



The Moorland Association

Marian Spain
Chief Executive
Natural England
Foss House
Kings Pool
1-2 Peasholme Green
York YO1 7PX

30 April 2026

Dear Ms Spain,

Subject: UK Merlin Survey 2026 - request for assurance on access, governance and data safeguards

Purpose of this letter

We are raising this matter with you because the issue now appears to go beyond the handling of individual estate requests. We have also copied Ruth Waters, as incoming Director for the North of England. These concerns are directly relevant to Natural England's relationship with moorland managers across the northern uplands. The matter raises significant questions about Natural England's approach to partnership working, third-party involvement, data governance and confidence in sensitive survey activity on managed moorland.

Position of the Moorland Association

We do not object in principle to properly conducted Merlin monitoring. Many of our members hold detailed practical knowledge of Merlin, their breeding sites and the upland habitats on which they depend. Our concern is that members are being asked to consider access at short notice, during the breeding season. The requests have not adequately explained the scope of the work, the role of RSPB personnel, the involvement of Raptor Study Groups, the use of data for SSSI and SPA condition assessment, or the safeguards around sensitive land-management and species information.

Put simply, members are being asked to allow access before they have been given a clear explanation of who will enter, what they will record, how the data will be used, and what safeguards will apply.

Unclear scope and use of data

Natural England's original request asked landowners whether they agreed to appointed contractors carrying out "Merlin surveys and condition assessments". That wording was then corrected to state that the surveyor would only be surveying for Merlin. The correction was welcome, but it illustrates the wider problem: landowners were being asked to respond without a clear and stable explanation of what was proposed.

Natural England's subsequent letter of 20 April then confirmed that, in England, data gathered through the survey would also be used by Natural England to assess the condition of SSSIs where

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breeding Merlin is a notified feature. That is plainly relevant to the basis on which members are being asked to consent.

The survey instructions also go beyond the narrow description of “Merlin survey work only”. They require surveyors to record six-figure grid references, breeding evidence, behaviour, signs and habitat type. They also require records of whether heather-dominated moor is managed for grouse shooting, heather burning presence and extent, and, in the survey’s own words, “any information on known or suspected persecution incidents”. We understand that to mean alleged illegal killing or related wildlife-crime allegations. Those are not incidental details.

Recording heather burning and other land-management information

The heather burning issue is particularly important. The survey instructions do not merely ask surveyors to note broad habitat type. They refer expressly to “strip heather burning”. They require surveyors to record the amount of strip burning in “heather-dominated grouse moors” using percentage bands across the 10-km square. Natural England should explain why that land-management data is being gathered through a Merlin survey, and what methodology or training surveyors have been given to ensure it is recorded consistently. It should also explain whether other factors are being recorded with equivalent rigour. These include habitat, predators, prey, weather, climate, grazing, forestry and recreational disturbance. Natural England should also explain how it will prevent a single land-management variable from being considered or presented in isolation.

Third-party involvement, governance and perceived conflict

This is particularly sensitive because the survey is not simply being undertaken internally by Natural England. The documents provided state that the survey is funded by the RSPB and statutory nature conservation bodies, organised by the RSPB, and that completed recording forms and maps should be returned to the RSPB.

Natural England’s letter of 20 April also states that national survey data collation, interpretation and reporting will be carried out by the RSPB. It also states that Raptor/Upland Bird Study Groups will cover areas where they have existing arrangements, with RSPB research assistants filling gaps. Members are entitled to know who may be involved, whether directly or indirectly, what licences they hold, what data they will see and what safeguards will apply.

There is also a concern about confidence and impartiality. The RSPB and some Raptor Study Group interests have taken public positions on grouse moor management and allegations of illegal raptor killing. Whatever view is taken of those positions, this is plainly sensitive. Natural England is asking landowners to admit surveyors associated with those organisations onto managed grouse moors during the breeding season. Those surveyors are also invited to record matters such as heather burning and, in the language of the survey instructions, “known or suspected persecution incidents”. Natural England should explain what assessment it made of the risk of actual or perceived bias. It should also explain what safeguards are in place to ensure that only objective, verifiable and relevant survey data is recorded. It should further explain how it will prevent the survey from being used, or being perceived to be used, for purposes beyond the stated Merlin survey and statutory condition assessment.

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Licensing, authorisation and right of entry

There is also a specific licensing issue which now requires clear explanation. The survey instructions state that all surveyors must be covered by a disturbance licence for the area in which their fieldwork will be done, even if it is unlikely that nesting birds will be located.

The Moorland Association has seen BTO Schedule 1 permit conditions which state that the permit holder should contact the landowner before exercising the licence. The stated purpose is to avoid duplication and minimise disturbance to Schedule 1 birds. The conditions also state that nothing in the permit confers any right of entry onto land or property.

Natural England should therefore explain precisely which licensing route is being used for each category of surveyor. It should explain who is authorising whom, what conditions apply, and how surveyors have been instructed on landowner consent, identification, access and the carrying of relevant papers.

Practical access, safety and estate management

There are also practical land-management concerns. The survey methodology requires repeated visits during the breeding season. It requires all suitable habitat to be covered, including walking within 500 metres of suitable areas and within 250 metres in some restrictive-view locations. The work is therefore potentially extensive.

The position is made more uncertain by the fact that, although the survey instructions state that there is no requirement to visit nests and that cold searching for nests is not part of the survey, the survey paperwork also contemplates the recording of nest-level breeding evidence, including eggs, chicks, fledged young, nest success or failure, and other nesting information "if known". Visit 3 is described as checking for behaviour indicating young chicks and Visit 4 as checking for fledged young. Natural England should therefore confirm whether surveyors are permitted to approach, inspect or record any nest if found or already known, what minimum-distance and disturbance-avoidance protocols apply, whether any such activity is covered by the relevant Schedule 1 licence or permit, and how estate-held nest information will be used to avoid duplication and unnecessary disturbance.

It is not reasonable to ask estates to agree to such access without named attendees, agreed dates or date windows, access routes, vehicle arrangements, site-specific risk controls and clear protocols for interaction with estate staff.

The generic health and safety material is helpful, but not sufficient. The upland fieldworker risk assessment recognises risks associated with lone working, patchy reception, rough upland terrain, land management activities, and encounters with landowners, gamekeepers and members of the public. It also requires use of Peoplesafe and SPOT devices. Site-specific arrangements are still needed before any visit takes place.

Late engagement and missed opportunity to use estate knowledge

We are further concerned by the timing. Natural England acknowledges that the timescales are tight. It also states that RSPB research assistants have been employed since 1 April and have been surveying where permission has already been granted. That gives the impression of a programme already in motion before land managers had been properly engaged. It also suggests that work began before the scope, personnel, legal basis, data governance and safeguards had been clearly explained.

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This is all the more difficult to understand given the Moorland Association's regular diarised meetings with senior Natural England staff. Those meetings exist precisely to allow issues affecting moorland management, protected sites and sensitive species work to be discussed early and constructively. The purpose of such engagement is not to avoid scrutiny, but to ensure that legitimate questions are addressed early, before positions harden and before landowners are asked to make decisions on incomplete information. It is therefore disappointing that a programme of this kind appears to have been planned and mobilised without being raised through those established channels.

That is particularly surprising because Natural England has previously recognised the value of engaging directly with gamekeepers and moorland managers in national raptor survey work. In previous national hen harrier survey work involving Natural England, gamekeepers were engaged and contributed data. That approach recognised a practical reality: those working on managed moorland often hold detailed local knowledge of breeding raptors, access constraints, disturbance risks and land-management activity.

It is also relevant that previous hen harrier-related work was approached on a more site-specific basis, with named moors, permissions and safeguards addressed directly. Natural England should explain why a similar standard has not been applied here. If sensitive upland raptor work previously required site-specific permissions and safeguards, members are entitled to expect at least the same level of clarity before third-party surveyors are authorised to enter managed moorland for the Merlin survey.

The contrast with previous hen harrier brood-management work is particularly striking. In that context, when Moorland Association staff were visiting potential sites on SSSIs, Natural England required a formal Access Plan to be sent to the relevant local Natural England Area Team. The Moorland Association also had to provide written consent from the landowner and, where relevant, graziers and sporting tenants, and staff had to carry a copy of the relevant Natural England licence. We do not criticise the principle of clear access plans, written consents and licence transparency for sensitive raptor work on SSSIs. On the contrary, those safeguards are sensible. The question is why a comparable standard does not appear to have been required here before RSPB research assistants, RSPB volunteers, Raptor Study Group members or other third parties are authorised to undertake Merlin survey work on managed moorland. If Natural England considers that a different and lighter process is appropriate for the Merlin survey, it should explain why.

That concern is compounded by the fact that many moorland estates have undertaken Merlin monitoring for years and hold relevant local records and knowledge. Natural England does not appear to have made any systematic attempt to understand what data already exists. Nor does it appear to have considered how that data might be used, or how estate knowledge could help avoid duplication, reduce disturbance and improve survey coverage. That omission is difficult to reconcile with a collaborative approach to evidence-gathering, particularly where Natural England is now asking third-party surveyors to enter managed moorland during the breeding season.

The Moorland Association would be willing to work with Natural England on a proper mechanism for estates to contribute relevant Merlin data, subject to agreed safeguards on confidentiality, verification, ownership, use and onward sharing.

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Reports of possible unauthorised access

The Moorland Association has also received reports from four separate estates. These reports state that individuals believed to be connected with the Merlin survey have been encountered on land where permission had not been granted and, in some cases, had not even been sought. We are also told that those individuals declined to show identification or written authority when challenged, but offered sight of RSPB-branded Merlin survey maps. If accurate, these reports are extremely concerning. They raise immediate questions about what instructions have been given to surveyors and whether those instructions are being followed. They also raise questions about whether Natural England has effective control over access, identification, authorisation and data gathering under this programme.

Natural England's strategic commitments

These issues sit uneasily with Natural England's own stated commitments to partnership working, working through and with others, using science and evidence to empower action and providing a better service to customers¹. Those commitments require practical effect where Natural England seeks access to private land, especially where sensitive species data, managed grouse moors, third-party contractors and potential regulatory consequences are involved.

This is also difficult to reconcile with the direction of Defra's own regulatory reform agenda.² The Corry Review emphasises that environmental regulation should be predictable, consistent, outcome-focused and easier for customers to navigate. It also recognises that environmental NGOs are an important voice, but not the only stakeholder. Where trusted partners are given greater autonomy, the Review envisages clear criteria, proper governance, organisational compliance, monitoring and the ability to withdraw that autonomy if compliance is found wanting. That is directly relevant here. If Natural England is relying on the RSPB, Raptor Study Groups or other third parties to undertake sensitive survey activity on private land, it should be able to explain the governance, safeguards, accountability and customer-facing process in clear terms.

Assurances requested

In summary, we are asking Natural England to clarify the scope of the survey, the legal and licensing basis for access, the role and control of third parties, the treatment of sensitive data, and the immediate steps being taken to prevent any unauthorised access or use of records.

We recognise that Natural England has addressed some of these issues in part in previous correspondence, but the information provided to date has not resolved the concerns set out above or provided a clear, programme-wide assurance capable of being relied upon by members.

Nor would it be sufficient simply to say that Natural England has paused further approaches. Nor would it be sufficient to say that landowners have always been free to refuse consent. The concerns set out in this letter relate not only to future access requests. They also relate to the design and governance of the survey, the instructions already given to surveyors, the role of third parties, and the licensing basis on which fieldwork is being undertaken. They also concern the treatment of any data already gathered and the safeguards that apply where access has already been granted or survey activity is continuing.

We therefore ask Natural England to provide a consolidated response to the following points before further pressure is placed on members to consent to access:

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Scope and survey data

1. Please issue a revised and standardised access request which makes clear whether access is sought by consent only, and confirms that no statutory power of entry is currently being asserted.
2. Please provide a definitive statement of scope, including whether the survey is solely a Merlin population survey, whether it is also being used for SSSI or SPA condition assessment, and whether information on habitat, heather burning, access refusal, alleged illegal killing or other alleged wildlife-crime incidents will be collected, analysed or used.
3. Please explain the legal and evidential basis for asking surveyors to record, in the language of the survey instructions, “known or suspected persecution incidents”, including what types of alleged illegal killing or other alleged wildlife-crime incidents this is intended to cover, the evidential threshold to be applied, who will verify such information, who will see it, and whether it may be used for any regulatory, enforcement, policy or campaigning purpose.
4. Please explain why heather burning presence and extent is being recorded as part of a Merlin survey, and what methodology, definitions and training surveyors have been given for recording it. Please also explain how that information will be analysed; whether it will be considered alongside other relevant variables including habitat condition, prey availability, predator pressure, weather, climate, grazing, forestry, recreational disturbance and survey effort; and whether it will be shared with Natural England teams, the RSPB, Raptor Study Groups or any third parties for any purpose beyond the stated Merlin survey and statutory condition assessment.
5. Please confirm that heather burning data will not be used, published, briefed or relied upon in any regulatory, enforcement, policy or public communications context unless the methodology has been disclosed, landowners have had the opportunity to verify or comment on estate-specific observations, and the data has been assessed alongside other relevant ecological and land-management factors.

Third-party governance and data handling

6. Please explain what assessment Natural England made of actual or perceived conflict of interest arising from the use of RSPB personnel, Raptor Study Group personnel or other third parties with publicly stated positions on grouse moor management and allegations of illegal raptor killing, and what controls are in place to ensure that survey records contain only objective, verifiable and relevant information.
7. Please confirm what quality assurance process will apply to any comments entered on survey forms concerning land management, heather burning, access refusal, alleged illegal killing or other alleged wildlife-crime incidents, including who will review those comments, what evidential standard will be applied, and whether landowners will be given an opportunity to see and respond to any estate-specific assertion before it is retained, shared or used.
8. Please provide the contract, memorandum of understanding or equivalent governance document governing the relationship between Natural England and the RSPB for this survey,

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including data-control responsibilities, compliance requirements, monitoring arrangements and the circumstances in which any authorisation or role may be suspended or withdrawn.

9. Please confirm whether RSPB is acting as processor, controller or joint controller for any personal, estate, species or site-sensitive data gathered through the survey.
10. Please confirm precisely who will receive completed forms, maps, grid references, breeding evidence, habitat data and any comments relating to land management, alleged illegal killing or other alleged wildlife-crime incidents.
11. Please confirm the retention period for all raw data, maps, field notes, photographs, correspondence and derived datasets.
12. Please confirm whether Raptor Study Group members, RSPB volunteers or any other non-Natural England personnel will have access to estate-specific records, maps, Merlin locations or land-management observations.
13. Please provide a written undertaking that no site-specific information relating to member estates, Merlin territories, access refusal, habitat management, heather burning, alleged illegal killing or other alleged wildlife-crime incidents will be published, circulated, briefed or otherwise used outside the agreed survey and statutory assessment purposes without the landowner's prior written agreement.
14. Please confirm that every landowner will receive, promptly after each visit, copies of all raw survey forms, maps, Merlin registrations, habitat records and comments relating to their holding.
15. Please confirm that landowners will be given a clear opportunity to correct, contextualise or challenge any estate-specific record, map note, habitat observation, access note, heather burning assessment or any comment alleging illegal killing or other wildlife crime before it is used in any condition assessment, analysis, reporting or onward briefing.

Access, licensing and safety

16. Please confirm that no RSPB research assistant, RSPB volunteer, Raptor Study Group member or other third party will enter member land unless consent has been given for that named person, on agreed terms, for agreed dates or date windows, and for agreed access routes.
17. Please confirm that all surveyors will carry written authorisation, relevant licences, photographic identification, emergency contact details, and evidence of insurance, and that they have been instructed to produce those documents when reasonably requested by the landowner, occupier, agent or estate staff.
18. Please explain the licensing framework for the Merlin survey, including whether surveyors are operating under Natural England licences, BTO-issued Schedule 1 permits, RSPB organisational arrangements, individual licences, accredited-agent arrangements, or any combination of these.

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19. Please identify which licence, permit or authorisation applies to each category of person involved, including RSPB research assistants, RSPB volunteers, Raptor Study Group members and any other surveyors, and provide copies of the relevant licence conditions or standard conditions.
20. Please confirm whether any licence, permit or authorisation relied upon requires landowner contact or consent, avoidance of duplicate visits, minimisation of disturbance, or the carrying and production of licence papers or written authority.
21. Please confirm that all surveyors have been instructed that any Schedule 1 licence or permit authorises disturbance only within its terms and does not itself confer any right of entry onto private land.
22. Please confirm whether any surveyor is authorised or expected to approach, inspect, record or otherwise visit any Merlin nest if found or already known, including for the purpose of recording eggs, chicks, fledged young, nest success or failure, or other breeding evidence. If so, please identify the licence or permit condition relied upon, the minimum-distance and disturbance-avoidance protocol that applies, and whether landowners will be informed before any such nest-related activity takes place.
23. Please confirm whether the generic upland risk assessment will be supplemented by a written, site-specific Access Plan for each member holding or moor before any Merlin survey visit takes place. That Access Plan should include named personnel, agreed dates or date windows, written consent from the relevant landowner and, where applicable, graziers and sporting tenants, agreed access routes, parking arrangements, livestock, game management activity, fire risk, biosecurity, communications, emergency procedures, and confirmation that surveyors will carry the relevant licence or written authority.
24. Please explain why the Merlin survey access process has not been handled on the same site-specific basis as previous sensitive upland raptor work involving Natural England, including hen harrier brood-management work where written access plans, named moors, relevant consents, local Area Team involvement, licence documentation and site-specific safeguards were required. If Natural England considers that a different or lighter process is appropriate for the Merlin survey, please explain why the position differs.
25. Please explain what instruction will be given to surveyors if access is refused or withdrawn, and how any notation of “access refused” will be used in analysis or reporting.

Unauthorised access and records

26. Please confirm what immediate instruction has been issued, or will now be issued, to all RSPB research assistants, RSPB volunteers, Raptor Study Group members and any other surveyors involved in the Merlin survey, making clear that they must not enter private land without permission or lawful authority, must comply with all access restrictions, and must identify themselves and produce written authority when reasonably requested.
27. Please confirm whether Natural England is aware of any survey activity having taken place on member land without permission or without any identified statutory authority, and provide

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details of any such incidents, including the landholding, date, surveyor or organisation involved, and what data or records were obtained.

28. Please confirm that any records, maps, field notes, photographs, location data or other information gathered from land entered without permission or without lawful authority will be quarantined immediately. Please also confirm that such material will not be used for any survey, condition assessment, regulatory, enforcement, policy or publication purpose. It should be deleted or otherwise lawfully disposed of unless and until the landowner has been informed and the legal basis for retaining and using that material has been established in writing.

Role of the RSPB and BTO

This letter is addressed to Natural England as the body seeking access and responsible for the assurances given to landowners. Given the role of the RSPB described in the survey documents, and the possible relevance of BTO-issued Schedule 1 permits, we would be grateful if Natural England would clarify the respective roles of Natural England, the RSPB and, where applicable, the BTO. Once that has been clarified, we may need to direct any organisation-specific questions on data handling, survey coordination, licensing or permit compliance to the relevant body.

Immediate pause and next steps

Given the seriousness of these concerns, we ask Natural England to pause any further access approaches to Moorland Association members under the current process, and to issue an immediate instruction to all surveyors that no entry should be made onto member land unless and until permission, identity, authority, licence position and access arrangements have been confirmed in writing.

Until these matters are resolved, the Moorland Association cannot recommend that members treat the present access requests as adequate. Members are entitled to consider requests carefully, to seek proper written clarification, and to decline consent unless and until the proposed access is fully particularised and supported by appropriate safeguards.

We would welcome an urgent meeting with Natural England at senior level to agree a clear protocol before further pressure is placed on members to consent to access. Such a protocol should be capable of being shared openly with landowners and agents. It should make clear that cooperation with Merlin monitoring depends on trust, transparency and respect for land managers' responsibilities. It should also recognise the need to address legitimate questions before access is sought.

We would be grateful for your response.

Yours sincerely,

Andrew Gilruth

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Cc:

Alison Giacomelli, Senior Ornithologist, Natural England
Dr Ruth Waters, incoming Director for the North of England, Natural England

End notes

¹ Natural England's strategic plan: *Recovering Nature for Growth, Health and Security: Natural England's Strategic Direction 2025–2030*. See page 4, section headed "What this means for how we work". It states that Natural England will work "through and with others", build partnerships, provide a better service to customers and use science and evidence to empower action.

<https://www.gov.uk/government/publications/natural-englands-strategy-recovering-nature-for-growth-health-and-security>

² Dan Corry, *An independent review of Defra's regulatory landscape: foreword and executive summary*, published 2 April 2025. In particular, see the foreword and executive summary sections on predictability, consistency, customer experience, trusted partners earning autonomy, and the need for monitoring and compliance safeguards. <https://www.gov.uk/government/publications/delivering-economic-growth-and-nature-recovery-an-independent-review-of-defras-regulatory-landscape>

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