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Sarah Swash (Deputy Director)
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BY EMAIL ONLY

Dear Sarah

Proposal to issue General Licence (GL45) permitting the release of gamebirds on and within 500 metres of certain SPAs: Natural England's advice

Thank you for your email, commissioning letter and accompanying documents to Sarah Dawkins of 07 February 2024 requesting advice from Natural England on Defra's proposal to issue a new General Licence. We have received various updates since then.

This response provides our advice on the most recent version, received on 7 March, focusing primarily on the approach to this general licence. In the time available we have only been able to provide limited advice on specific sites and will continue to work on that detail in consultation with your team.

This advice is provided by Natural England in its role as the statutory adviser on natural environment matters and without prejudice to its own role as a wildlife licensing and consenting authority. This includes not prejudging any individual licences determined, or advised upon, for the release of gamebirds in the same period as the proposed GL45 is valid.

We understand this proposed licence will take the form of either 'GL45a' or 'GL45b' depending on a further assessment by Defra of the prevailing transmission risk associated with the Highly Pathogenic Avian Influenza Virus (HPAIV). The draft General Licence accompanying the commission was GL45a, and as such the advice provided below relates to licence GL45a only (also referred to in this advice as 'GL45').

Our full advice is attached, and covers the following key points:

- The current HPAIV situation differs to last year when the national background risk was classed as high. On this basis, our advice has changed from any advice given on individual licences last year. Our current advice does not necessarily apply to other licence determinations in another medium risk scenario.
- We welcome the use of the new 'Gamebird-Wildbird Risk Assessment tool' (GWRAT) as an indicative tool for informing assessments of risk to individual SPAs and advise on avoiding putting too much reliance on this tool alone.

- Some aspects of the supporting rationale in the Habitats Regulations Assessment (HRA) should be clarified to clearly demonstrate no adverse effect on SPA integrity. For example, further explanation of how the precautionary principle has been applied is recommended.
- Natural England has not been able to complete our assessment of the potential implications of this GL for each underpinning SSSI. Natural England will require further time to provide statutory advice relating to individual SSSIs.
- Mandatory biosecurity measures are welcomed, so long as these are clearly worded, practical and enforceable to ensure the intended risk mitigations are achieved. If in doubt, further measures, such as reducing maximum release-densities, should be considered. There is also advice to ensure consistency with HRA conclusions in the measures mandated.

Also included are some comments on the draft GL45 for your further consideration.

Should you have any queries about this advice please do not hesitate to contact my colleagues Steve Clifton (steven.clifton@naturalengland.org.uk) or Lucy Bellini (lucy.bellini@naturalengland.org.uk).

Yours sincerely



JOHN HOLMES
Director, Strategy & Government Advice

<overleaf>

Natural England statutory advice to Defra – gamebird release (GL45)

Executive summary

The advice is presented in three sections, each relating to a relevant part of the legislation that contains a statutory requirement to consult Natural England concerning this type of proposal. In summary:

Natural England’s advice to Defra in accordance with section 16(10)(b) of the Wildlife and Countryside Act 1981 (the ‘1981 Act’): ‘power to grant licences’

It is Natural England’s view that the advice provided below on regulation 63(3) of the Habitats Regulations 2017, and section 28I of the ‘1981 Act’ may also serve as our advice under section 16(10)(b) of the 1981 ‘Act’ and to the circumstances in which GL45 should be granted.

Natural England’s advice to Defra in accordance with Regulation 63(3) of The Conservation of Habitats and Species Regulations 2017 (‘Habitats Regulations’): ‘to ascertain that the plan or project will not adversely affect the integrity of any European site’

Based on a new avian influenza disease risk assessment tool (the GWRAT), the HRA for GL45a (national medium risk scenario) concludes that Defra can ascertain that the proposal will not result in adverse effects on the integrity of 30 out of the 31 SPAs in scope.

Natural England welcomes the use of the GWRAT as an indicative tool but cautions against relying solely on this tool to determine risk to individual SPAs. Having considered the latest contextual information relating to HPAIV, the assessment, and the measures being proposed to mitigate for all identified adverse effects that could potentially occur from this GL45 proposal, Natural England advises that further clarification of the matters outlined in our advice below is required to support this conclusion.

This commissioned advice relates to GL45a (proposed for issue in a medium national HPAIV risk in wild birds’ scenario) only. Should the national risk level move to low, triggering suggested licence GL45b, we anticipate that Defra will seek our advice.

Natural England’s advice to Defra in accordance with section 28I of the Wildlife and Countryside Act 1981 (the ‘1981 Act’): ‘authorising operations that may damage a Site of Special Scientific Interest (SSSI)’

Natural England has not been able to make an assessment on each of the SSSIs underpinning the SPAs covered by the proposed licence in the time available. We understand you want our advice on the potential impacts on features of those SSSIs and are therefore continuing our assessment. We expect to complete that by 22 March 2024.

Detailed advice

1. Natural England’s advice to Defra in accordance with section 16(10)(b) of the Wildlife and Countryside Act 1981 (the ‘1981 Act’): ‘power to grant licences’

1.1. This licence (GL45) would apply specifically and exclusively to specified SPAs and their surrounding 500m buffer zones. It is Natural England’s view that the advice provided below regarding regulation 63(3) of the Habitats Regulations 2017, and regarding section 28I of

the '1981 Act' may also serve as our advice in respect of section 16(10)(b) of the 1981 'Act' and to the circumstances in which GL45 should be granted.

2. Natural England's advice to Defra in accordance with Regulation 63(3) of The Conservation of Habitats and Species Regulations 2017 ('Habitats Regulations'): 'to ascertain that the plan or project will not adversely affect the integrity of any European site'

Context

- 2.1 Within the request package (dated 07 February), we note Defra supplied, '240205 Interim GL HRA Gamebirds on SPAs 2024', serving as its interim Habitats Regulation Assessment ('HRA'). A final and updated version of this HRA was subsequently received on 7 March 2024. This advice is based largely on this final version.
- 2.2 To date, risk pathways associated with the release of gamebirds on European sites and likely significant effects on their qualifying features have been considered through previous HRAs. Potential impacts have been mitigated by the introduction of terms and conditions on GL43 and individual licences issued by Defra. To inform its current proposal, we note that Defra has given due consideration to:
- Natural England's 2021 shadow HRA (as extended by our January 2023 addendum)
 - APHA's October 2022 Qualitative Risk Assessment (QRA) of HPAIV
 - Defra's 2023 HRA
 - the latest HPAIV situation in England
 - the outputs of a new HPAIV SPA risk assessment tool ('the GWRAT')
 - species-specific information from ornithologists and disease experts; and
 - SPA-specific expert advice provided by Natural England during the 2023 individual licensing assessment process.
- 2.3 Defra's proposal to permit gamebird releases identifies two broad risk scenarios: in a medium national HPAIV risk in wild birds' scenario it proposes to issue GL45a; and, in a low national HPAIV risk in wild birds scenario, GL45b is proposed. This Natural England advice refers to GL45a only.
- 2.4 In framing this new advice Natural England recognises that although the current national risk level for HPAIV in wild birds (as at 16 February 2024) remains described as the same medium risk category (i.e. occurs regularly) as it was during late 2022 when APHA made its QRA, there has been a declining trend in background risk since late 2023 and a significantly reduced number of reported cases compared to previous years.

Natural England's advice on Defra's HRA (version 7 March 2024)

Section 4: methodology

We note that the HRA of this GL45 proposal has been informed by a new avian influenza risk assessment tool ('the GWRAT') adapted from the International Disease Monitoring (IDM) tool for risk of incursion. This IDM tool has been adapted to consider the likely presence of HPAIV across England based on:

- recent occurrences,

- the potential for spread into released gamebirds,
- the proximity in time and distance to other cases in either wild birds or captive birds, and
- the potential exposure to certain other bird species (present in particular SPAs in the same region) through contact with gamebirds.

Natural England welcomes the development of this tool to help provide a better understanding of this relatively recent risk to SPA birds. Remaining uncertainties (e.g. the level of gamebird contact with wild birds, the susceptibility of different species, variations between HPAIV strains and the unreliability of case reporting) mean that Natural England considers this tool provides a useful *indication* of the current risk across SPAs, in the absence of mitigating measures.

We note that the HRA recognises the GWRAT is a novel tool and states that ‘a precautionary approach has been taken’ (paragraph 4.4.1). It is unclear to us how precautionary this tool is. For example, it is not clear whether this model has been calibrated with any precautionary values so that its outputs can directly factor in uncertainties, or whether it reflects the differences in population abundance of each SPA (adverse impacts on smaller less resilient populations may be disproportionately significant). In light of this we advise that you do not consider the outputs from the GWRAT tool the sole determinant of risk to individual SPAs.

Table 1 in the HRA provides a helpful definition and description of risk levels and value-scores generated by the GWRAT. We note that of the 31 SPAs which - based on current HPAIV prevalence - would be covered by GL45a and GL45b, 25 SPAs are scored as ‘very low risk’ and 6 SPAs as ‘low risk’ (based on the highest value scores). We note that according to this table, additional management measures should still be considered based on these values.

As explained throughout ‘[Habitats regulations assessments: protecting a European site - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site)’, an HRA needs to assess the likelihood of impacts at the site-population level and not the national population level as stated (paragraph 4.1.3).

It is stated that the GWRAT is also intended to help manage the risk to SPA protected birds from gamebird release in 2024 in response to the possibility of risk levels rising above the current level of risk ‘later in the year’ (paragraph 4.1.5). We are not clear whether this will be limited to the period up to the peak releasing period or will extend into the post-release period. Natural England advises Defra to consider how an escalation of the background risk of HPAIV would be managed through the proposed GL45 mechanism to comply with the requirement to protect the integrity of the 30 SPAs covered by the GL.

Section 5

None.

Section 6

We recommend that the assessment clarifies that the scope is limited to the 31 SPAs (out of a total of 87) which were the subject of individual licence applications during 2023, and that any releasing of gamebirds that may be proposed on or adjacent to the remaining 56 SPAs during 2024 would not be covered by GL45.

Section 7 – screening stage

Paragraph 7.2.1.5 refers to residual post-release risks such as the survival of a significant number of released gamebirds late into the shooting season and into the following spring. We recommend that the HRA clarifies whether there is an intention to deal with this risk through the mitigation explored in Part D of the HRA, and if this relates to Advice point no.6 in the proposed GL45, as regards a request to catch up un-shot birds before end of January.

Section 7.2.2. states that ‘in previous GL43 HRAs, which applied to SPAs prior to 2023, HPAIV was not considered to have a credible risk-pathway under a low HPAIV national risk to wild birds. As such, consistent with previous assessments, it is concluded that in a low-risk scenario the HPAIV risk-pathway is insufficient to warrant mitigation and consequently there is no likely significant effect of gamebird release on HPAIV transmission to qualifying features. The general risk-pathway of disease transmission was considered in previous shadow HRAs but that no likely significant effects from this pathway - which would include any likely risk of HPAIV transmission - had been concluded. This conclusion reflected both the low national HPAIV risk and the limited evidence of gamebird susceptibility to HPAIV at that time.

This section goes on to consider there to be no credible or realistic risk of increased exposure of SPA birds to HPAIV by the release of gamebirds in a national low-risk scenario. The proposal to permit gamebird releases on all SPAs under General Licence GL45b reflects this conclusion. The assertion concluding minimal/ insufficient risk of HPAIV transmission from released gamebirds to bird features in a low HPAIV risk scenario is not strongly substantiated. At the time of the original HRA of GL43, HPAIV risk was not considered due to (a) low national circulation of the disease and (b) limited evidence of gamebirds as a vector.

Gamebirds are now known to be highly susceptible to HPAIV, and to disseminating the HPAIV between birds and into the environment. We therefore recommend that proper consideration of HPAIV transmission as a potential risk pathway, even under a low-risk scenario is based on some more compelling empirical or expert opinion evidence.

NE has not provided formal advice directly in relation to a low HPAIV risk scenario, neither previously nor as part of this current advice package. If the national status changes to a negligible to low HPAIV risk scenario, and if Defra is then compelled to replace GL45a with GL45b, then Natural England anticipates Defra will seek our advice.

Section 8 – appropriate assessment stage

As currently drafted, in our view this section does not clearly set out how the likely significant effects that could arise from HPAIV transmission identified in section 7 are linked (or not as the case may be) to the mitigating measures considered necessary to enable a conclusion of no adverse effect on SPA integrity to be ascertained.

We support the consideration of measures to mitigate the identified risks proposed for inclusion as mandatory conditions within GL45: pre-release testing and checks, biosecurity and delayed release dates. We recommend that these measures are more clearly linked to the mitigation of the potentially significant effects identified to support the conclusions reached by the appropriate assessment. This can help to ensure these mitigations can be given the necessary force in the proposed GL45.

Introducing mandatory biosecurity requirements to help mitigate the risk of HPAIV transmission as part of a suite of mitigating measures is essential and consistent with previous Natural England advice and government guidance. We welcome their proposed inclusion in GL45: they are suitably precautionary, as well as reasonable and proportionate. Defra should ensure that any changes in phrasing and transposing of some measures into licence conditions from what has previously been expressed as licence advice, do not create practicality and operability issues for licence users. If reasonable scientific doubt still exists concerning the likely effectiveness of the proposed biosecurity measures and their contribution to risk reduction, then we recommend Defra consider additional mitigating measures, for example further reducing maximum limits on release-densities.

We also welcome the recognition that the collection and disposal of gamebird carcasses is a key mitigation measure capable of reducing the risk to SPA birds known to preferentially seek out and scavenge on carrion to become infected with HPAIV. We recommend that Defra ensures any associated licence condition is practicable and enforceable.

On the issue of biosecurity measures, the phrasing of some licence conditions introduces potential complications for compliance and enforcement. The balance of conditions and advice as shown in GL45 Condition 6 and advice note 5 have inconsistencies with each other and with the tabulated measures within the HRA.

It is stated that the routine biosecurity measures proposed for GL45 (e.g. disinfecting vehicles, disinfecting clothing, health monitoring, carcass disposal) could achieve a 2-fold reduction in the risk of disease incursion (paragraph 8.2.3.4). We suggest that this assertion should be supported with any available evidence pointing to this level of reduction and their anticipated effectiveness.

It is less clear how the stated process of mitigating an escalating risk during the post-release period (paragraph 8.2.4.2) will be effective. It is not clear whether this form of mitigation links to the residual risk outlined in section 7.2.2. Should the national HPAIV risk level increase, the additional measures referred to will need to be practical and enforceable, and deployed proactively to prevent adverse effects.

Defra could consider a further HPAIV mitigating measure of reducing the maximum release density (and therefore numbers of birds) permitted within 500m buffer zones. The current proposal of permitting up to 1000 birds to be released is based on that included in GL43 which was set to mitigate a different risk (albeit this is not consistent with GWCT sustainable releasing guidelines for sensitive areas). The risk of increased HPAIV transmission from within the 500m buffer zone is considered to be the same as from within SPAs in such instances. We are also aware from reports received under GL43 in previous years that releasing within the buffer zone is significantly more prevalent. We therefore recommend that the assessment justifies why this measure has been discounted from consideration as a general means of reducing the HPAIV transmission risk across all of the SPAs in question.

Section 8.3 'decisions relating to specific sites' - general points

The SPA-specific assessments all appear to be heavily reliant on the scores generated by the GWRAT. As stated above, we advise that these scores should be considered as being indicative only. Given the statement made in 8.3.2.5 in relation to the typically small and fragile nature of SPA populations, the uncertainty regarding changes in risk, and the acknowledged novel nature of the GWRAT, Defra should satisfy itself that the conclusions reached are based on a proportionate

but sufficiently precautionary approach, given the strict level of protection afforded to SPAs by the Habitats Regulations 2017.

We note that of the 30 SPAs which, based on current HPAIV prevalence, would be covered by GL45, 25 SPAs are scored as 'very low risk' and 5 SPAs as 'low risk' (taking the highest scoring value at each SPA). We note that according to Table 1 in section 4, additional management measures should still be considered as these are not taken into account by the GWRAT. However, the site assessments consistently state that 'the current level of AI prevalence the [very low/low] risks posed by gamebird release on the site suggest that no management conditions are needed currently'. This appears to be inconsistent with Table 1.

Similarly, as currently drafted it is not clear whether the proposed mandatory biosecurity conditions are being considered in this regard or being relied upon as mitigation further to the GWRAT outputs. We assume that the latter is the intention, recognising that the GWRAT outputs (whilst predicting the short-term risks are generally likely to be low or very low) are only indicative and will have their limitations. We suggest that this should be clarified further to ensure site-specific conclusions are clear and robust.

We suggest there may be some inconsistency in the assessments made for the North Pennine Moors SPA, Peak District Moors SPA and the North York Moors SPA, all three of which are classified for a population of breeding Merlin. A delayed release date for the Peak District Moors is proposed in light of the likely overlap between breeding merlin and gamebird releases taking place during July and August (paragraph 8.3.9.5), but not for the North Pennine Moors or North Yorkshire Moors. Whilst we recognise the minor differences in indicative risk, we advise that, as these indicative risks to these SPAs are similar, a delayed release date should also be considered as a further necessary mitigating measure for both the North Pennine Moors and North York Moors SPAs.

We note the absence of delayed release dates as a mitigating measure from a number of sites where breeding SPA features are likely to overlap with release dates. Delaying the release of gamebirds can represent an effective mitigation measure to protect breeding SPA features from increased HPAIV transmission associated with gamebird releases. Whilst some relatively inconsequential differences exist between dates proposed in this HRA compared to previous HRAs, some are of more substantive relevance. For Bowland Fells SPA and North Pennine Moors SPA, previous HRAs have concluded that release is unsuitable, or can only be permitted in exceptional circumstances in conjunction with a suite of site-specific mitigation measures. The increased dependence on biosecurity measures to offset the absence of measures previously imposed through 2023 individual licences should be backed by clearer evidence or argument.

Section 8.4 Conclusions on Site Integrity

We recommend that the rationale should be improved to support the conclusion that there would be no adverse effect in-combination with other plans and projects.

Part D 'Decisions in relation to specific sites'

To further augment the suite of mitigation measures proposed in GL45, prohibition of keeping gamebirds within the 500 metre buffers of certain vulnerable SPAs before the earliest release date would provide an additional safeguard, especially where this would be consistent with measures concluded by previous HRAs.

Defining more clearly the definition of “release” in the licence would further assist in supporting licence user compliance with this measure, as well as other conditions of the licence.

Overall conclusions

We advise that Defra provides further clarity on the matters highlighted above in order to rule out adverse effects on the integrity of some SPAs listed.

We support enhancing compliance with biosecurity measures, and we advise that that the proposed measures are likely to be proportionate subject to more robust wording to both allow and ensure compliance. It should be considered whether, in some instances, other measures (such as delayed release dates, or reducing maximum release densities) may be required in conjunction with biosecurity measures.

Supplementary points and suggestions

Expiry date is stated in the HRA as 30 January 2025, and the draft licence copy supplied (on 07 March 2024) states the expiry date of 31 January 2025. To maintain consistency with GL43, the expiry date could be 30 May 2025. Alternatively, GL43 could be amended so that it and GL45 both expire on 01 February 2025 (to coincide with the end of the 'open' season).

On a related point, Advice Note 6 encourages the catch up of remaining gamebirds by “January 31st 2025” [source date format used], but the ‘open’ season for gamebirds continues to 01 February 2025 (inclusive), which is a Saturday, and some shoots may still wish to be operational. The use of dates may be inconsistent with licence user expectations and inhibit compliance with the licence.

3. Natural England’s advice to Defra in accordance with section 28I of the Wildlife and Countryside Act 1981 (the ‘1981 Act’): ‘authorising operations that may damage a Site of Special Scientific Interest (SSSI)’

Context

- 3.1 The land within SPAs which fall within the scope of the proposed GL45 will also be notified as Sites of Special Scientific Interest (SSSIs) under the 1981 Wildlife and Countryside Act (as amended). The features of special interest for which the component SSSI of SPAs has been notified may directly coincide with the same features for which the SAC or SPA has been designated. However, there may be other notified SSSI features, including additional susceptible bird species, which do not and are therefore not within the scope of the HRA.
- 3.2 One or multiple SSSIs underpin every terrestrial SPA. We note that Defra proposes to permit gamebird release under GL45 on 30 of the 87 SPAs that are wholly or partly within England. Approximately 190 SSSIs underpin the 30 relevant SPAs. Some of these areas are also designated as SACs. Bird features of special interest for which the component SSSIs of SPAs have been individually notified may be the same as, or form part of, the qualifying features for which the SPA has also been designated. Given that several permutations exist where land can have one or several designations that support interest features that can coincide or can contrast, our advice in this section is structured accordingly. These SSSI features require separate consideration as they are not subject to the provisions of the Habitats Regulations 2017 and are not in scope of the HRA undertaken of the proposed GL45.

3.3 It has not been possible to carry out a thorough assessment of the proposed GL45 against SSSI features in the time since receiving the proposed licence.

3.4 We are aware of a number of SPAs whose features only partly coincide with the bird features present on the same land and notified as SSSI features. These SSSI birds may be different to SPA birds and the proposed terms and conditions of GL45 applicable to SPA birds may not provide the same protective function for SSSI birds. For example, the 5 tabulated below are underpinned by SSSIs that support all or some of the same breeding bird features and support additional breeding bird interest features. Presence of some of these species might overlap with the release of gamebirds. Some of these species might also be considered susceptible to HPAIV, and hence at risk of exposure to released gamebirds. However, the delayed release dates proposed by GL45 to help reduce the risk to the breeding SPA features of these SSSIs is also likely to mitigate this risk to breeding SSSI birds in at least some instances.

SPA	SSSI	<u>Additional</u> breeding features for which the SSSI has been notified
Bowland Fells	Bowland Fells	Peregrine Falcon, Short-eared Owl
North York Moors	North York Moors	Assemblages of breeding birds - Upland moorland and grassland without water bodies
South Pennine Moors Phase 2	South Pennine Moors	Curlew, Twite; 'Assemblages of breeding birds - Upland moorland and grassland with water bodies'; 'Assemblages of breeding birds - Upland moorland and grassland without water bodies'
Thursley, Hankley & Frensham Commons	Chobham Common	Assemblages of breeding birds - Lowland heath; Assemblages of breeding birds - Mixed: Lowland heath, Scrub
Thursley, Hankley & Frensham Commons	Thursley, Hankley & Frensham Commons	Assemblages of breeding birds - Mixed: Lowland heath, Lowland open water, Scrub, Woodland
Wealden Heaths	Bramshott and Ludshott Commons	Assemblages of breeding birds - Lowland heath
Wealden Heaths	Devil's Punch Bowl	Assemblages of breeding birds - Lowland heath; Assemblages of breeding birds - Mixed: Scrub, Woodland
Wealden Heaths	Woolmer Forest	Assemblages of breeding birds - Lowland heath

3.5 In addition, and by way of example only, the 7 SPAs below are underpinned by SSSIs that have also been notified for non-breeding bird features. This is despite all those SPAs being notified for breeding-only bird features. As shown in the table below, these SSSI non-breeding bird features include waterbirds (wildfowl and wading bird species) which are known to be particularly vulnerable and susceptible to HPAIV. The presence of these non-breeding populations will overlap with the proposed timing of permitting gamebird releases, and potential exposure to infected birds could indirectly occur via 'bridging species', such as gulls.

SPA	Underpinning SSSI	<u>Non-breeding</u> bird features for which the SSSI has been notified
Benacre to Easton Bavents	Pakefield to Easton Bavents SSSI	Bittern
Breckland	Stanford Training Area SSSI	Aggregations of non-breeding birds - variety of wintering species
Flamborough and Filey Coast	Filey Brigg SSSI	Purple Sandpiper
Leighton Moss	Leighton Moss SSSI	Gadwall, Shoveler, Teal
North Pennine Moors	River Eden and Tributaries SSSI	Whooper Swan
Peak District Moors (South Pennine Moors Phase 1)	Eastern Peak District Moors SSSI	Goosander
Sandlings	Leiston - Aldeburgh SSSI	Gadwall, Shoveler, White-fronted Goose

- 3.6 In Natural England's opinion, with respect to the 30 SPAs being proposed for inclusion within GL45, the proposed terms and conditions of that General Licence derived to protect SPA features (as informed by Defra's HRA) may not necessarily provide the same protective function to SSSI bird features. The proposed GL45 would permit unrestricted releases occurring within the current 500m buffer zone around these SSSIs. Given that the distance of 500m was not designed to minimise the risk of HPAIV transmission between released gamebirds and SPA/SSSI birds, a significant residual risk to SSSI birds likely to utilise the land around these SSSI may still remain. We therefore advise that Defra should undertake or commission further assessment of the potential implications of GL45 on the SSSI bird features underpinning each SPA.
- 3.7 Whilst we note that GL45 will not itself convey Natural England's consent to release gamebirds within SSSIs, extant SSSI consents are highly likely to exist for landholdings where this activity has previously occurred, and Natural England cannot currently be confident that their terms and conditions provide sufficient mitigation to this new HPAIV risk. In the absence of statutory Disease Control Zones, the necessary safeguards may not be in place. Natural England is therefore of the opinion that GL45, as proposed, could potentially result in adverse impacts on SSSI bird features.
- 3.8 In addition, releases that may take place within the 500m buffer zone are not subject to SSSI consent and therefore this proposed general licence provides the only regulatory mechanism to protect SSSI birds from HPAIV transmission risk.
- 4. Further points on general clarity and consistency concerning the draft content of GL45 (version received on 7 March 2024)**
- 4.1 The following points are provided to assist Defra in the implementation of a clear and robust licence, which will help to provide confidence that mitigation informed by the associated HRA will be implemented. We have provided these points as they are likely to be of importance when attempting to ensure maximum compliance with the terms and conditions of the licence; as well as undertaking any enforcement action for non-compliance.

- a. We recommend the term 'release' is defined to ensure this is clear to licence users.
- b. Second paragraph – correct 'specified number' to 'specified density'.
- c. Amend 'any specific SPA conditions listed in condition 7' to 'any SPA-specific restrictions listed in Condition 7'.
- d. Peak District Moors – add '(but see condition 7)'. Update the Wash to read the same.
- e. Clarify that this licence does not allow releases on: 'any SSSI that is not a SAC or a SPA'.
- f. Condition 4 – recommend the term 'kept bird' is defined. Also recommend the following paragraph is rephrased to improve clarity: 'You must only release gamebirds if there is no evidence of notifiable disease in any of the birds on your premises, in the same pen or area as the gamebirds, that the vet has inspected'. Clarify whether the term 'indicator species' means the same as 'kept birds'.
- g. Condition 5 – inclusion of reading of this licence alongside the Code of Practice in this condition makes it mandatory, and hence the wording should be amended to 'you must read this licence...'
- h. We query the enforceability of 'You must collect common pheasant, red-legged partridge and other wild bird carcasses in and around your release pens' as this does not specify a (practical) distance around the pen or release area within which collection must be made. Individual licence advice prepared by NE in 2023 are examples from which guidance can be drawn on the presentation and balance of conditions and advice.
- i. Advice section – a general point to improve/reinforce links to the relevant Condition.
- j. Unclear whether 'Defra recommends that the vet inspects all kept birds on your premises at the pre-release vet inspection' is advisory or mandatory.
- k. Amend 'When scatter feeding, you should only scatter the amount of food...' to read 'You should avoid scatter feeding but if necessary you should only scatter the amount of food...'
- l. Remove the advice 'Each day, you should search in and around all release pens and areas where released gamebirds are encouraged within the SPA or buffer zone. This will help identify any birds which might have bird flu and facilitate the swift removal of any carcasses'. This duplicates the condition and arguably weakens it.
- m. Information section: 'Defra requests you 'catch up' any gamebirds released under this licence that are still in the wild by 31 January 2025. This helps to make sure they cannot pass bird flu to SPA bird species once the shooting season has closed'. It is unclear whether this is mandatory or not – if this is linked to a mitigation identified in the HRA it should be included as a condition.
- n. The timescale requirement of one week to report details about gamebird releases is shorter than the one month for GL43 and APHA's statutory registration requirements (for 50+ birds), and shorter than the 14 days typically given in many individual licences. The practicality and necessity of this short deadline should be re-examined.
- o. Gamebird densities should always clearly state units as either per hectare of release pen, or per area of land that they will inhabit, depending on the gamebird species being referred to.
- p. Online reporting form tools will need further attention to ensure that the correct required details are sent to the correct organisation. Reporting obligations placed on licence users should be consistent and minimised wherever possible. Licence user guidance should be developed which is explicit in setting out the reporting requirements.