

Mid Sussex District Council

Oaklands

Oaklands Road

Haywards Heath

West Sussex

RH16 1SS

By email only: katherine.williams@midsussex.gov.uk

14th October 2025

Dear Katherine,

Position on BNG DM/24/1545: The Stables, Pookbourne Lane, Sayers Common, BN6 9HD

This letter outlines the current position with BNG at the Stables, Pookbourne Lane. As of now, the application to clear the BNG condition is under determination. The aim of this letter is to:

1. Set out the actions taken to date
2. Understand any issues regarding the determination
3. Propose options for the Council's consideration and in order to achieve discharge of the BNG requirements

PTO

Context

The original planning permission was granted on 18th September 2024.
Approved documents and relevant BNG condition wording below.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Location Plan	D2401-100	-	20.06.2024
Existing Site Plan	D2401-101	B	20.06.2024
Proposed Site Plan	D2401-150	-	20.06.2024
Proposed Site Plan	D2401-151	B	20.06.2024

Please note that drawing number D2401-150 as listed above as proposed “site” plan was titled “proposed location plan” in the drawing’s title box.

1. This permission is considered to be one which **will require the approval of a biodiversity gain plan before development is begun** (which includes demolition) because none of the statutory exemptions or transitional arrangements are considered to apply.

The ecology consultee stated in their original response to the original planning permission (dated 21/08/2024).

“With regard to mandatory biodiversity net gains, we are satisfied that the pre-development baseline is appropriate and in line with the Preliminary Ecological Appraisal (Arbtech Consulting Ltd., April 2024) and Biodiversity Net Gain Assessment (Arbtech Consulting Ltd., May 2024). However, we note that the Statutory Biodiversity Metric (Proposed) indicates there would be a loss of -28.60% in habitat units, which does not meet the biodiversity net gains requirement. Statutory Biodiversity Metric (Scenario B) indicates a 10.00% biodiversity net gain in habitat units and a 10.00% in hedgerow units. Statutory Biodiversity Metric (Scenario C) indicates a 10.01% gain in habitat units and a 10.00% gain in hedgerow units. Either of these scenarios meet the biodiversity net gains requirement and are therefore acceptable. Biodiversity net gains is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. Therefore, we are satisfied that submitted information provides sufficient information at

application stage and that the finalised measures can be secured via the Biodiversity Gain Condition."

A subsequent application for the discharge of the statutory BNG condition was submitted, 11/11/24 (DM/24/2758). This submission used option B as the net gain plan. This option was considered as acceptable at full application stage, as confirmed by the consultee above.

On submission of this application to discharge BNG requirements (with option B) the ecology consultee responded as follows (23/12/2024):

"We have reviewed the Biodiversity Gain Plan dated 11th November 2024 and the Biodiversity Net Gain Assessment Final Issue 4 (Arbtech Consulting Limited, October 2024). We understand that the applicant wishes to adopt Scenario B which provides a 10% gain in habitat units and a 10% gain in linear hedgerow units.

We are not satisfied that the submitted information includes the detail required by this condition. This is because the completed and finalised Statutory Biodiversity Metric – Calculation Tool, together with evidence of the legal agreement (between the developer and the LPA) and the accompanying Habitat Management and Monitoring Plan for on-site significant enhancements, has not been submitted to the LPA to meet the biodiversity gain condition requirements.

We agree that the relevant habitat maps have been provided in the Biodiversity Net Gain Assessment Final Issue 4 (Arbtech Consulting Limited, October 2024) as Scenario B.

Recommendation

We are unable to recommend discharge of the Biodiversity Net Gain condition until the information detailed above has been submitted, which sets out how management and monitoring of the proposed enhancements will be secured."

As such, a BNG management plan and full/ finalised metric calculations based on the approved Option B plan were submitted to address these comments 11/02/2025. The BNG Management Plan/Habitat Management and Monitoring Plan was completed by our ecologist at Arbtech. This plan shows clearly how the proposal will create enhanced area of grassland, what species of trees and hedgerow species to plant to ensure that the habitats are created and enhanced in line with Scenario B. The report also includes a map (Appendix 3 of the submitted report) which shows visually where the hedgerow, enhanced grassland, new trees, bat boxes and bird boxes will be located.

The consultee responded as follows 17/03/2025:

"We have reviewed the Case Officer email (14th February 2025), Habitat Management and Monitoring Plan (Arbtech Consulting Ltd., February 2025), Biodiversity Gain Plan dated 11th November 2024 and the Biodiversity Net Gain Assessment Final Issue 4 (Arbtech Consulting Limited, October 2024). We understand that the applicant wishes to adopt Scenario B which provides a 10% gain in habitat units and a 10% gain in linear hedgerow units.

We are not satisfied that the submitted information includes the detail required by this condition for the reasons outlined below.

We welcome the submission of the Habitat Management and Monitoring Plan (Arbtech Consulting Ltd., February 2025) and understand from the Case Officer email (14th February 2025) that a legal agreement will not be secured by the LPA for this application, as the proposals are not considered to be on-site significant enhancements.

We agree that the relevant habitat maps have been provided in the Biodiversity Net Gain Assessment Final Issue 4 (Arbtech Consulting Limited, October 2024) as Scenario B and the Proposed Habitats and Species Specific Enhancements have been provided as Appendix 3 in the Habitat Management and Monitoring Plan (Arbtech Consulting Ltd., February 2025).

Therefore, only the completed and finalised Statutory Biodiversity Metric – Calculation Tool is outstanding in order to discharge the Biodiversity Net Gain condition.

Whilst the previous calculations were considered acceptable, we note that the previous calculations for option B included measures within the off-site unit tabs. It is indicated that any off-site units within metric calculation tool would need to be recorded as part of the biodiversity gain site register and secured by legal agreement with the local planning authority or secured via a conservation covenant with a responsible body. As the red line boundary appears to cover the entire land ownership boundary, it may be necessary to amend the calculations to ensure no off-site habitat units are proposed.

As a result, we look forward to the finalised calculations once this is available, which may require updates to the submitted documents.”

We therefore sent in updated biodiversity net gain assessments and calculations and a Habitat Management and Monitoring Plan 27/03/2025.

The consultee responded as follows 12/05/2025:

“We have reviewed the further Biodiversity Net Gain Assessment - Issue 5 (Arbtech Ltd, March 2025), the Habitat Management and Monitoring Plan – Issue 3 (Arbtech Ltd, March 2025) and Statutory Biodiversity Metric – Calculation Tool (March 2025), which has been submitted in order to discharge the biodiversity gain condition. . Place Services is a traded service of Essex County Council

Whilst we welcome the updated Statutory Biodiversity Metric – Calculation Tool (March 2025) no longer include off-site enhancements. However, we have reviewed the submitted information and are still not satisfied that sufficient information has been provided.

This is because the Statutory Biodiversity Metric – Calculation Tool (March 2025) does not include all habitats within the red line boundary. We

acknowledge that the red line boundary appears to reflect the land ownership boundary and not the proposed development site. However, the Statutory Biodiversity Metric – User Guide requires biodiversity net gain calculations to be completed for the entire red line boundary (see page 12 of the User Guide).

As a result, we recommend that further updated calculations should be provided which include a pre-development baseline and post-intervention values for the entire red line boundary. Alternatively, the applicant could consider a s.73 material amendment application to minimise the red line boundary for this application.

As this application is a minor application, it is highlighted that the LPA does not consider that any proposals will constitute as significant on-site enhancements. Therefore, the enhancements will not require a legal agreement to secure the management and monitoring of the proposals for 30 years from completion of the development. Nevertheless, an effective strategy to delivery a 10% mandatory biodiversity net gain should be outlined.”

We then responded to this, stating 27/05/2025:

“In response to the issue raised by ecology we would like to make the following rebuttal:

We understand that the existing location plan shows the redline for the wider site ownership. However, also included and approved in the application was a proposed location plan (scale 1:1250). The measurement for the BNG data was reasonably taken from the site’s impact area in the southern paddock as shown on the proposed location plan redline area.

The submitted BNG calculations are therefore appropriate in the context of the site and development. Given that the approved proposed location plan clearly limits the development to the paddock area, it would be unreasonable to require baseline figures based on the wider site

ownership. This wider site being shown by the blue line in the approved proposed location plan.

In addition, the extent of the red line for BNG purposes could have reasonably been raised by the ecologist earlier in the process, and we believe it is disproportionate for it to delay approval at this stage.

We ask that this issue is reconsidered, and we reaffirm the BNG measures are sufficient and reasonable in relation to the impact area of the actual development. This condition discharge application therefore warrants approval due to BNG of 10% being reached based on the area of habitat impact as per the proposed location plan."

The consultee responded to this as follows 2/10/2025

"We have reviewed the Response from Agent email dated 27th May 2025 which has been submitted in response to our comments dated 12th May 2025.

In addition, we have reassessed the further Biodiversity Net Gain Assessment - Issue 5 (Arbtech Ltd, March 2025), the Habitat Management and Monitoring Plan – Issue 3 (Arbtech Ltd, March 2025) and Statutory Biodiversity Metric – Calculation Tool (March 2025), which has been submitted in order to discharge the biodiversity gain condition.

Whilst we agree the submitted BNG calculation are appropriate in context of the site and development, the Statutory Biodiversity Metric – User Guide requires biodiversity net gain calculations to be completed for the entire red line boundary (see page 12 of the User Guide). This is not reflected in the submitted BNG calculations and goes against the principles of mandatory biodiversity net gains set out in Schedule 7a of Town and Country Planning Act 1990 (As amended).

Therefore, we still recommend that the further updated calculations should be provided which include a pre-development baseline and post-intervention values for the entire red line boundary. Alternatively, the

applicant could consider a s.73 material amendment application to minimise the red line boundary for this application. However, ultimately, it is up to the Council to decide on the approach to demonstrate compliance with mandatory biodiversity net gains.

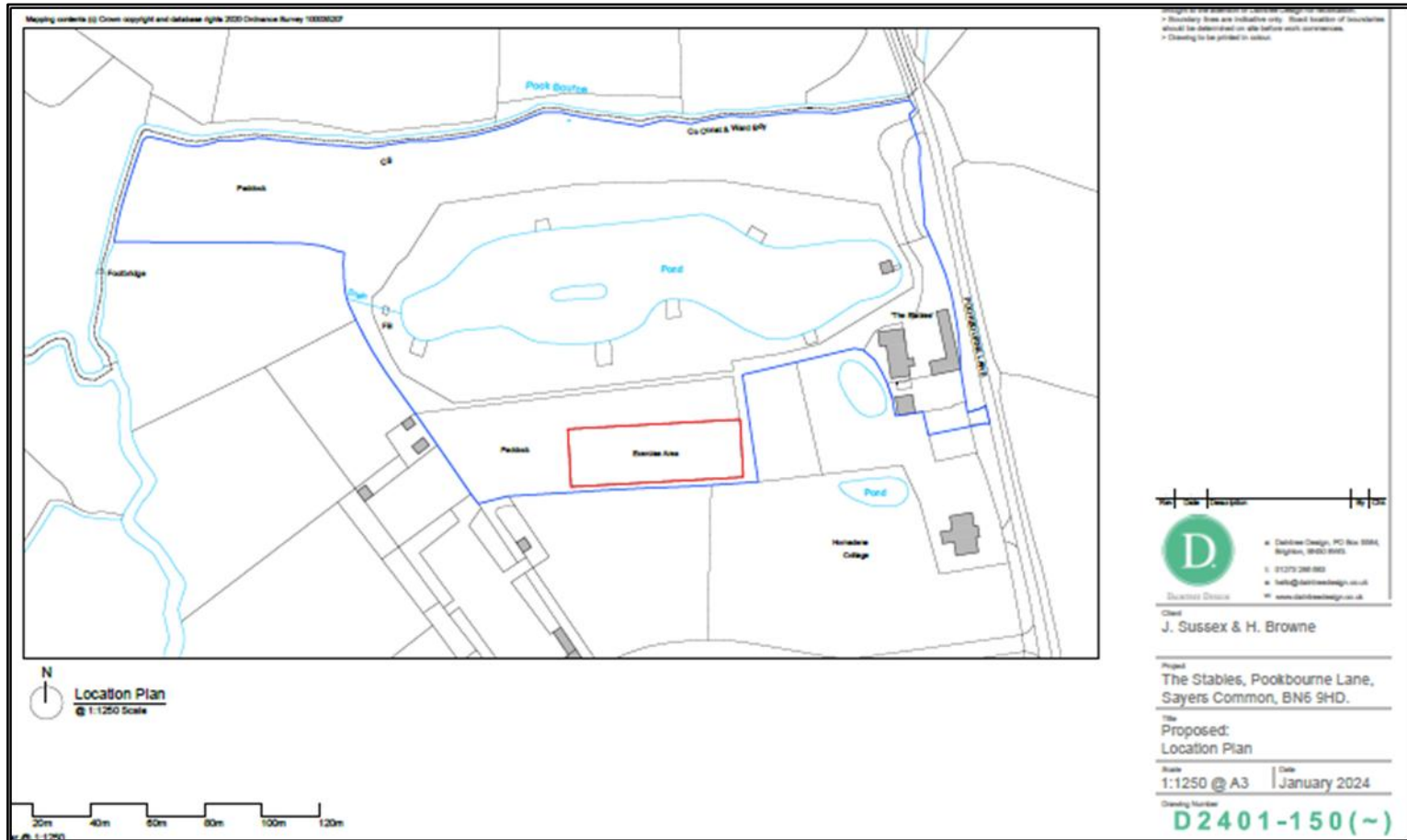
It is reiterated that, as the application is a minor application, it is highlighted that the LPA does not consider that any proposals will constitute as significant on-site enhancements. Therefore, the enhancements will not require a legal agreement to secure the management and monitoring of the proposals for 30 years from completion of the development.

Recommendation

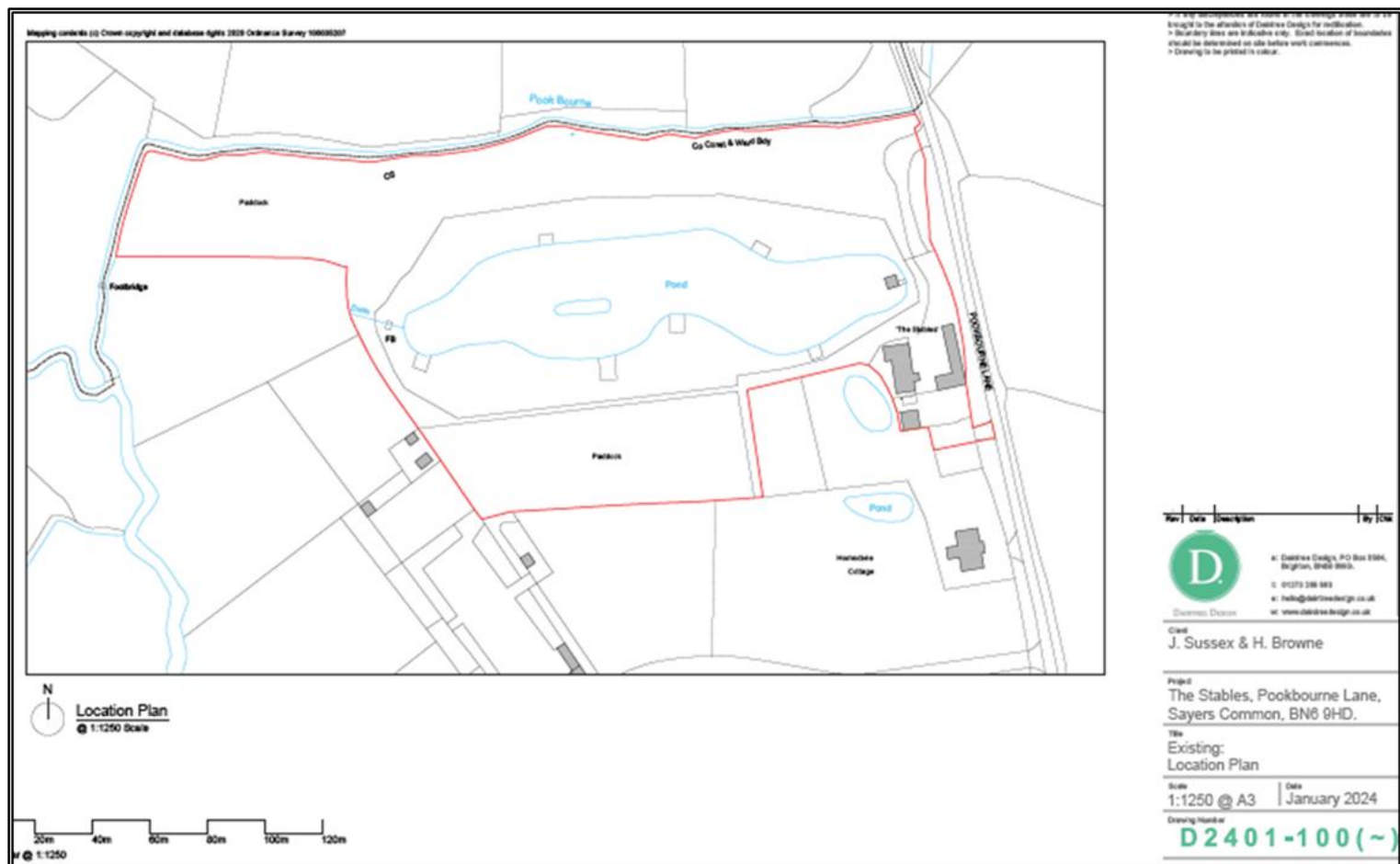
We are unable to recommend the discharge of the biodiversity gain condition until the additional information outlined above has been provided.

Main Matter

The redlines (plural) approved as listed on the decision notice are shown below.



Approved Drawing - Proposed Location Plan (D2401-150)



Approved Drawing - Existing location Plan (D2401-100)

1. The 'Proposed' redline shows the development area. No development is proposed outside of this redline. It is this redline that has formed the basis of the BNG calculations & proposals that were submitted and endorsed as part of the approved planning application.
2. The 'existing' shows the redline for the entirety of the land ownership. This extends over a number of acres and the proposed development does not impact a majority of this curtilage Approved Drawing - Existing location Plan (D2401-100)

In our communications prior to May 2025, all conversations and calculations has been regarding item 1. above (the 'Proposed' redline and the development area). However, it appears that, in the Consultee response of the 12th May 2025, the

conversation has shifted from the development area and instead starts to refer to the 'existing' red line boundary (item 2. above) and the entirety of the land ownership. It appears that, due to this transition from red line drawing 1. (development area) to red line drawing 2. (land ownership), the request to discharge the BNG condition was declined by the Council.

The BNG user guideline states (page 12)

"On-site and off-site On-site refers to all land within a red line boundary of a development.

Off-site, for the purposes of the biodiversity metric tool, refers to land outside of the on-site boundary, which is dedicated to habitat interventions (habitat enhancement or creation), regardless of proximity or ownership.

You should not adjust a project red line boundary to move habitats only subject to enhancement to off-site sections of the biodiversity metric tool."

The issue stems from the fact that two different red line plans were approved. Arbtech measured the BNG baseline using the proposed red line location plan, and because the true development footprint is relatively small, they applied a broader "development impact area" to establish what they considered to be the most appropriate baseline. This methodology was also endorsed by the statutory consultee, as confirmed in their response dated 21/08/2024.

In addition, the client places a high value on biodiversity and was therefore willing to extend the "site impact boundary" to include the entire bottom field, rather than adhering rigidly to guidance and relying solely on the proposed red line. This approach represented the most appropriate and responsible way forward. By adopting it, the client has committed to achieving a 10% net gain in hedgerow units, an outcome that would not have been possible had the calculation been confined to the exact red line boundary. As a result, the scheme now delivers a significantly greater enhancement in biodiversity, as captured within Scenario B.

Proposed Options for Consideration as Next Steps

Option 1 – Reconsideration of current application based on BNG calculations and 'Habitat Management and Monitoring Plan' against the 'proposed' redline Location Plan as approved.

These documents were sent to the Council on the 27/03/2025 and, at this time, they were considered against the entire land ownership boundary and not the 'proposed' redline and development area. In all previous correspondence, calculations, and responses, all parties have been referring to an utilising the 'proposed' redline and development area for BNG

This would be consistent with the information already accepted during the original determination of the planning application. The Council previously confirmed that Scenario B represented a suitable and proportionate method of delivering the ten percent net gain requirement, and the submitted documents demonstrate compliance within the development impact area shown on the approved proposed location plan.

Both red line plans (labelled as existing and proposed location plans) form part of the approved drawings, particularly as the BNG user guide on page 12 refers to "a" redline not "the" red line. It is therefore reasonable to interpret the proposed location plan as defining the actual development boundary, particularly as the ecological impacts of the scheme are confined to this part of the site. The ecology consultee has already stated that the BNG calculations submitted are appropriate in the context of the site and the scale of the works.

Option 2 - Variation of Plans via Section 73

Another route would be for the Council to invite a Section 73 application to formally vary the approved plans by replacing the existing location plan with the proposed location plan (showing the redline around the development and the blue line around the

ownership). This would resolve the apparent discrepancy between the two red line boundaries and provide clarity that the extent of the development is limited to the southern paddock.

If this option were pursued, the applicant would then be able to reconfirm the existing BNG calculations based on the clarified red line as already agreed as acceptable.

Conclusions

We have set out the context surrounding this issue in detail, explaining the timeline and what was requested and provided at each stage. We trust that this puts the situation into context and makes it as easy as possible for the Council to make their decision accordingly.

We feel that on balance the application might be approved accordingly or rectified in a way that works for all parties.

Please advise by return letter or email, which option is preferred, and we can seek to move forward in that way. Alternatively, we would welcome a meeting to discuss the most suitable next steps so that this matter may be progressed to reasonable conclusion.

Yours sincerely,

Simon Bareham MRTPI
Lewis & Co Planning Ltd