

PE2119/A: Help protect the Black Grouse by reviewing how new forestry schemes are regulated and implemented

Scottish Government written submission, 22 October 2024

Background

Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation. Scottish Forestry is the regulatory authority for the assessment of the potential environmental impact of woodland creation projects under [the Environmental Impact Assessment \(Scotland\) Regulations 2017](#).

Scottish Forestry manages the Forestry Grant Scheme (FGS) on behalf of Scottish Ministers. [The Forestry Grant Scheme provides grants for a range of sustainable forest management work including the creation of new woodlands](#).

Marking of deer fencing to help prevent bird strike

Deer fences are often necessary to protect young trees from herbivore pressures in areas where other species, such as grouse, are present. Often, an appropriate mitigation to avoid bird strike are fence markers in the top section of the fence. Generally, Scottish Forestry requires such marking within 2km of known black grouse leks.

The choice of marking material and position will require consideration on the visibility of the marker, the proximity of the fence to grouse activity and the durability of the material with particular focus on the exposure of the site and what this means for the longevity of the material. To meet the variety of circumstances presented in different sites there are a number of marking materials available, as set out in the technical guidance on marking deer fences, Forest Research publication "*Fence marking to reduce grouse collisions, 2012*."

For the referenced new woodland creation scheme in the Cairngorms, the entire fence was marked with bamboo canes rather than wooden droppers because of the high exposure conditions on site which would mean that wooden droppers would increase the wind loading of the fence and could cause it to fail in extreme weather conditions such as high wind and heavy snowfall.

However, to further reduce the impacts on black grouse, Scottish Forestry have engaged with the forestry agents, the Cairngorms National Park Authority, and the RSPB to install sawn softwood fence droppers in areas that are most sensitive to bird strike. The use of bamboo is described in the Forest Research publication as appropriate for use in high exposure conditions. We therefore believe that the process for identifying and requiring the marking of deer fences has been appropriate.

Adherence to the FGS contract

Scottish Forestry can enforce adherence to approved FGS contracts. Inspection of the implementation of this scheme identified several issues requiring remedial action and these are being undertaken through a remedial plan agreed with the landowner's forestry agents.

Conditioning the timing of operations to protect breeding birds

As part of the woodland creation application process undertaken by the agent, the potential for the proposal or operations to deliver it to impact on breeding birds, including ground nesting birds is considered through specialist stakeholder engagement and professional surveys. These identify how ground nesting and other breeding birds use the land as well as appropriate mitigation measures. For many ground nesting bird species, a recommended approach to minimise likely negative effect is to stop all operations at the start of the relevant breeding season.

In some cases, it is not necessary to avoid the breeding season entirely and professional advice or surveys is sought to check what operational activity would not cause disturbance. This advice should seek to understand other relevant mitigation measures such as prudent working distances from nests/leks, utilising natural screening opportunities or specific timing constraints.

Appropriate operational disturbance distances and timings are well understood.

Regarding the referenced new woodland creation scheme in the Cairngorms, in the approved FGS application, the applicant committed to undertaking operations outwith the breeding and lekking season, mid-April to mid-August for black grouse. This is in line with the guidance in the "*Forest Operations and Birds in Scottish Forests*" guidance (FCS Guidance Note 32).

For operational reasons, some cultivation continued into early May but this was only a very small (less than 1 hectare) area of land at the edge of the 300 metre buffer zone and deemed not likely to cause disturbance.

Environmental Impact Assessments of woodland creation

As part of their regulatory function, Scottish Forestry has a statutory duty to screen (assess) afforestation, deforestation, forest road and forest quarry projects to decide if the proposal is likely to have significant (negative) effect on the environment. This is carried out by the agency's regional conservancy teams and all afforestation projects above the EIA threshold (20 hectares, or 2 hectares in a National Scenic Area) or within a sensitive area such as a National Park will undergo EIA screening.

The screening process considers the potential impacts of a forestry project on environmental sensitivities within or near the project boundary. These are: population and human health; soil; water; landscape; land use change; air; climate change; cultural heritage; biodiversity and material assets.

As part of the woodland creation application process, any issues that are identified will be investigated further by undertaking appropriate survey work, carrying out local stakeholder engagement with neighbours, community councils and specialist interest groups and by engaging with relevant regulatory authorities and organisations (e.g.

NatureScot, the Scottish Environmental Protection Agency, Historic Environment Scotland, the local planning authority,) to quantify the issue and identify suitable mitigation or avoidance measures to reduce or negate significant impacts.

The screening process is used to determine whether a project is likely to have significant effect on the environment. If at screening, a project is found to have likely significant effect(s) on the environment, which have not been adequately mitigated, then consent will be required, and the project will move to EIA Scoping to agree the scope of the full EIA Report for further investigation, consultation, and determination. At determination, Scottish Forestry can refuse the project, approve it, or approve it with conditions.

If at Screening, Scottish Forestry conclude that the project is unlikely to have a significant effect on the environment, they will give a 'Consent Not Required' Opinion which will allow the project to commence. The opinion is valid for five years to commence and ten years to conclude the project.

We believe that this is a robust process for identifying and mitigating any likely significant effects from a change of land use for woodland and that in this case, the appropriate mitigation was identified and delivered to protect black grouse.

Sale of land subject to an FGS grant

Landowners who are recipients of an FGS grant must inform Scottish Forestry if there is a change of occupancy/sale during the contract period of undertakings. This process is called "Succession" and ensures that the incoming landowner takes on the obligations of the grant contract and follows the approved design for the project.

Scottish Forestry