

The Badger Trust promotes the conservation and welfare of badgers and the protection of their setts and habitats. It also provides expert advice on all badger issues and works closely with Government, the police and other conservation and welfare organisations.

The toughest laws would be virtually worthless without the support and activities of organisations such as local badger groups. They maintain detailed and accurate sett records; essential to prove that an alleged offence took place at an active badger sett, rather than a disused one and provide major contributions by watching for suspicious activities and instantly alerting police. The law protects all badger setts where they show signs of “current use” by a badger. Occupancy is more readily determined in summer. Advice may be obtained from local badger groups. All setts should be recorded on maps at an appropriate scale. In areas where illegal disturbance of badgers is a risk, maps may need to be kept confidential.

The badger population in Britain is thought to have increased in recent years. The last National Survey (1994-1997) indicated that the social groups of badgers had increased by around 24% since the previous survey undertaken. These positive outcomes may be due to the Badger protection act.

As with all outcomes of nature, the over population of an animal is limited resources such as food and space and thus, the impact of this is a natural reduction in numbers. Some badgers may starve; some will roam in search of new territories and face being road casualties as such a consequence. A natural reduction in the population will occur without any direct intervention from humans at all.

There is hope for our badgers now that a vaccination schedule and other TB related practices have been put into place (in some areas). Also, further research will help reduce the pressures on the badger's poor reputation thought of by farmers more than anything, especially that there is long-term proof that badgers are not the only culprits in any case. They're just a wild animal trying to get on with living like the rest of us.

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