

Mr. J. Hocking,
J P Hocking Limited,
Rannoch,
Holmefield Avenue,
Thornton cleveleys,
Lancashire,
FY5 2QT

320210512P

30th April 2021

Dear Mr. Hocking,

**Re: Proposed development at Pendle View Fisheries, A59 Barrow, BB7 9DH
(Application number 3/2017/0775)**

Thank you for your request for further ecology advice in relation the above site.

I understand that this advice request relates to the discharge of a condition associated with planning application number 3/2017/0775, as follows:

No tree felling, vegetation clearance works, site clearance works, demolition work or other works that may affect nesting birds shall take place between 1st March and 31st August inclusive, unless the site has been subject to additional surveys by a competent ecologist, the results of which shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the ecological survey/s.

REASON: In the interests of the amenity of the area and to comply with Policies DMG1, EN2 and DME3 of Ribble Valley Core Strategy (Adoption Version).

In order to assist you, we have made several visits to the development site, commencing on 12th February 2021, at which time we noted that site clearance work was already underway. Our later site visits in March and April 2021 included advice regarding how to avoid disturbance to nesting birds; evidence of implementation of safeguards is included below.

1.0 Background and Qualifications

The surveys were carried out by Pat Waring and Janette Gazzard.

Pat is a Chartered Environmentalist and a full member of the Chartered Institute of Ecology and Environmental Management, with a Bachelor of Science degree in Biology.



Pat has been working as an ecological consultant for over twenty-three years, most recently as Director of Ecology Services UK Limited. This work includes provision of expert advice, guidance and training to bodies such as Statutory Nature Conservation Organisations, Local Planning Authorities and Lancashire Police Authority, as well as the delivery of professional ecological training courses at a national level.

Pat has recognised and extensive experience of bird surveys, as well as knowledge of bird ecology, including the requirements and conditions necessary for bird species conservation during the breeding season. Pat also has recognised skills relating to bird surveys and assessments, including qualitative and quantitative assessment of the ecological functionality of features used by a range of bird species for foraging and nesting.

Pat has undertaken and reported on hundreds of professional bird surveys, particularly in relation to sites in north west England.

Janette is a full member of Chartered Institute of Ecology and Environmental Management, with a Bachelor of Science degree in Environmental Management.

Janette has over seventeen years' experience working in ecology and nature conservation, including roles as a Senior Ecologist for a large multidisciplinary company and as a lead adviser for Natural England throughout the North West of England. She has a range of demonstrable skills including habitat surveys, ecological appraisals, protected species, conservation management advice and condition assessments, as well as extensive experience of bird surveys.

Pat Waring and Janette Gazzard meet the requirements for knowledge, skills and practical experience as outlined in the CIEEM technical guidance series, Competencies for Species Surveys available at:

<http://www.cieem.net/competencies-for-species-survey-css>

Pat and Janette undertake annual voluntary surveys for BTO, including Heronry Census, Tawny Owl Census, Breeding Bird Surveys and Farm Woodland Bird Surveys. Pat and Janette also undertake voluntary surveys for RSPB, including Breeding Wader Surveys.

1.1 Advisory Note

The information in this letter represents the professional opinion of an ecological consultancy and does not constitute professional legal advice. You may wish to seek professional legal interpretation of the wildlife legislation associated with this area of work.

The information, opinion and advice that Ecology Services UK Ltd has prepared are true, and have been prepared in accordance with the CIEEM Code of Professional Conduct.

Ecology Services UK Ltd confirms that the opinions expressed are our true professional bone fide opinions.

Ecology surveys are time-limited; as a rule, survey findings can generally be relied on for the season in which surveys took place. However, mobile species such as birds may increase or decrease in numbers and change behaviours over time. Statutory agencies will often accept survey results for 12-18 months, but this varies around the country.

Ecology Services UK Ltd personnel make a professional judgement as to how long the results of our surveys will remain current. Advice and recommendations as regards currency and its impacts on decision making are included in relevant sections below.

2.0 Methodology

Breeding bird surveys were based on methodology and guidance described in:

Gilbert, G., Gibbons, D. and Evans, J. (1998) *Bird Monitoring Methods*. Royal Society for the Protection of Birds, Bedfordshire

The surveys also drew on the guidance in the BTO/JNCC/RSPB Breeding Bird Survey documents, available at:

<http://www.bto.org/volunteer-surveys/bbs>

Four early season breeding bird surveys were undertaken within 3 hours of sunrise on 9th March 2021, 24th March 2021, 9th April 2021 and 27th April 2021.

All birds within the proposed development site were recorded on a base map and accompanying record sheet; records included bird species, bird behaviour and numbers of birds.

For each breeding bird survey visit, a minimum of two hours of data was collected from the proposed development site.

The surveyor used the following equipment to aid with observations:

- Swarovski EL 8.5x42 binoculars

At the start and end of each survey, a range of environmental readings, including temperature, cloud cover and wind speed, were taken using visual observation and a Kestrel 4000 NV Weather Meter.

2.1 Determination of breeding status

The breeding status of birds encountered within the proposed development site were classified in three categories; confirmed, probable and possible breeders

The survey evidence required to allow the assignment of these categories is explained below:

Confirmed breeding:

Distraction display or injury feigning;

Used nests or eggshells found (occupied or laid within the survey period);

Recently fledged young or downy young;

Adults entering or leaving a nest site in circumstances indicating occupied nest or an adult sitting on nest;

Adults carrying food for young or faecal sacs;

Nest containing eggs;

Nest with young seen or heard.

Probable breeding:

Pairs observed in suitable nesting habitat in breeding season;

Permanent territory presumed through registration or territorial behaviour (song etc.) on at least two different days, a week apart, at the same place;

Display and courtship;

Visiting probable nest site;

Agitated behaviour or anxiety calls from adults;

Building nest or excavating nest hole.

Possible breeding:

Species observed in breeding season in possible nesting habitat.

Singing male(s) present or breeding calls heard in breeding season.

3.0 Results of the Surveys

3.1 Weather

Date (2021)	Temperature (min)	Cloud cover (min)	Rain	Wind (max)	Visibility
9 th March	12.2°C	100%	None	1.5mph	>5km
24 th March	9.5°C	50%	None	1.5mph	>5km
9 th April	10.3°C	40%	None	0.0mph	>5km
27 th April	8.0°C	100%	Light showers (not limiting survey)	0.5mph	>5km

Table 1 – Weather readings recorded in 2021

3.2 Bird species and numbers

Species	Total number of individuals – 9/3/2021	Total number of individuals – 24/3/2021	Total number of individuals – 9/4/2021	Total number of individuals – 27/4/2021
Mute swan	2	2	2	2
Great crested grebe	3	3	3	3
Cormorant	1	0	0	0
Canada goose	2	3	3	5
Mallard	3	2	2	4
Tufted duck	15	12	12	13
Moorhen	1	1	1	2
Coot	4	5	3	4

Species	Total number of individuals - 9/3/2021	Total number of individuals - 24/3/2021	Total number of individuals - 9/4/2021	Total number of individuals - 27/4/2021
Grey heron	0	1	0	0
Wood pigeon	1	1	2	2
Magpie	1	0	0	1
Carrion crow	1	0	0	0
Grey wagtail	1	2	2	0
Pied wagtail	1	2	0	0
Barn swallow	0	0	2	2
Blue tit	1	0	2	2
Great tit	0	1	2	0
Blackbird	2	0	1	1
Wren	2	3	3	4
Goldfinch	2	1	5	2
Chaffinch	1	2	2	1
Greenfinch	2	1	2	2
Robin	1	0	0	1

Table 2 - Bird species recorded in 2021

The status of the bird species recorded in the proposed development site is as follows:

Species	Annex 1 EU Birds Directive	WAC Act Schedule 1	Red/Amber list	Species of Principal Importance
Mute swan				1
Great crested grebe				
Cormorant				
Canada goose				
Mallard				
Tufted duck				
Moorhen				
Coot				
Grey heron				
Wood pigeon				
Magpie				
Carrion crow				
Grey wagtail				
Pied wagtail				
Barn swallow				
Blue tit				
Great tit				

Species	Annex 1 EU Birds Directive	WAC Act Schedule 1	Red/Amber list	Species of Principal Importance
Blackbird				
Wren				
Goldfinch				
Chaffinch				
Greenfinch				
Robin				

Table 3 – Conservation importance of bird species

3.3 Bird behaviour in the proposed development site

The following bird behaviours were recorded during surveys:

Species	Behaviour recorded
Mute swan	Constructing and sitting on nest - Probable breeding
Great crested grebe	Display and courtship - probable breeding
Cormorant	Perching in tree on site
Canada goose	Display and courtship, sitting on nest - probable breeding
Mallard	In breeding season in possible nesting habitat – possible breeding
Tufted duck	In breeding season in possible nesting habitat – possible breeding
Moorhen	In breeding season in possible nesting habitat – possible breeding

Species	Behaviour recorded
Coot	Constructing and sitting on nest - Probable breeding
Grey heron	Perched on site
Wood pigeon	In breeding season in possible nesting habitat - possible breeding
Magpie	In breeding season in possible nesting habitat - possible breeding
Carrion crow	Perched on site
Grey wagtail	In breeding season in possible nesting habitat - possible breeding
Pied wagtail	In breeding season in possible nesting habitat - possible breeding
Barn swallow	In breeding season in possible nesting habitat - possible breeding
Blue tit	Frequently singing from trees - Probable breeding
Great tit	Frequently singing from trees - Probable breeding
Blackbird	Singing from scrub and foraging - Possible breeding
Wren	Frequently singing from trees - Probable breeding
Goldfinch	Frequently singing from trees and nesting - confirmed breeding
Chaffinch	Frequently singing from trees - Probable breeding



Providing *ecology* support for *everyone*

Species	Behaviour recorded
Greenfinch	Frequently singing from trees – Probable breeding
Robin	Alarm calls from hedgerow - Probable breeding

Table 4 – Bird behaviours recorded during surveys in 2021

Birds exhibiting breeding behaviour were found associated with either waterbodies or a mixture of trees, scrub and hedgerows.

No ground nesting birds were observed on the proposed development site or in the immediately adjacent area.

4.0 Advice and Recommendations

Ecological Receptor	Issue	Action
Nesting birds	Nesting by several bird species was previously observed at Pendle Fisheries in 2015. In 2021, nesting was confirmed for coot, mute swan and Canada goose. There is a reasonable likelihood of nesting birds being present throughout the work area during the nesting season (February to September, with main nesting activity between March and August) Under the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken.	Caution Required: All people working at the Pendle Fisheries site should be made aware of the likelihood of encountering nesting birds, and should be made aware of the legal protection of nesting birds and their own responsibilities as regards implementation of precautionary measures. Prior to any work commencing. Caution Required: It is advised that the most appropriate way to address the risk to nesting birds is: • Avoid disturbance to vegetation, and working within 5 metres of all potential nesting resources (i.e. all vegetation, waterbodies and buildings) during the nesting season Or • If works cannot take place outside the nesting season, the following measures should be adopted: ○ Careful adherence to an ecologist method statement ○ All contractors to attend a tool box talk by an ecologist ○ All vegetation and buildings proposed for disturbance and/or removal should be carefully checked by an ecologist, immediately prior to works commencing. If the risk of nesting birds remains, then monitoring for nesting bird activity should continue for the duration of works. Prior to any work commencing (checks) and throughout works in nesting season (monitoring).

Ecological Receptor	Issue	Action
Nesting birds	There is no provision under the Wildlife and Countryside Act 1981 (as amended) for licensing the disturbance of nesting birds or the destruction of nests which are in use for the purpose of development. If enforcement action were taken the developer would need to rely on the 'incidental result of an otherwise lawful operation' defence if it were not possible to avoid an offence being committed. This defence can only be tested in court and it is therefore important to ensure all possible mechanisms for avoiding an offence are considered.	Caution Required: If birds are found to be nesting within or in close proximity to the work area during proposed works, it will be necessary to stop and establish an exclusion area. The extent of the exclusion area, which should be determined by an ecologist, will depend on the bird species and nature of the proposed works. At all times.

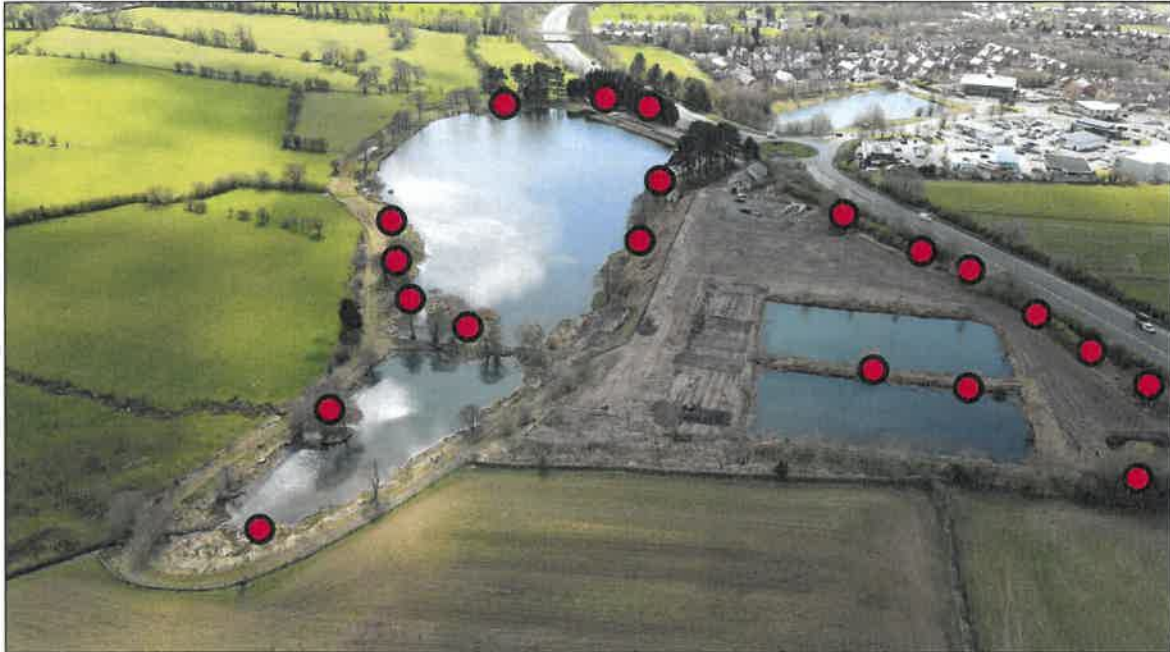
Table 5 Nesting Birds

Compliance with the actions outlined in the Table above will help to avoid committing offences in relation to nesting birds.

Precautionary measures such as those listed above are generally regarded by Statutory Bodies, Local Planning Authorities and Professional Ecologists as being appropriate where there is a risk of nesting birds being present.

If you require any further ecological advice or guidance in relation to this project, please do not hesitate to contact me.

Pat Waring MCIEEM CEnv, Director
Ecology Services UK Ltd



Oblique aerial view of Pendle Fisheries. Known and high potential nesting sites shown by red circles. April 2021



Former hatchery building – previously used for nesting by grey wagtails. This building has high potential for use by nesting birds. April 2021



Disused lakeside building, subject to damage from vandals. Frequent signs of nesting birds, including several disused nests. This building has high potential for use by nesting birds. April 2021



Old nest inside lakeside building. April 2021



Coot nest with eggs beside small waterbodies to north west area of site. April 2021



***Canada goose on nest, beside small waterbodies to north west area of site.
April 2021***



Mute swan on nest, at north end of largest waterbody. April 2021



Example of measures undertaken by developer (exclusion of disturbing works) to help protect nesting birds. April 2021