



THE MOUNTAINEERING COUNCIL OF SCOTLAND

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Catherine Murdoch
Species Management Team
Landscapes and Habitats Division
Scheduleadditions@scotland.gsi.gov.uk

Dear Ms Murdoch

The interest of the Mountaineering Council of Scotland (MCoS) lies in that we are the representative body for hill walkers, climbers and ski-tourers. As the only national representative body of the sport of mountaineering in Scotland, we have 10,000 members, and are recognised by the Scottish Government as representing the interests of all mountaineers. Much mountaineering activity is undertaken in areas where the proposed species nest; cliffs, crags, moorland, upland woodland and mountains. For over 10 years, MCoS has strived to increase the understanding of the environment among mountaineers, including regarding birds. We produce general guidance on our website of how to recognise when disturbance may take place, and place notifications of known sites of potential conflict; primarily the latter refers to climbing crags.

Respondee Information Form

Name: Hebe Carus

Organisation (if appropriate): Mountaineering Council of Scotland

Postal Address: MCoS, The Old Granary, West Mill Street, Perth PH1 5QP

Consultation Title: CONSULTATION ON THE REVIEW OF SPECIES LISTED ON SCHEDULES A1 & 1A OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

1. Are you responding as:
(b) on behalf of a group or organisation

2c on behalf of groups or organisations:
Are you content for your response to be made available also?
Yes

3. Sharing responses/future engagement
Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?
Yes

MCofS Comments

The MCofS wholeheartedly supports the protection of features of the natural heritage, including species and habitats. Also we wholeheartedly support the Land Reform (Scotland) Act 2003 and associated Scottish Outdoor Access Code which promote maximisation of area available for access outside of specific locations and legal requirements. The latter includes legal protection requirements such as the Wildlife and Countryside Act 1981 and the Nature Conservation (Scotland) Act 2004.

The presence of mountaineers on crags and mountains actually contributes to protection through vigilance and crime reporting from remote locations, as shown on the recently released map of records of poisoning incidents at www.scotland.gov.uk/topics/environment/wildlife-habitats/bird-poisoning-map. These locations are rarely accessed by people other than land management interests and those undertaking recreation in the area. The latter are often reporters of crimes. Over a number of years, the MCofS has actively engaged with wildlife crime as an issue we can positively help to address, and have promoted understanding and encouragement to report to the police. Wildlife, including birds, is a significant positive element that attracts mountaineers to engage in their recreation.

Despite efforts to avoid doing so, mountaineers occasionally inadvertently come across protected species nests while engaging in recreation. A number of cases of this have involved time-consuming travelling and long walk approaches to a climbing area to either find that there is evidence of a protected species nesting on the vicinity of their destination, or that it only became evident that their activity would potentially disturb a protected nest while partway through a multi-pitch climb. This can be dangerous for the person climbing through an urgency of retreat from possibly a hundred metres or so above the ground and / or disturbance to the nest through the time required to make a retreat. To date there have been instances of close calls involving peregrine and golden eagle nests, where climbers have attempted to avoid such occurrences by following guidance and taking account of the small list of potential areas of conflict of which MCofS has cognisance. The effective system used in England where nests in climbing areas are openly communicated has been very successful. BMC nesting restrictions are widely disseminated every nesting season with precise locations to the level of detail of climbing route(s) affected. The parameters of the area affected are mutually agreed through discussion. This means that disturbance is avoided while access can be maximised and inconvenience of lack of information can be avoided. Egg / chick collectors and those wishing birds harm have much better knowledge of the locations of these nests than innocent mountaineers that wish to avoid disturbance while maximising their access opportunities. Wasted trips and inadvertent disturbance through resistance to disseminating nest locations must be addressed. Any changes in the Schedule A1 / 1A should be used as a springboard from which a mechanism is supported to ensure people do not fall foul of the law due to a lack of ornithological knowledge, ability to spot nests on cliffs and lack of freely available information on the locations of these nest that are to be avoided.

The Schedule should be amended, or scientifically justified restrictions be defined, in such a way as to avoid the possibility of the presence of a protected species in a large undefined area being used to prevent legitimate access use. Little research has been conducted on British species in relevant contexts. Research is needed to define parameters of where disturbance occurs, taking into account the topographical variants and habituation such that species protection is maximised while avoiding needless restrictions to access. Unfortunately, this has been the experience on a large Highland estate where capercaillie breeding in a forest was used on Deeside as an argument that walkers should not leave the forestry tracks throughout spring/summer in case they happened upon capercaillie. There are also a number of golden eagle and peregrine nests that are on rock climbing routes, so if extension of protection was to unoccupied nests there might be an unnecessary impact

on access in those vicinities. Even some species proposed to be added to 1A / A1 that nest in trees and not directly on climbing areas have been used in an attempt to restrict access to large areas. One case involved an Osprey nest some distance away from a climbing crag where initially it was argued that climbing should be banned as the site was a SSSI and there was an Osprey nesting on it. This was irrespective of the actual relative locations of crag and nest.

It is recognised that damage to a golden eagle nest outside the breeding season could have a significant impact on whether that pair will breed the following season. The MCoFS would support protection of nests for this reason, however access users must be given the information to avoid falling foul of the law through not being seasoned ornithologists, and any restriction should be scientifically-based.

Summary

1. Do you agree that golden eagle and osprey should be included in schedules A1 and 1A?
Yes if the increased possibility of innocent parties inadvertently falling foul of the law is addressed; that a mechanism be put in place alongside the expansion of the schedules to promote open information regarding vulnerable locations, as is currently in place in England and Wales. Additionally, that restriction to access be researched such that they can be defined and openly understood.
2. If not, why not?
N/A
3. Do you support the SNH proposals for inclusion? In part, or in full? Or not at all?
A per the above caveat, with particular relevance (not exhaustive) to mountaineers of Merlin, Hen Harrier, Golden Eagle, Chough, Peregrine and Capercaillie
4. Do you think any other species should be included? If so, name the species and explain why.
N/A
5. Please indicate whether your proposals should go on one or both of the schedules.
In terms of the caveats stated above, Schedule 1A is much less of an issue. If there is scientific evidence that damage to nests impacts negatively on the breeding success in subsequent seasons, then it is reasonable to add these vulnerable birds to this Schedule. 1A has more inherent difficulties without associated measures to facilitate promotion of responsible access to mountaineers.

Please do not hesitate to contact me to discuss these issues further.

Yours sincerely

Hebe Carus
Access & Conservation Officer