

Dear xxxx,

Thank you for your email.

Having considered the position on behalf of the Estate, I can confirm that the Estate is not prepared to agree to the request in the terms presently advanced.

For ease of reference, I set out below the points requiring clarification.

1. Scope of the proposed access

The Estate notes your clarification that the proposed visits are limited to surveying breeding Merlin only and that no condition assessment would be undertaken. Any request for access must therefore be considered strictly on that basis alone. For the avoidance of doubt, the Estate requires confirmation that the proposed access is limited solely to Merlin survey work and does not extend to any condition assessment, habitat inspection, wider monitoring, data-gathering or other regulatory purpose. The Estate will consider the request only on that basis.

2. Legal and statutory basis

Natural England has not identified the legal or statutory basis said to justify the proposed entry onto xxxxx Moor. Please therefore confirm, in precise terms, the basis on which access is sought, including the statutory power, designation or citation relied upon. Please also confirm whether access is presently sought by consent only, or whether Natural England contends that the request is made in reliance upon any asserted statutory power of entry.

Please also identify the relevant designation or citation documents said to support the request, including whether Merlin is said to be a notified feature of the xxx Moor SSSI and/or a qualifying feature of any overlapping SPA or other designation affecting this landholding. If Natural England contends that any statutory power of entry may be exercised, please identify the specific power relied upon, the purpose for which it is said to arise, and the basis on which Natural England says that power extends to the proposed personnel and Merlin survey activities in this case.

In particular, please explain the basis on which any such power is said to extend to entry by third-party contractors, including RSPB research assistants, in the circumstances of this case.

3. Proposed use of RSPB personnel

The proposed use of RSPB personnel has not been adequately explained and is a matter of serious concern to the Estate. Your email states that, in this area, the survey would be carried out by "RSPB research assistants as Natural England's approved contractors". That bare assertion is not an adequate justification for involving an external body whose participation gives rise to concerns as to suitability, proportionality and site management sensitivities on a managed grouse moor.

Please explain why, in this particular area, Natural England has selected RSPB research assistants to act as its approved contractors, and what consideration, if any, was given to less contentious alternatives.

In circumstances where the Estate and its staff possess detailed local knowledge of the ground, access constraints, operational sensitivities and breeding bird issues, Natural England has not explained why this work could not be undertaken with the assistance of suitably qualified personnel familiar with the land, including Estate staff where appropriate, or by another suitably qualified and mutually acceptable surveyor.

In particular, the Estate does not accept that Natural England has, at present, demonstrated that the proposed use of RSPB personnel is either necessary or proportionate.

Please also confirm that any RSPB personnel proposed to attend would do so solely in their capacity as Natural England's appointed contractors for the purposes of the stated Merlin survey, and not for any wider RSPB, collaborative or related purpose.

4. Any involvement of Raptor Study Group personnel

Please confirm whether any Raptor Study Group personnel, members or other individuals acting on behalf of, or in coordination with, any Raptor Study Group are proposed to be involved in any aspect of the survey exercise, whether directly or indirectly, including by reason of the survey being undertaken “working alongside” the Raptor Study Groups, and including any field survey, advisory input, data handling, interpretation or reporting. If so, the Estate requires the identity of those individuals, the nature of their role, and the authority under which they would act.

5. Timing of the request

The timing of the request also requires explanation. Your email states that the survey season runs from now until 31 July 2026 and seeks access from 13 April onwards. The Estate is entitled to know when this survey work was first proposed, when the decision was taken to use RSPB personnel in this area, when Natural England first identified this Estate as requiring access for the purposes of the survey, and why the Estate is only now being approached, at a late stage in the process, to facilitate third-party entry. Please also confirm when any contractor appointment or approval was made in respect of the xxxx Moor area.

Please also confirm when Natural England first concluded that contact should be made with the Estate in relation to this holding.

6. Identity and authority of proposed attendees

Before any further consideration could be given to this matter, the Estate would require full details of every individual proposed to enter the land, including name, role, employer, organisational affiliation, whether attending alone or with others, and the precise written authority pursuant to which they would attend. The Estate would also require a clear written statement of the exact activities proposed, the dates or date windows sought, the access routes proposed, and the manner in which any information obtained would be used, held, shared and retained. Any such authority would need to correspond strictly to the limited Merlin survey purpose described in your email.

This should include confirmation of which individual or individuals are proposed to attend on each of the three anticipated survey visits and on any optional fourth visit.

7. Risk assessment, method statement and insurance

Before any further consideration could be given to the request, the Estate would also require copies of any site-specific risk assessment, method statement, access protocol, lone working arrangements, wildfire and biosecurity precautions, and disturbance minimisation measures prepared in relation to the proposed Merlin survey work, including the basis on which Natural England proposes to minimise disturbance arising from walking within 500m of suitable areas or from any use of vantage points.

The Estate would also require details of any assessment undertaken by Natural England of the implications of the proposed visits for the SSSI and any overlapping SPA or other protected-site interests.

In addition, please provide full details of the relevant insurance arrangements, together with copies of the current insurance certificates held by or on behalf of the proposed attendees, including public liability insurance and, where applicable, employer’s liability insurance, and confirm that such cover extends to the proposed fieldwork on this landholding.

8. Contact details and third-party access

For the avoidance of doubt, the Estate does not consent to the disclosure of its contact details or other Estate information to the RSPB. Nor does it consent to any third-party access arranged or facilitated by Natural England unless and until the above matters have been fully addressed in writing and the Estate has had a proper opportunity to consider its position.

The Estate would also require confirmation that no information obtained in connection with this request, the proposed visits, or any survey results relating to the holding will be shared onward to third parties beyond what is strictly necessary for the stated Merlin survey purpose.

The Estate would in particular require confirmation that no site-sensitive locational information relating to the holding will be disseminated beyond what is strictly necessary for the stated Merlin survey purpose.

The Estate would also require written confirmation that it will receive, promptly after each visit and in site-specific, unaggregated form, copies of all survey records, field records and resulting data relating to its holding as they are generated or as soon as reasonably practicable thereafter, and not merely at some later stage in summary or aggregated form.

For the avoidance of doubt, nothing in this letter should be taken as acceptance of any asserted statutory power of entry, nor as agreement in principle to the proposed access.

Please provide your substantive written response to each of the above points by [xxxxx date].

Pending full written clarification, supported where appropriate by the documents requested above, of each of the matters set out above, and without prejudice to the Estate's position generally, the Estate is not prepared to agree to the request.

Yours sincerely,