



Date: 2 October 2025

Our ref: 06120

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By email only: Planning Department, planninginfo@midsussex.gov.uk

Thank you for requesting advice on this application from Place Services' ecological advice service. This service provides advice to planning officers to inform Mid Sussex District Council planning decisions with regard to potential ecological impacts from development. Any additional information, queries or comments on this advice that the applicant or other interested parties may have, must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.

Application: DM/25/1495
Location: Land Adj. To Rocky Lane Haywards Heath West Sussex
Proposal: The installation of a 22.5 metre lattice mast, mounted with 9No. antennas, 12No. cabinets, 1No. Electrical meter cabinet located within a compound comprised of 2.4 metre high chain-link fence topped with 3 strands of barbed wire and the creation of a new access from Rocky Lane and ancillary development thereto.

Thank you for consulting Place Services on the above application.

No ecological objection	☐
Recommend approval subject to attached conditions	☐
Further information required/Temporary holding objection: • Protected species • Mandatory Biodiversity net gains	☒
Recommend Refusal	☐
Subject to Natural England's formal comments on the conclusion of the LPA's Appropriate Assessment	☐

Summary

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation. This includes the Preliminary Ecological Assessment and Biodiversity Net Gain Report (Adapt Environmental Ltd, May 2025).

We are not satisfied that there is sufficient ecological information available for determination of this application and recommend that further clarification on the impacts upon protected species is provided prior to determination. In addition, we are not satisfied that appropriate information with regard to mandatory biodiversity net gains has been supplied for the application prior to determination. The reasons for this are outlined below:

Protected Species:

We have reviewed the Preliminary Ecological Assessment and Biodiversity Net Gain Report (Adapt Environmental Ltd, May 2025) and whilst we generally support the conclusions of this assessment, we note that the report includes no considerations on the impacts upon protected species. Therefore, we recommend that this must be provided either within an updated report or via the submission of an ecological addendum.

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”*

This information is therefore required to provide the LPA with certainty of likely impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 (as amended) and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage. Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

Please note that we have been instructed to leave all considerations on Great Crested Newt to the [NatureSpace Partnership](#) on the Council's request.

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended).

Mandatory Biodiversity Net Gains:

Applications are required to deliver a mandatory 10% measurable biodiversity net gain, unless exempt under [paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990](#) and the [Biodiversity Gain Requirements \(Exemptions\) Regulations 2024](#).

Biodiversity net gains is a statutory requirement set out under [Schedule 7A \(Biodiversity Gain in England\) of the Town and Country Planning Act 1990](#). This legislation was inserted into the 1990 Act by Schedule 14 of the Environment Act 2021, and was amended by the Levelling Up and Regeneration Act 2023. The Biodiversity Gain (Town and Country Planning) (Consequential Amendments) Regulations 2024 made consequential amendments to other parts of the 1990 Act.

The [Biodiversity Net Gain Planning Practice Guidance \(PPG\)](#) sets out how mandatory biodiversity net gains should be applied through the planning process and Paragraph: 011 Reference ID: 74-011-20240214 sets out what information should be submitted as part of a planning application if the statutory biodiversity gain condition applies.

As a result, we have reviewed submitted details and are not satisfied that appropriate information has been provided prior to determination. This is because of the reasons set out below:

- A Statutory Biodiversity Metric – Calculation Tool has not been included within the application documents. Therefore, it is recommended that the applicant submits this metric for review. If this has already been undertaken, then the LPA should upload the metric to the planning documents.

Where mandatory biodiversity net gains applies, the planning authority will be required to secure a biodiversity gain condition as a pre-commencement requirement. The biodiversity gain condition has its own separate statutory basis, as a planning condition under [paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990](#) and should be included as an informative within the decision notice. The biodiversity gain condition should secure the provision of a Biodiversity Gain Plan, as well as the following information:

- a) The completed metric calculation tool showing the calculations of the pre-development and post-intervention biodiversity values.
- b) Pre and post development habitat plans.
- c) Legal agreement(s)
- d) Biodiversity Gain Site Register reference numbers (if using off-site units).
- e) Proof of purchase (if buying statutory biodiversity credits at a last resort).

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

Please do not hesitate to contact us if you have any queries in relation to this advice.

Your sincerely,

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Place Services provide ecological advice on behalf of Mid Sussex District Council.

Please note: This letter is advisory and should only be considered as the opinion formed by specialist staff in relation to this particular matter.

