

# DAFM, Forest Service / NPWS Referral Procedures



**An Roinn Talmhaíochta,  
Bia agus Mara**  
Department of Agriculture,  
Food and the Marine

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# 1. INTRODUCTION

## 1.1 Objective

The objective of this document is to set out current practices and procedures in relation referrals issued by Forest Service, DAFM to NPWS in respect of forestry developments.

## 1.2 Introduction and background

The Forest Service based within the Department of Agriculture, Food & the Marine (DAFM) is responsible for ensuring the development of Forestry within Ireland in a manner and to a scale that maximises its contribution to national socio-economic well-being on a sustainable basis that is compatible with the protection of the environment. The Forest Service is responsible for (inter alia) national forest policy, the promotion of forestry, the administration of the forest consent system and forestry support schemes, forest health and protection, and the control of felling.

While many forestry operations are exempt from the requirement to obtain planning permission, activities such as afforestation, forest road construction and the aerial fertilisation of forests require, by law, a licence from the Minister for Agriculture, Food & the Marine. The felling of trees is also an activity that may require a licence, in the form of a felling licence. The legislative provisions governing such licences and obligations are set out in the Forestry Act 2014 and accompanying Forestry Regulations 2017 (see [www.irishstatutebook.ie/2014](http://www.irishstatutebook.ie/2014)).

It is therefore an offence to undertake the following forestry activities without a licence:

- Tree felling – a Felling License is required to uproot or to cut down any tree (subject to certain exemptions);
- Aerial fertilisation – an Aerial Fertilisation Licence must be obtained before a person can use an aircraft to apply fertiliser to a forest;
- Afforestation – an Afforestation Licence is required for all afforestation projects where the area involved is greater than 0.10 hectares (approximately 0.25 acres);
- Forest road construction – a licence is required to construct a forest road. (If a forest road construction project includes the provision of access to a public road, planning permission for the access may also be require

## 1.3 Legal basis for forestry development referrals to NPWS

The basis for DAFM referrals issued to NPWS and other referral bodies is set out in the Forestry Act 2014 and in S.I. 191 of 2017 (Forestry Regulations 2017).

Pursuant to Section 5(2) of the Forestry Act 2014:

*(2) In performing any relevant function under this Act, the Minister shall have regard to, in addition to any other material matter, the policy of the Minister for the Environment, Community and Local Government on climate change.*

Pursuant to Section 17(5) of the Forestry Act 2014 and with specific regard to the felling of trees:

*(5) In considering applications for a licence, the Minister may—  
(a) consult any person whom he or she considers to be appropriate, and ...*

Pursuant to Section 22(5) of the Forestry Act 2014 and with specific regard to afforestation, forest road works and aerial fertilisation of forests:

*(5) In considering applications for a licence, the Minister may—  
(a) consult any person whom the Minister considers to be appropriate, and ...*

Pursuant to Regulation 9 of S.I. 191 of 2017 (Forestry Regulations 2017), in relation to provisions regarding consultation:

*9. (1) Where the Minister receives an application under S.I. 191 Regulations 5 (Application for afforestation licence), 6 (Application for forest road licence) or 7 (Application for aerial fertilisation licence) and it appears to him or her that the proposed development—  
(a) may cause an adverse impact on the environment,  
(b) may have a significant impact on—*

- (i) human health,
  - (ii) nature conservation, or
  - (iii) an archaeological site or feature,
- (c) is situated in an area of special amenity under an order made under section 202 of the Act of 2000, or
- (d) is located in or likely to have a significant effect on—
  - (i) a European site,
  - (ii) land established or recognised as a nature reserve under sections 15 or 16 of the Act of 1976, as amended by sections 26 and 27 of the Wildlife (Amendment) Act, 2000 (No. 38 of 2000),
  - (iii) land designated as a refuge for flora or fauna under section 17 of the Act of 1976,
  - (iv) an area the subject of a notice under section 16(2)(b) of the Act of 1976,
  - (v) land subject to a natural heritage area order under section 18 of the Wildlife (Amendment) Act 2000, or
  - (vi) compliance with the quality standards set out in the European Communities Environmental Objectives (Surface Water) Regulations 2009 (S.I. No. 272 of 2009)

*the Minister shall consult with any consultation body that the Minister believes may have an opinion on the proposed development.*

In regard to Environmental Impact Assessment for either afforestation or forest road work developments, Regulation 13 sections 6 and 7 of S.I. 191 of 2017 (Forestry Regulations 2017) refer to the requirement for consultation to relevant consultation bodies in respect to EIA Scoping.

*(6) In advance of submitting an EIS, the person applying or a person intending to apply for a licence may seek the opinion of the Minister on the information that is to be supplied in the EIS.*

*(7) The Minister shall, before giving an opinion to the person who made the request under paragraph (6), consult the relevant consultation bodies before giving his or her opinion.*

#### **1.4 Forestry schemes (no licence requirement) for which referrals are issued to NPWS**

From time to time, DAFM, Forest Service may also issue referrals to NPWS in respect of certain schemes which do not require a licence (i.e. reconstitution scheme (in respect of ash dieback disease), reconstitution and underplanting scheme (in respect of ash dieback disease) and woodland improvement scheme) where the proposed sites may, according to the Forest Service inspector, contain the presence or likely presence of protected species (inter alia, owls, curlew, raptor species, Habitats Directive Annex IV species) on both designated and / or non-designated site, and / or where Bird Directive Article 4(4)-related concerns exist.)

## 2. Current procedures and practice - Forest Service / NPWS Referral Matrix

### 2.1 Statistics related to NPWS referrals by year

Table 1 details the number of NPWS referrals for afforestation, felling and forest road developments, associated file response rates and average response times by year of application for the last 5 years (note that in the case of felling, statistics have been collected from 2017 onwards only). These referral data were generated using the Department's iFORIS information system which is has been designed to manage the forestry development consents and approval process.

**Table 1.** Referrals issued to NPWS for Afforestation, Felling and Forest Road developments (Private Forest Estate)

	Year Referred	Files Referred	Responses Received	% Responses Returned	Avg. Response Time (Days)
Afforestation	2016	231	218	94%	36
	2017	227	211	93%	34
	2018	237	188	79%	54
	2019	259	197	76%	48
	2020	328	225	69%	49

	Year Referred	Files Referred	Responses Received	% Responses Returned	Avg. Response Time (Days)
Felling	2016	NA	NA	NA	NA
	2017	419	298	71%	36
	2018	715	359	50%	42
	2019	731	417	57%	48
	2020	755	400	53%	43

	Year Referred	Files Referred	Responses Received	% Responses Returned	Avg. Response Time (Days)
Forest Roads	2016	126	122	97%	36
	2017	93	86	92%	31
	2018	170	114	67%	47
	2019	159	90	57%	38
	2020	194	126	65%	46

Licensing of Coillte for thinning and clearfelling operations is managed outside of iFORIS and is centralised at Johnstown Castle Estate Wexford. Table 2 details the number of referrals issued to NPWS during 2019, 2020 and 2021 (to date) in respect of Coillte felling licence applications. All referrals issued to DAFM in respect of Coillte felling licences can be considered as **mandatory referrals** with respect to the referral matrix agreed with NPWS in February 2013 (see also Section 2.2 below).

**Table 2.** Referral to NPWS for Felling (Coillte Forest Estate)

Year Referred	Files Referred	Responses Received	% Responses Returned	Avg. Response Time (Days)
2019	367	254	69%	NA
2020	112	90	80%	NA
2021	452	NA	NA	NA

\*Note that in the case of licence applications within designated national or European sites, licences are not issued by DAFM until such time as a response has been received from the NPWS. For all other referral types where forestry developments are proximate to national or European sites the agreed response time allocated to NPWS to compile for their response in regard to pre-approval licence or scheme consultations is 6 weeks, with a further 2 weeks where referral extensions have been requested by NPWS.

## 2.2 Forest Service / NPWS Referral Matrix (Version 06 February 2013)

All applications within areas designated as a NHA, pNHA, SAC, SPA or National Parks are referred to the National Parks & Wildlife Service, with the exception of breeding Hen Harrier SPAs (Regarding breeding Hen Harrier SPAs, mandatory referral to NPWS takes place if the project area, or any part thereof, is within a Hen Harrier 'Red Area', either within the SPA or extending outside the SPA). See also Section 2.2.1 and Appendix 1.

The Forest Service/NPWS Referral Matrix (**Version 06 February 2013**), sets out scenarios where the referral of specific forestry applications from the Forest Service to NPWS is:

- (i) **mandatory**; or
- (ii) **at the discretion** of the Forestry Inspector.

The matrix was developed with the agreed aim of reducing the number of referrals from the Forest Service and increasing the quality/detail of responses from NPWS. The matrix operates in parallel with the electronic transfer of files and subsequent responses to / from the Forest Service and NPWS and internally within NPWS, via DATS.

The matrix has been updated to reflect the Forest Service Appropriate Assessment Procedure (November, 2019), utilising the same project types (Afforestation, Forest Road Construction, etc.) and scenarios (where relevant). This maximises streamlining with that procedure vis-à-vis the responsibility of the Forest Service under S.I.477/2011 to undertake screening, and where necessary, appropriate assessment, in relation to the possibility of a significant effect(s) on a European site(s). Referrals are controlled and initiated by automated spatial checks and manual referral requests initiated by district forestry inspectors using the DAFM's iFORIS system.

The '**Referral at Forest Service Inspector's Discretion**' referral option is exercised by the Forest Service Inspector within the context of the provision of ecological training and guidance to Inspectors (with NPWS input) regarding the types of issues meriting referral to NPWS.

Under the 'Any other scenario' scenario, the application is referred to NPWS if deemed necessary by the Forest Service Inspector. (E.g. where the Forest Service Inspector is aware of the presence or likely presence of protected species (inter alia, owls, curlew, eagles, Habitats Directive Annex IV species) on a non-designated site, or where Bird Directive Article 4(4)-related concerns exist.) The option to refer under this scenario is exercised by the Forest Service Inspector within the context of the provision of ecological training and guidance to Forest Service Inspectors (with NPWS input) regarding the types of issues meriting referral to NPWS, in addition to the input into iFORIS of relevant NPWS datasets (e.g. for the curlew, pearl mussel, small white orchid). Where a scenario gives rise to both referral options, mandatory referral takes precedence (see also comments in Section 2.1 regarding referrals in respect of Coillte felling licence applications).

Regarding dual consent requirements for NHAs, the response from NPWS includes (where appropriate) wording giving NPWS permission for the relevant notifiable action(s) to proceed (subject to conditions, as required). Where proposed planting is within a NHA, a completed Notifiable Action Form must be included with the application to the Forest Service by the licence applicant. A dual consent process exists for the planting or cutting of trees within NHAs. Therefore, an applicant must obtain the consent of both the Minister of Arts, Heritage & the Gaeltacht and the Minister for Agriculture, Food & the Marine. The consent of the Minister of Arts, Heritage & the Gaeltacht is obtained by submitting a Notifiable Action Form / Action Requiring Consent Form (i.e. an application for permission to carry out an operation or activity on a site to which Section 19 of the Wildlife (Amendment) Act 2000 applies) to NPWS, who complete the form and returns it to the applicant.

The referral matrix for afforestation, forest road construction, aerial fertilisation and felling licence applications is presented in the tables below (Note the referral tables first compiled in 2013 have been updated here to reflect more recent legislation i.e. the Forestry Act 2014 and S.I. 191 2017).

### 2.2.1 Procedures in relation to referrals for Hen Harrier SPAs and Hen Harrier HLNAs

DAFM's procedures regarding disturbance operations within SPAs designated for breeding Hen Harriers are set out in Appendix 21 of the Forestry Standards Manual (November, 2015 – see also Appendix 1 of this document). Specific procedures apply in relation to applications for consent / grant approval / licences involving certain forestry

operations which have the potential to disturb Hen Harrier breeding activity within and surrounding SPAs designated for breeding Hen Harrier (see also Appendix 1).

These procedures, agreed with National Parks & Wildlife Service (NPWS), focus on disturbance operations within so-called 'Red Areas' or HLNAs during the Hen Harrier breeding season, 1st April to 15th August, inclusive. NPWS have provided updated High Likelihood of Nesting Area (HLNA) layers to the DAFM, for it to update the information underpinning its implementation of the procedure. In more recent years (as per above), this has incorporated new survey data from the Hen Harrier Project. These updated NHLA data are used by DAFM consulting ecologists working on DAFMs behalf to facilitate the continued operation of the hen harrier protocol using the most up-to-date nest site survey information. In terms of referrals for licenced operations, referrals are issued by DAFM to NPWS all proposed forestry developments located within Hen Harrier HLNAs or "Red Areas".

### Forest Service / NPWS Referral Matrix Related to Afforestation and Forest Road Construction

<b>Application for...</b>	<b>Scenario: Project area or any part thereof, is ...</b>	<b>Referral to NPWS?</b>
Consent under S.I.171 / 2017 (with / without grant) for  <b><u>AFFORESTATION</u></b>	(1). Within a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	Referral Mandatory
	(2). Within the 0-0.5 km buffer zone of a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	Referral at FS Inspector's Discretion
	(3). With the 3 km buffer zone, upstream of, <u>and</u> hydrologically connected to, a SAC, SPA, National Park NHA, pNHA or Nature Reserve.	Referral at FS Inspectors Discretion
	(4). Within an area where the Forest Service Freshwater Pearl Mussel Requirements apply.	Referral at FS Inspector's Discretion
	(5). Within a section of a Hen Harrier 'Red Area' extending outside the SPA.	Referral Mandatory
	(6). Any other scenario.	Referral at FS Inspector's Discretion

<b>Application for...</b>	<b>Scenario: Project area or any part thereof, is ...</b>	<b>Referral to NPWS?</b>
Consent under S.I.171 / 2017 (with / without grant) for  <b><u>FOREST ROAD CONSTRUCTION</u></b> <u>(inc. ancillary works)</u>	(1). Within a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	Referral Mandatory (* <u>Except in Hen Harrier SPAs – See Appendix 1).</u> )
	(2). Within the 0-0.5 km buffer zone of a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	Referral at FS Inspector's Discretion
	(3). With the 3 km buffer zone, upstream of, <u>and</u> hydrologically connected to, a SAC, SPA, National Park NHA, pNHA or Nature Reserve.	Referral at FS Inspector's Discretion
	(4). Within an area where the Forest Service Freshwater Pearl Mussel Requirements apply.	Referral at FS Inspector's Discretion
	(5). Within a section of a Hen Harrier 'Red Area' extending outside the SPA.	Referral Mandatory
	(6). Any other scenario.	Referral at FS Inspector's Discretion

## Forest Service / NPWS Referral Matrix Related to Aerial Fertilisation

<i>Application for...</i>	<i>Scenario: Project area or any part thereof, is ...</i>	<i>Referral to NPWS?</i>
Consent under S.I.171 / 2017 for  <b><u>AERIAL FERTILISATION</u></b>	(1). Within a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	Referral Mandatory
	(2). Within the 0-0.5 km buffer zone of a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	Referral Mandatory
	(3). With the 3 km buffer zone, upstream of, <u>and</u> hydrologically connected to, a SAC, SPA, National Park NHA, pNHA or Nature Reserve.	Referral Mandatory
	(4). Within an area where the Forest Service Freshwater Pearl Mussel Requirements apply.	Referral at FS Inspector's Discretion
	(5). Within a section of a Hen Harrier 'Red Area' extending outside the SPA.	Referral Mandatory
	(6). Any other scenario.	Referral at FS Inspector's Discretion

## Forest Service / NPWS Referral Matrix Related to Thinning and Clearfell (and reforestation) operations

<b>Application for...</b>	<b>Scenario: Project area or any part thereof, is ...</b>	<b>Referral to NPWS?</b>
Felling licence under the 2014 Forestry Act for  <b>THINNING</b> (incl. 1 <sup>st</sup> , 2 <sup>nd</sup> & subsequent)	(1). Within a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	<b>Referral Mandatory</b> (* <i>Except in Hen Harrier SPAs</i> – See Appendix 1).
	(2). Within the 0-0.5 km buffer zone of a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	Referral at FS Inspector's Discretion
	(3). With the 3 km buffer zone, upstream of, <u>and</u> hydrologically connected to, a SAC, SPA, National Park NHA, pNHA or Nature Reserve.	Referral at FS Inspector's Discretion
	(4). Within an area where the Forest Service Freshwater Pearl Mussel Requirements apply.	Referral at FS Inspector's Discretion
	(5). Within a section of a Hen Harrier 'Red Area' extending outside the SPA.	<b>Referral Mandatory</b>
	(6). Any other scenario.	Referral at FS Inspector's Discretion

<b>Application for...</b>	<b>Scenario: Project area or any part thereof, is ...</b>	<b>Referral to NPWS?</b>
Felling licence under the 2014 Forestry Act for  <b>CLEARFELL</b> (incl. refor.)	(1). Within a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	<b>Referral Mandatory</b> (* <i>Except in Hen Harrier SPAs</i> – See Appendix 1).
	(2). Within the 0-0.5 km buffer zone of a SAC, SPA, National Park, NHA, pNHA or Nature Reserve.	Referral at FS Inspector's Discretion
	(3). With the 3 km buffer zone, upstream of, <u>and</u> hydrologically connected to, a SAC, SPA, National Park NHA, pNHA or Nature Reserve.	Referral at FS Inspector's Discretion
	(4). Within an area where the Forest Service Freshwater Pearl Mussel Requirements apply.	Referral at FS Inspector's Discretion
	(5). A Coillte site located anywhere within the entire catchment of any of the top eight <i>M. maragantifera</i> populations or anywhere with the 6 km zone of the R. Nore FPM catchment. (Forest Service Freshwater Pearl Mussel Requirements apply, with revised Forms 1-3)	Referral at FS Inspector's Discretion
	(6). 0.01 ha or greater and within a Hen Harrier 'Red Area', either within the SPA or extending outside the SPA..	<b>Referral Mandatory</b>
	(7). Any other scenario involving single trees, groups of trees less than 0.1 ha, or area 0.1 ha or greater, wherever located.	<b>R</b> Referral at FS Inspector's Discretion

## APPENDIX 1 - AAP and Hen Harrier (DAFM Forestry Standards Manual 2015, Appendix 21)

### Introduction

As required under the European Habitats Directive (Council Directive 92/43/EEC) and the European Communities (Birds & Natural Habitats) Regulations 2011 (S.I. 477 of 2011), the Forest Service is required to undertake a screening, and where necessary, an Appropriate Assessment, in relation to applications for consent, grant approval and licensing for various forestry activities, in order to evaluate the project within the context of any potential impact on a NATURA site. See Section 20 for details of the Forest Service Appropriate Assessment Procedure (AAP)\*. (\*Note updated DAFM, Forest Service procedures dated Nov 2019 AA Procedures now apply).

Specific procedures apply in relation to applications for consent / grant approval / licences involving certain forestry operations which have the potential to disturb Hen Harrier breeding activity within and surrounding SPAs designated for breeding Hen Harrier. These procedures, agreed with National Parks & Wildlife Service (NPWS), focus on disturbance operations within so-called 'Red Areas' during the Hen Harrier breeding season, 1st April to 15th August, inclusive.

Red areas are 1.2 km radius areas centred on known Hen Harrier nesting areas. The 1.2 km radius is based on half the maximum separation distance of annual nest locations within territories observed in the Slieve Aughty Mountains within the 2005-2010 period, plus an additional 500 metre buffer. Depending on the location of their centre point, Red Areas may encapsulate land outside the boundary of the SPA. The remainder of the SPA is referred to as 'Green Areas'. New Red Areas may be generated from time-to-time, as new Hen Harrier nesting sites are identified, either individually or as a result of a regional or national survey. A potential disturbance operation is a forestry operation which has the potential, through excessive noise, vibration, mechanical movement, etc., to disturb the breeding activity of Hen Harriers. Potential disturbance operations include:

- timber felling (thinning, clearfell)
- timber extraction to roadside
- timber loading at roadside
- aerial fertilisation
- mechanical cultivation for both afforestation and reforestation
- forest road construction (and associated developments)
- the driving of fencing posts
- any other operation(s) the Forest Service may deem as potentially creating disturbance

### Scenarios

Table 1 sets out the various scenarios that apply under these procedures to felling licence applications. Also described are the typical results of the Forest Service AAP and the overall likely outcome. Please note the following:

- Scenarios A, B and C also apply to all other applications involving a potential disturbance operation(s) (e.g. applications for consent (with or without grant aid) for afforestation and forest road construction under S.I.558 of 2010), applications for aerial fertilisation licences), and corresponding conditions will be attached accordingly. In relation to afforestation, *note that approval will not be issued for afforestation within SPAs designated for breeding Hen Harrier, pending the completion of the Threat Response Plan currently being compiled by the Department of Arts, Heritage and the Gaeltacht.* (see Forest Service Circular 13/2013.).
- Applicants should seek clarification from the Forest Service, should any other situation arise which does not appear to be covered by one of the three scenarios presented below.
- Scenarios A and B represent the default mechanisms, and applicants will be informed whether or not the project area lies within a Green Area or a Red Area within the conditions attached to any consent / approval / licence issued. However, where an applicant intends to undertake a disturbance operation(s) within the breeding season, s/he must contact the Forest Service or NPWS *before* preparing the application, to establish if the project area is within or partially within a Red Area. If so, Scenario C applies.
- Table 1 relates to potential disturbance operations only. *Applicants should note that, during Screening, other factors – e.g. other qualifying interests and conservation objectives of NATURA site(s) – may in themselves generate a requirement for an appropriate assessment.*
- The aerial fertilisation of forests requires a licence from the Minister of Agriculture, Food & the Marine under the European Communities (Aerial Fertilisation) (Forestry) Regulations 2012 (S.I.125 of 2012). As a potential disturbance operation, aerial fertilisation falls under these procedures in relation to SPAs

designated for breeding Hen Harrier. Where an applicant is seeking to undertake aerial fertilisation during the Hen Harrier breeding season (1st April to 15th August inclusive), s/he must first contact the Forest Service several months prior to the submission of the Aerial Fertilisation Licence Application Form, to clarify whether or not the site of the operation (including storage, loading and refuelling depots) lies within a Red Area. If so and the applicant still wishes to undertake the operation during the breeding season, Scenario C applies, and a NATURA Impact Statement (NIS) must be submitted with the application, including (*inter alia*) a report setting out the results of a prescribed breeding survey (see following pages), together with (if applicable) details of mitigating site factors and / or proposed protective measures.

- The following applies in *all cases* involving aerial fertilisation within a Hen Harrier SPA: throughout the breeding season, flight time spent traversing the SPA to and from the site of the operation must be minimised, and the flying altitude throughout this traverse must be maintained at no less than 1,300 feet / 400 metres above ground level. A map and a pilot declaration confirming these details must be provided with the Aerial Fertilisation Completion Form.

**Table 1** Felling licence applications within SPAs designated for breeding Hen Harrier: Scenarios, typical results of the AAP, and overall outcomes likely.

SCENARIO	LIKELY OUTCOMES
<p><b>Scenario A</b></p> <p>Project area is wholly within a Green Area of a Hen Harrier SPA.</p>	<p>Applicant submits a Felling Licence application, and the Forest Service undertakes SCREENING under its Appropriate Assessment Procedure (AAP).</p> <p>Generally, within a Green Area, a potential disturbance operation will not disturb Hen Harrier breeding activity. Therefore, SCREENING typically concludes with <b>SCREENING Conclusion 2</b> (no possibility of effect).</p> <p>Felling Licence issued with a normal lifespan. Applicant informed that the project area lies within a Green Area, and that any potential disturbance operation associated with the Felling Licence can proceed during the Hen Harrier breeding season (1st April to 15th August, inclusive). However, the Forest Service will notify the applicant in the future if any new Red Area (generated by a newly---recorded nesting site) overlaps the project area. From the date of receipt of this notification, no disturbance operation(s) associated with the Felling Licence are to take place within the breeding season (1st April to 15th August, inclusive). To do so will lead to the immediate cancellation of the Felling Licence (where trees remain standing) and may represent an offence under the Birds &amp; Habitats Regulations 2011.</p> <p>If notification of a new Red Area is given during the breeding season itself, any ongoing disturbance operation associated with the Felling Licence is to cease immediately on receipt of the notification, unless otherwise agreed with the Forest Service, and can only recommence after the breeding season (i.e. after the 15th of August, inclusive).</p>
<p><b>Scenario B</b></p> <p>Project area is within or partially within (*) a Red Area (both inside and outside the boundary of the SPA).</p>	<p>Applicant submits a Felling Licence application, and the Forest Service undertakes SCREENING under its AAP.</p> <p>Generally, within a Red Area, a disturbance operation will not disrupt Hen Harrier breeding activity if limited to the period outside the breeding season. Therefore, SCREENING typically concludes with <b>SCREENING Conclusion 2</b> (no possibility of effect), based on adherence to specific conditions attached to the licence – see below.</p> <p>Licence issued with a lifespan extending beyond the breeding season up to the following 31st March, with specific conditions attached, i.e.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Project area lies within a Red Area. Therefore, no disturbance operation(s) associated with the Felling Licence is to take place during the Hen Harrier breeding season (1st April to 15th August, inclusive). To do so will lead to the immediate cancellation of the Felling Licence (where trees remain standing) and may represent an offence under the Birds &amp; Habitats Regulations 2011.</li> <li><input type="checkbox"/> Where it is envisaged that timber felling and associated disturbance operations under the licence will run into the breeding season, all disturbance operations are to cease on the 31st March and a new licence application and a NATURA Impact Statement (NIS) submitted, following Scenario C.</li> </ul>

<p>(* For large scale thinnings, the applicant should contact the Forest Service or NPWS before preparing the application, to establish if the thinning area is partially within a Red Area. If so, two separate applications can be submitted, one for the thinning area outside the Red Area (i.e. Scenario A), and one for the thinning area inside the Red Area (i.e. Scenario B). The boundary between the two applications must be positioned outside the Red Area, following defined features on the ground, i.e. subcompartment boundary, rideline, forest road.)</p>	
<p><b>Scenario C</b></p> <p>Applicant intends to undertake timber felling and other Felling Licence related disturbance operation(s) during the breeding season (1st April to 15th August, inclusive).</p> <p><b>AND</b></p> <p>Project area is within or partially within a Red Area (both inside and outside the boundary of the SPA (**).</p>	<p>Forest Service automatically assumes that <b>AAP SCREENING Conclusion 3</b> (i.e. possibility of effect exists) applies.</p> <p>Applicant submits a Felling Licence application and a NATURA Impact Statement. This NIS must include a report setting out the results of a prescribed breeding survey, together with (if applicable) details of mitigating site factors and / or proposed protective measures. (Other necessary components of a NIS are set out in Appendix 20.)</p> <p>Surveying and reporting to follow prescribed methodologies – see following pages.</p> <p>Forest Service undertakes APPROPRIATE ASSESSMENT, taking into consideration the survey results (including site mitigation factors and proposed protective measures, if applicable), and also wider potential in---combination impacts. Typical outcomes as follows:</p> <p><b>APPROPRIATE ASSESSMENT Conclusion 1</b> (no significant effect) is reached, based on the survey results and adherence to specific conditions. The Felling Licence is issued with a lifespan extending beyond the breeding season up to the following 31st March, with specific conditions attached, i.e.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Project area located within or partially within a Red Area. The described disturbance operation is permitted during the current breeding season (1st April to 15th August, inclusive), subject to adherence to the site mitigating factors and proposed protective measures set out in the NIS (and other conditions, as necessary).</li> <li><input type="checkbox"/> No disturbance operation associated with the Felling Licence is to take place during future Hen Harrier breeding seasons. Doing so may represent an offence under the Birds &amp; Habitats Regulations 2011.</li> </ul> <p style="text-align: center;"><b><u>OR</u></b></p> <p><b>APPROPRIATE ASSESSMENT Conclusion 2</b> (significant effect) is reached, based on the premise that any mitigating site factor and / or protective measure that has been or may be proposed will not be sufficient to prevent a significant effect on breeding activity. (<b>APPROPRIATE ASSESSMENT Conclusion 3</b> (insufficient information) may also apply.) The Felling Licence will not be issued and the applicant must submit a new licence application. Scenario B will apply.</p>
<p>(** Applicants intending to undertake disturbance operations during the breeding season must contact the Forest Service or NPWS before preparing the application, to establish if the project area is within or partially within a Red Area.)</p>	

As set out above, where the project area lies within or partially within a Red Area, and if the applicant intends to undertake a potential disturbance operation(s) during the breeding season, under the Forest Service AAP, it is assumed that the possibility of a significant effect on the NATURA site exists (i.e. Screening Conclusion 3). Therefore, the applicant is required to submit alongside the felling licence application, a NATURA Impact Statement (NIS). This NIS must include a report setting out the results of a prescribed survey, together with (if applicable) details of mitigating site factors and / or proposed protective measures. (Other necessary components of a NIS are set out in Appendix 20.) The surveying in question will comprise a breeding survey. The survey itself and its corresponding report must follow a prescribed methodology and structure, as set out below.

Note, the breeding survey must be carried out during the breeding season and within the same year as the proposed operation. Due to the required methodology, the breeding survey will not be completed until the second half of May. Therefore, in the case of felling licences, if breeding activity (confirmed or possible) is not occurring or where the proposed mitigating site factors and / or protective measures are deemed adequate (see below), the earliest that the licence can be issued and operations can commence is early June.

The breeding survey is aimed at identifying whether or not breeding activity (confirmed or possible) is occurring within the operational area and a defined hinterland, and if so, the location of the nesting site(s).

## Methodology and likely results

A specific methodology applies for the breeding survey, as set out below.

- The survey must be carried out by a suitably qualified or experienced ornithologist.
- The breeding survey must be undertaken during the breeding season and within the same year as the proposed disturbance operation.
- The ornithologist undertaking the survey must inform the NPWS at a local level that s/he is carrying out a breeding survey, prior to the survey. This interaction may yield information from NPWS relevant to the survey.
- The survey is to be undertaken from vantage points. It is the responsibility of the ornithologist to choose the location and number of vantage points, so as to fully cover the area to be surveyed.
- The area to be surveyed comprises the operational area itself and a prescribed hinterland, as follows:
  - In the case of clearfelling, extraction, timber loading at roadside and mechanical cultivation for both afforestation and reforestation, this hinterland is to comprise an area 500 metres from the edge of the operational area outwards.
  - In the case of thinning, forest road construction (and associated developments) and the driving of fencing posts, this hinterland is to comprise suitable breeding habitats (\*) that lie adjacent to the operational area, including those that continue uninterrupted up to a distance of 500 metres from the edge of the operational area.
  - In the case of aerial fertilisation, this hinterland is to comprise an area 750 metres from the edge of the operational area outwards.
  - The surveyor must be able to identify the approximate location of the nesting site by remote observation. Nests should not be visited, as this requires a specific licence from NPWS.
  - Three visits are to be made to each vantage point (one in the second half of April, one in the first half of May, one in the second half of May), with at least one week between each consecutive visit.
  - For each survey visit, each vantage point watch is to be of 3 hours duration in good weather conditions. Table 1 lists definitions to be used as the basis for assessing if confirmed or possible breeding activity is occurring.

(\* 'Suitable breeding habitat' includes both first and subsequent rotation forests up to 10 years of age, gaps 50 m<sup>2</sup> or greater in the canopy of forests older than 10 years, areas of poor tree growth, and ridelines with patches of heather, gorse, bramble or scrub. Outside the forest, it includes heather moorland and open unplanted ground that is not intensively farmed, and areas of scrub, gorse or bramble within improved farmland.)

One of three results ('Breeding Results') will arise from the breeding survey:

- Breeding Result 1: Breeding activity (confirmed or possible) is not occurring within the survey area.
- Breeding Result 2: Breeding activity (confirmed or possible) is occurring within the survey area. However, mitigating site factors and / or proposed protective measures have been identified by the ornithologist and agreed locally with NPWS as being sufficient to offset the potential for disturbance and to allow the disturbance operation(s) to proceed during the current breeding season.
- Breeding Result 3: Breeding activity (confirmed or possible) is occurring within the survey area, and no mitigating site factors and / or proposed protective measures have been identified or agreed with NPWS.

**Table 2** Definitions of confirmed and possible Hen Harrier breeding activity.

SCENARIO	LIKELY OUTCOMES
<b>Confirmed breeding activity</b>	<ul style="list-style-type: none"> <li>➤ Food pass</li> <li>➤ Adult carrying prey</li> <li>➤ Recently fledged young</li> <li>➤ Agitated behaviour or calls given by adults</li> <li>➤ Direct evidence of a nest (eggs or chicks seen, chicks heard, used nest or eggshells found)</li> <li>➤ Courtship or display behaviour involving both a male &amp; female noted on two visits separated by at least a week</li> <li>➤ A pair seen visiting a probable nesting site on two visits separated by at least a week</li> <li>➤</li> </ul>
<b>Possible breeding activity</b>	<ul style="list-style-type: none"> <li>➤ Courtship or display behaviour involving both a male &amp; female noted on only one visit, or only one of the adults is ever seen (e.g. displaying male seen twice but no female seen)</li> <li>➤ A pair seen visiting a probable nesting site on only one visit</li> <li>➤ Pair or female seen in possible nesting habitat between mid-May &amp; the end of June</li> </ul>

### Reporting requirement

The NIS submitted to the Forest Service must incorporate the breeding survey report, which must include the following:

- A suitable and appropriately-scaled map showing the proposed operational area, the extent of the area surveyed, and vantage points used (VP1, VP2, etc.).
- A statement describing the disturbance operation(s) involved and confirming that the area surveyed includes the operational area and the required hinterland, and that the required survey methodology was applied.
- The name of the ornithologist.
- The dates of the survey and the weather conditions.
- A statement summarising the result of the breeding survey, i.e. Breeding Result 1, 2 or 3 (as set out above).
- If Breeding Result 2 applies, a detailed description of the relevant mitigating site factors and / or proposed protective measures. This description must be countersigned and dated by NPWS, confirming its agreement that these will be sufficient to offset the potential for disturbance and to allow the operation(s) to proceed during the current breeding season. Note, where NPWS *do not* agree, Breeding Result 3 applies.

On receipt of the Felling Licence application and the accompanying NIS, the Forest Service will undertake an Appropriate Assessment (as per Section 20), and a final decision regarding licensing will be arrived at.