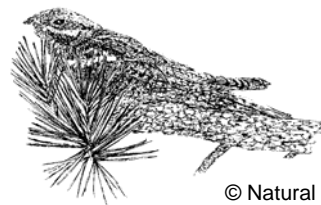


BIRD NESTING



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SUMMARY

- **Bird Nesting season is from 1st March until 31st July**
- **Vegetation or site clearance should be done outside of the nesting season (1st March – 31st July inclusive), although the nesting period may start before this and extend beyond it, in many cases (e.g. barn owls can breed at any month of the year in the UK). This is to avoid impact to nesting birds and infringement of the Wildlife and Countryside Act 1981.**
- **If clearance work has to be undertaken during the nesting season, a breeding bird survey needs to be carried out by a suitably qualified person. As a general rule, it should be assumed that birds will be nesting in trees, scrub, reeds or substantial ditch side vegetation during the core breeding period, unless a survey had shown this not to be the case. In addition, some species are ground nesting, such as the skylark and lapwing, both of which can occur on grassland areas and cleared sites where there is a time lapse between demolition and development.**
- **Any active nests identified should be protected until the young have fledged. Where a Schedule 1⁽³⁾ species is involved, mitigation for impacts, e.g. loss of nesting site, should be devised and implemented.**
- **Particular attention should be paid to any site clearance/development work affecting buildings, as this is where swifts, swallows, house martins and barn owls preferentially choose to nest.**

BACKGROUND

Legal Protection

All wild birds⁽¹⁾ are protected under the Wildlife and Countryside Act 1981 (as amended), whilst they are actively nesting or roosting. Section 1 of this Act, makes it an offence to kill, injure or take any wild bird, and to intentionally⁽²⁾ take, damage or destroy the nest of any wild bird while that nest is in use or being built. It is also an offence to take or destroy any wild bird eggs.

In addition, bird species listed under Schedule 1⁽³⁾ of the Act receive extra protection. The Act states that *'it is an offence to intentionally or recklessly⁽⁴⁾ disturb any wild bird listed in Schedule 1 while it is nest building, or at (or near) a nest containing eggs or young, or disturb the dependent young of such a bird'*.

The maximum penalty for each offence in the Magistrates' Court is a £5000 fine and/or six months imprisonment and a £5000 fine and two years imprisonment in the Crown Court.

Exceptions:

An authorised person (i.e. someone who has the written consent of the owner or occupier), may fell or prune a dangerous tree in order to preserve public health and safety. If Schedule 1⁽³⁾ birds would be affected, then a licence from DEFRA is required. Similarly a licence is also required for tree work deemed necessary for reasons other than health and safety.

Accidental injury, killing or disturbance of a wild bird, as a result of a lawful tree operation may not be an offence, provided it can be shown that the harm could not have been reasonably avoided.

Definitions:

(1) A wild bird is defined as 'any bird which is resident in, or a visitor to Great Britain in a wild state'. (Game birds are not included in this definition. They are covered under the Games Acts, which fully protect them during the closed season)

(2) It will be an intentional act if, for example, a contractor continues to reduce or remove a hedgerow, tree or shrub, after he/she discovers, or is told that birds are nesting there. The discovery of a nest during the process of work will also prohibit further cutting work within an area or buffer zone around the nest.

(3) Wildlife and Countryside Act 1981 Schedule 1 Birds:

Part I – Breeding Birds recorded in Dorset, protected by special penalties at all times

SPECIES	BREEDING PLACE
Avocet	Poole Harbour
Bittern	Reedbeds in Weymouth & Poole
Buzzard, Honey	Forestry/Woodland
Chough	Coastal Farmland
Crossbill, Common	Forestry
Firecrest	Generalist
Garganey	Wetland
Goshawk	Forestry
Gull, Mediterranean	Salt Marsh Islands in Poole Harbour
Harrier, Montagu's	Farmland/North Dorset
Hobby	Farmland/Heathland
Hoopoe	Generalist
Kingfisher	Rivers & Streams
Kite, Red	Woodland
Owl, Barn	Farms esp. old buildings
Peregrine	Sea & Inland Cliffs/Electricity Pylons on some forestry areas
Plover, Little Ringed	Quarries/Wetlands
Quail, Common	Generalist
Serin	Generalist
Stone-curlew	Farmland
Tern, Little	The Fleet – shingle beach
Tit, Bearded	Reedbeds
Warbler, Cetti's	Wetland with ditches & scrub
Warbler, Dartford	Predominantly Heathland
Woodlark	Heathland/associated Grassland

Part II - Birds and their eggs protected by special penalties during the close season, 1 February to 31 August (21 February to 31 August below high water mark) but which may be killed or taken at other times. These are: **Goldeneye, Greylag Goose, and Pintail.**

(4) 'It will be a 'reckless' act if there is an obvious risk and a person

- recognised the risk and took it anyway, or
- did not consider whether there was a risk

and as a result disturbance or destruction occurred'

Please contact the Natural Environment Team for more information: 01305 224290