Technical Appendix 8.6: Bird Species Protection Plan (SPP)

Technical Appendix 8.6: Bird Species Protection Plan (SPP)

8.6.1 Introduction

8.6.1.1 Construction works have the potential to negatively impact on breeding birds as a result of either direct destruction of nests/lek sites or disturbance which may result in breeding failure and/or reduction in the bird's physiological condition. In addition, it is an offence to disturb some particularly sensitive species both within and outwith the breeding season. The main part of breeding season is March through August inclusive, though the precise timing within this period varies from species to species, and some species start breeding earlier or finish later than this.

8.6.1.2 This SPP outlines the procedures that must be followed where there is potential for breeding birds to be affected. It explains the responsibilities of the Applicant, and its contractors, the legislative protection of birds and the measures required to minimise impacts on birds and thereby the risk of criminal offences being committed.

8.6.2 Responsibilities

8.6.2.1 It is the contractor's responsibility to comply with all the requirements of this plan, and it is both the contractor's and the Applicant's responsibility to monitor compliance with the plan.

8.6.3 Legislation

All Wild Birds

8.6.3.1 All wild birds are protected by law under the Wildlife and Countryside Act 1981 (as amended).

8.6.3.2 It is an offence to intentionally or recklessly:

- Kill, injure or take a bird;
- Take, damage, destroy or interfere with a nest of any bird while it is in use or being built;
- Obstruct or prevent any bird from using its nest; and
- Take or destroy an egg of any bird.

Schedule 1 Birds

8.6.3.3 Additional protection is given to rare breeding birds listed under Schedule 1 of the Wildlife and Countryside Act 1981(as amended). It is an offence to disturb:

- Any bird while is building a nest;
- Any bird while is in, on or near a nest containing eggs or young;
- Any bird while lekking; and
- The dependent young of any bird.

Schedule 1A and A1 Birds

8.6.3.4 Further protection is given to birds listed on Schedule 1A and A1 of the Act, making it an offence at any time of the year to:

- Intentionally or recklessly harass a white-tailed eagle *Haliaeetus albicilla*, golden eagle *Aquila chrysaetos*, hen harrier *Circus cyaneus* and red kite *Milvus milvus*; and
- Damage, destroy or interfere a nest habitually used by a white-tailed eagle or golden eagle.

8.6.3.5 At present, it is not possible to obtain a derogation to disturb a Schedule 1 breeding birds or destroy nests of any wild breeding birds for the purpose of development. However, the control of certain species is licensable in a restricted number of circumstances, such as reasons of public health and safety. A licensing system is also in place through NatureScot for surveying protected species if a disturbance offence is possible[1].

8.6.4 Protection Plan

8.6.4.1 In advance of construction at any location where breeding birds may be present, it is required that this plan is followed.

Pre-construction Surveys

8.6.4.2 Pre-construction surveys for breeding birds would be completed a maximum of 3 months prior to start of any works in a particular area, and at an appropriate time of year, to ensure availability of up-to-date information to inform any mitigation measures required. This is to enable checks for any new breeding birds or nest locations different to those in the original survey, and to ensure the measures proposed to minimise impacts on birds remain appropriate due to potential time gap between survey and construction commencing.

8.6.4.3 Surveys would be carried out by suitably experienced ecologists/ornithologists following best practice guidance agreed with NatureScot under Survey Licenses where required.

8.6.5 Pre-construction surveys would:

- Include up to 1,000 m either side of Limits of Deviation (LODs)/boundaries for substation construction areas and Internal Tracks; and
- Where appropriate local records/monitoring organisations, e.g. local Raptor Study Groups[2], RSPB, will be contacted at the pre-construction phase for recent records of sensitive species that might be affected.

Review of Works and Impact Assessment

8.6.5.1 The Ecological Clerk of Works (ECoW) would review whether construction activities are likely to affect breeding birds and, if so, what mitigation options are available. A hierarchal approach to mitigation would be applied to any occupied bird habitat that may be affected under the Project works, as detailed in the "General mitigation" section below. Priority would be given to assessing and mitigating impacts to species listed on Schedule 1.

8.6.5.2 Construction teams would be advised by the ECoW of existing/new constraints together with mitigation options.

1 NatureScot licensing. Available at: https://www.nature.scot/professional-advice/protected-areas-and-species/licensing/species-licensing-z-guide/birds-and-licensing [accessed February 2026].

2 Highland Raptor Study Group. Available at: https://www.scottishraptorstudygroup.org/highland/ [accessed February 2026].

8.6.5.3 Relevant site documentation, e.g. Construction Environmental Plans (CEMPs) would be updated with new and amended information as it is produced, with changes communicated to appropriate staff as required.

General Mitigation

8.6.5.4 This SPP is designed to provide the Contractor and ECoW with an approved methodology for protecting breeding birds.

8.6.5.5 The ECoW would attend site and check for signs of nesting on a regular basis throughout the construction period to ensure all environmental mitigation relevant to breeding birds is delivered. Note that new nests can quickly become established, so regular inspection of the working areas is crucial during the bird breeding season (within 48 hours prior to construction works due to occur).

8.6.5.6 A hierarchal approach to minimise impacts on birds following avoidance, mitigation and compensation/enhancement would be applied to any birds that may be affected under the Project works.

- Avoidance:
  - Schedule works outwith the sensitive breeding periods when birds could be affected. It is recommended to refer to NatureScot relevant guidance for sensitive breeding periods for specific bird species[3].
- Mitigation:
  - For specially protected or sensitive species, appropriate buffer zones would be established upon confirmation of nest building/breeding taking place[4]. Buffer zones would be set out by a suitably qualified ECoW for all breeding birds and those species whose roost sites are also protected. No works would be carried out within these zones whilst birds are:
  - Building or using their nest;
  - Still dependent on the nest site; or
  - Present at roost sites. The ECoW would advise when it is safe for works to be carried out.
  - If nesting birds are located and work needs to be undertaken within disturbance distance, delay works until breeding attempts have finished and any fledged young are fully independent or have moved away from any source of disturbance.
  - Where works must be carried out within the buffer zones, the ECoW would carry out a protected species risk assessment to assess whether disturbance could occur and if so whether this would be illegal (Schedule 1 species) or likely cause an adverse impact on the breeding birds. Considerations would include the species involved, local topography, natural screening, type of works, time of year, time of day and existing levels of human activity, e.g. farming, forestry and habitation. NatureScot should be contacted to determine whether a formal consultation is required.
  - Monitoring would be undertaken by the ECoW, where appropriate, to ensure no disturbance is caused. Should a bird species or nest be encountered unexpectedly during site works, the following emergency procedure should be followed:
  - Stop the activity being undertaken immediately.
  - The ECoW would be informed and would inspect the site.
  - The ECoW is to confirm presence of species and/or nest(s), establish a suitable buffer zone works to ensure works do not affect any nest, bird, eggs, or young at this location, and consult NatureScot (if appropriate) over suitable mitigation measures to implement.
  - In exceptional cases, standard mitigation measures (as outlined above) may be insufficient. In such scenarios, mitigation would be determined on a case-specific basis. No construction works would be undertaken within the buffer zone until mitigation has been agreed (in consultation with NatureScot if required).

8.6.6 Specific Mitigation

Dissuasion Techniques

8.6.6.1 Dissuasion techniques may be used to make areas less attractive to nesting birds or birds returning to a previous nesting location (dissuasion would not be carried out where there is potential to harass a Schedule 1A species or interfere with/damage a Schedule A1 nest). Dissuasion may include vegetation clearance/felling/strimming prior to the breeding season commencing. The placement of bird scarers/frightening devices may also be used as a dissuasion technique where appropriate. See details below:

Habitat Management

8.6.6.2 Scrub clearance/felling/strimming may be used to discourage birds nesting prior to the start of the breeding season in suitable areas. For strimming, a sward is cut to a height of 2-5 cm depending upon the vegetation type and ground conditions and this can be achieved by hand strimmers or mechanical means depending upon the ground conditions. The advantage off this method is that the vegetation can be cleared in advance of the works and in slow growing areas, i.e., heath, there is potential for the site to remain free of constraints for a longer period of time. The ECoW would advise on the potential for other ground nesting species to occupy these areas, in such instances, bird scarers may be appropriate in conjunction with the management of sward height.

8.6.6.3 Clearance of a habitat will be undertaken outwith the breeding season, weekly walkover checks by a suitably licenced and experienced ecologist shall then be undertaken to ensure that the mitigation measures are being effective. If clearance of habitat needs to be undertaken within the breeding season, a pre-works check should be undertaken by a suitably qualified ecologist within 48 hrs of the clearance works.

Active Dissuasion/Disturbance

8.6.6.4 At sites where there would be high level of human activity, the noise and possible vibration from construction activities should dissuade some nesting activities.

8.6.6.5 Areas identified to be at risk of nesting birds would be identified and disturbance levels at these locations would be increased. Sites would be visited regularly to dissuade birds from nesting.

8.6.6.6 Several types of bird scarer/frightening devices can be used and are detailed below. The use should be determined by the ECoW.

- Hawkeyes: Probably the most effective of the bird scarers that have been used on previous projects. A small number of these have been effective in deterring birds from nesting within construction areas. These will be deployed prior to the start of breeding season and moved around to stop birds becoming accustomed to them.

[3] NatureScot sensitive time periods breeding birds in Scotland. Available at: https://web.archive.org/web/20220613155315/https://www.nature.scot/sites/default/files/2017-07/A303080%20-%20Bird%20Breeding%20Season%20Dates%20in%20Scotland.pdf [accessed February 2026].

[4] NatureScot disturbance distance buffers guidance. Available at: https://www.nature.scot/doc/disturbance-distances-selected-scottish-bird-species-naturescot-guidance [accessed February 2026].

- Ticker tape: can be used in more sheltered areas and work best on fencing such as that for compounds.
- Scarecrows can be constructed using old PPE and are a cheap way to supplement Hawkeyes.
- Scarers would be placed no later than 10 days before construction commences. Once deployed, scarers would be kept on site for a period sufficient to minimise the risk, of birds settling on Site during the works.
- As construction commences, suitable nesting sites within the construction footprint would normally be reduced. The frequency of ongoing checks would then be decided by the ECoW on a site-by-site basis.

Removing Disused Bird Nests

8.6.6.7 The objective of this mitigation is to provide specific guidelines for the protection of birds and their nesting places before and during construction works, but also to facilitate the removal of old or disused nests where required for construction or maintenance works, such as:

- In substations where birds have nested on equipment causing a fire risk;
- To allow dismantling of redundant towers; or
- Where presence of disused nest(s) interferes with construction, maintenance and/ or decommissioning of wind turbines.

Not Specially Protected Birds

- It is an offence to remove a bird nest while it is being built or in use and it is an offence to take, destroy, or possess the egg of a wild bird.
- If a bird nest is to be removed, then it must be shown to be disused. It is therefore recommended that the nest is removed outwith the bird breeding season.
- Before a nest of any species is removed, where there is any doubt as to whether the nest is in use or not, it would be monitored by the ECoW over a period of a week. Direct observations of the nest(s) would be made on the 1st, 3rd, and 5th days as well as monitoring from suitable vantage points and where necessary with camera traps. The nest would be removed only when there is clear evidence that the nest is disused and no eggs are present.
- Should eggs be found, the nest would not be moved until a licence has been obtained from NatureScot for the taking of the eggs.

Schedule 1 Species

- For white-tailed eagle, golden eagle, hen harrier and red kite (Schedule A1) it is an offence to remove or damage a nest at any time, regardless of whether it is currently in use.

8.6.6.8 The disused nests of Schedule 1 species needing to be removed would be subject to an assessment and agreed in writing with NatureScot. The assessment would detail the needs case for removal, bird species involved, monitoring, information about the nest and clarification of whether it is in habitual use, habitat and any further nests within the area associated with that bird. Nest monitoring would be undertaken by a suitably licensed and experienced ecologist and/ or specialist adviser.