Technical Appendix 8.5: Outline Capercaillie Species Protection Plan

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8.5.1 Introduction

8.5.1.1 To mitigate potential significant effects on capercaillie *Tetrao urogallus*, the following Species Protection Plan (SPP) has been prepared. Construction works have the potential to negatively impact capercaillie 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 this species when lekking as well as when nesting.

8.5.1.2 This SPP outlines the procedures that must be followed where there is potential for capercaillie to be impacted. 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. Some of the information contained within the following SPP could be used to determine the location of Schedule 1 species. This information is confidential and should not be shared with members of the public.

8.5.2 Responsibilities

8.5.2.1 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.

8.5.3 Legislation

All Wild Birds

8.5.3.1 All wild birds, including capercaillie, are protected by law under the Wildlife and Countryside Act 1981 (as amended).

8.5.3.2 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

8.5.3.3 Additional protection is given to rare breeding birds, including capercaillie, 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

8.5.3.4 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.

8.5.3.5 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].

8.5.4 Outline Capercaillie SPP

Capercaillie

8.5.4.1 Capercaillie is one of the UK's rarest and most threatened bird species and is confined to pine forests in Northern Scotland. This section sets out additional mitigation measures to those prescribed in the above sections which provides suitable overarching measures to identify the presence of and prevent disturbance to all breeding birds (including lekking and nesting capercaillie) to minimise/avoid potentially significant effects on this critically endangered species.

8.5.4.2 The capercaillie is a discrete, large woodland grouse. The males are unmistakeable, very large and with a black and brown body and a greenish tinge on the chest. The large, ivory bill is diagnostic and they have red "eyebrows". The females are very different, significantly smaller and very well camouflaged with black, white and brown barring. Capercaillie are very rarely seen, and highly sensitive to human disturbance. However, the characteristic calls of a male at a lek can be heard at considerable distance. The calls are a series of clicks, reminiscent of striking a wood block or dropping a ping pong ball. Capercaillie spend a lot of time ground feeding, but also may be found in trees, eating shoots and buds. They breed in Scottish native pinewood, a rare and vulnerable habitat, and in commercial conifer tree plantations where they have more natural characteristics. The UK capercaillie population has declined rapidly and is at risk of extinction and is a 'Red List' species.

8.5.4.3 Capercaillie, as all wild birds, are protected by law under the Wildlife and Countryside Act 1981, as amended. Within this act, capercaillie are listed as Schedule 1 bird and have additional protections that are mentioned above in Section 1.3.

8.5.4.4 Additionally, capercaillie are qualifying species of the Novar Special Protection Area (SPA). The Novar SPA designated site overlaps with the Proposed Development for approximately 3 km along the proposed access route and is approximately 3.5 km from the turbine array shown in **Figure 8.1 (EIAR Volume 3a)**. There is potential for significant impacts on the SPA qualifying capercaillie without mitigation measures implemented during the construction phase.

Potential Impacts

DISTURBANCE

8.5.4.5 NatureScot's (NS) guidance on bird disturbance distances[2] references the work of the Capercaillie Biodiversity Action Plan Group (CBAPG) for recommendations on disturbance. There are three key periods when capercaillie are most vulnerable to disturbance:

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 https://www.nature.scot/doc/disturbance-distances-selected-scottish-bird-species-naturescot-guidance

- Lekking (1st March – 15th May);
- Nesting (21st April – 14th June); and
- Chick brooding (mid-May – late August).

8.5.4.6 Capercaillie can lek at any time of day, with hens usually attending the leks between dawn and 9 am. Any human activities within 1 km of a lek could result in disturbance, so a 1 km buffer around all known leks is recommended during this season. Capercaillie nests can be disturbed by any activities within 100 m and females with broods do not typically flush unless activities are within 10 m, though are likely aware of the disturbance at a greater distance.

8.5.4.7 Based on the desk study information collected and used to inform the **Ornithological EcIA (Chapter 8: Ornithology (EIAR Volume 2))** and this Outline Capercaillie SPP, there is confirmed presence of capercaillie within the Site and its surrounding areas and confirmed active lek sites recorded within the Novar SPA woodland that overlap with the proposed access route. However, there is potential for capercaillie to occur in any of the suitable woodland habitats along the Proposed Development, including the woodland north of Loch Glass and woodland around the proposed access route. Therefore, disturbance arising from construction and felling activities during the breeding season is possible within all such woodlands between these locations.

8.5.4.8 Data from RSPB has confirmed presence of capercaillie within the Study Area, as well as there is evidence of two active lek sites that overlap with the proposed access route and Novar SPA woodland. The details of these records are provided in the confidential **Technical Appendix 8.2: Desk Study Results (EIAR Volume 5)** and the locations of these records are shown in confidential **Figure 8.3: Desk Study Results (EIAR Volume 5)**. There is potential for leks, nests or broods to be disturbed during the construction phase.

Mitigation Measures

8.5.4.9 The following mitigation measures are prescribed specifically in relation to capercaillie to reinforce the protection measures for critically endangered Schedule 1 species. These measures can be refined in future from recommendations through consultation with NatureScot and RSPB Scotland.

8.5.4.10 An ECoW will supervise and oversee construction works being undertaken within any woodlands occupied by capercaillie (both in current and recent years). The ECoW will be responsible for monitoring compliance with the measures prescribed in the general SPP and the finalised Capercaillie SPP.

8.5.4.11 There is general presumption against works being carried out that could disturb capercaillie, therefore a hierarchal approach to mitigation of disturbance following avoidance and reduction will be followed. The following represent outline measures, which will be built upon and finalised based on the findings of the pre-construction surveys described below:

PRE-CONSTRUCTION SURVEYS

8.5.4.12 To establish a clear understanding of capercaillie distribution and abundance in the vicinity of the Site where it intersects suitable capercaillie habitat, unless advised not to by RSPB and or NS as other surveys are already planned, pre-construction surveys will be carried out in the winter, lekking and breeding season preceding the commencement of construction.

8.5.4.13 For completeness of information, these surveys will include all woodlands covered by the baseline desk study data surveys which were collected to inform the **Chapter 8: Ornithology (EIAR Volume 2)** located within 1.5 km of the Site. The surveys will include both presence/absence surveys in late winter/early spring and dedicated capercaillie lek surveys conducted between mid-April and early May, following the methods of NS[3]. By covering all previously surveyed woodlands where capercaillie have been recorded over the last 12 years, this will provide confidence and reassurance on the species' presence and distribution, and hence the potential for constraints and associated requirement for implementation of protection measures for capercaillie.

8.5.4.14 An updated data request will also be made to RSPB for any recent records they may have collected.

8.5.4.15 Following the completion of the pre-construction surveys and updated data request the ECoW would review the results and advise of any potential constraints to construction works relating to capercaillie. Construction teams would be advised of existing/new constraints, together with mitigation requirements by the ECoW. Relevant site documentation and project information sources shall be updated by the ECoW with new and amended information on capercaillie constraints as it is produced, with changes communicated to the appropriate staff as soon as practicable.

AVOIDANCE

8.5.4.16 Construction works (including site investigation and enabling works (including vegetation clearance)) in woodlands supporting capercaillie will be avoided during the capercaillie breeding season (March-August inclusive), where possible, as advised in consultation with NatureScot and RSPB Scotland. This covers the capercaillie lekking, nesting and chick rearing period when the species is most sensitive to disturbance, as advised in consultation with NS and RSPB Scotland. Based on the survey and desk study information collected and used to inform **Chapter 8: Ornithology (EIAR Report Volume 2)** and this Outline Capercaillie SPP, these restrictions are currently only anticipated to affect works associated with the Novar SPA. However, if evidence of the species' presence is confirmed in other woodlands during the pre-construction surveys, the restrictions will be applied to those associated woodlands as well.

8.5.4.17 Where the pre-construction surveys described above have not identified the presence of capercaillie and works are able to proceed during the capercaillie breeding season, pre-felling and preconstruction checks (including vegetation clearance) will still be undertaken in all years where works are to be undertaken in former/potentially suitable capercaillie woodlands. These checks will extend to at least 1 km either side of the works areas during the core capercaillie lekking period (April to mid-May and 100 m either side of the works areas during the nesting and chick brooding period (May to August)[3]. Nesting capercaillie are very difficult to find and it is likely that this will require the use of a trained sniffer dog. Works will only be permitted to advance into new areas once the absence of breeding capercaillie is confirmed by the ECoW.

8.5.4.18 In the event that any lekking or nesting capercaillie are found during these pre-construction/felling surveys and/or checks, prescriptions outlined in the Applicant's Bird SPP (Section 1.1-1.5) will be followed. As well as implementation of working restrictions throughout the associated woodlands as prescribed above, this will include the exclusion of works in adjacent open ground areas through the successive stages of the breeding season as listed in Section 1.6:

- Exclusion of works within 1 km of leks sites until after the lekking period has passed (i.e., after mid-May);
- Exclusion of works within 100 m of nesting sites, until after the nesting period has passed (i.e., after mid-June); and,

[3] NatureScot (SNH) (2013) Capercaillie Survey Methods. Available at: https://web.archive.org/web/20230328162103/https://www.nature.scot/sites/default/files/2018-07/Guidance-Licensing-Capercaillie-survey-methods.pdf [accessed February 2026].

- Exclusion of works within 10 m of breeding woodlands, until after the brooding period has passed (i.e., after late August).

8.5.4.19 Works will only be permitted to advance into these works' exclusion areas with the approval of the ECoW.

REDUCTION

8.5.4.20 For all works being undertaken in and immediately adjacent to current or recently occupied capercaillie woodlands, a Toolbox Talk will be presented to all Site Operatives by the ECoW so that they are aware of the potential presence of capercaillie, how to identify them, their protection status and the specific protection measures set out in both the Applicant's Bird SPP and the Capercaillie SPP. The Toolbox Talk will also include making Site Operatives aware that male capercaillie can display tame and sometimes aggressive behaviour towards people during the breeding season and that any confirmed or suspected birds encountered should be avoided and not approached.

8.5.4.21 An emergency procedure would be implemented by site workers if capercaillie are encountered. All works in that locality would cease and the ECoW would inspect the Site and define any mitigation in line with this SPP.

8.5.4.22 An exceptional circumstance procedure would be implemented should mitigation options prove to be unsatisfactory in a particular case. Works would be halted whilst mitigation is determined (under consultation with NS and the RSPB Capercaillie Officer if required) Works within suitable capercaillie woodlands will be carried out in such a manner to reduce disturbance to the associated habitats (woodland and ground flora) e.g. by the sensitive location of plant and materials.

ADDITIONAL PROTECTION MEASURES

8.5.4.23 Ideally, no fences will be installed within known capercaillie woodlands. However, where fences are unavoidable, these will be fitted with fence markers to make them more visible and to reduce the risk of capercaillie flying into them and being killed or injured. Deer fences (or non-stock fences over 1 m tall) should be marked with either orange plastic mesh or wooden pales, while lower stock fences should have reflective metal plate markers placed along the top wire, as described in Trout and Kortland[4] as advocated by the Cairngorms Capercaillie Project Capercaillie Emergency Plan.[5] Additionally, any existing fences located within the Site and along sections of the proposed access route which traverse capercaillie woodlands will also have fence markers installed on them or, if permissible, removed altogether.

REPORTING

8.5.4.24 The results of the pre-construction surveys will be shared with NS and RSPB prior to the commencement of construction works. NS and RSPB will also be provided with regular updates by the ECoW throughout the construction phase to ensure compliance with agreed methods as detailed above.

[4] Trout, R and Kortland, K. (2012) Fence marking to reduce grouse collisions. Available at: https://www.forestresearch.gov.uk/publications/fence-marking-to-reduce-grouse-collisions/ [accessed February 2026].

[5] NatureScot and Cairngorms National Park Authority Capercaillie Emergency Plan (2024). Available at: https://cairngorms-national-park.paperturn-view.com/capercaillie-emergency-plan-2025-2030?pid=ODg8830201&v=6 [accessed February 2026].