

Kyngs Golf & Country Club

Market Bosworth

Record Correction Note – Ecology / BNG / Procedural

WL-252 | 29 October 2025

Prepared by: George Denny

Purpose

This note is submitted to ensure the planning record for application 24/01157/HYB accurately reflects the full consultee sequence and the applicant's timely responses. Several key documents have not been uploaded to the public portal, resulting in an incomplete or misleading timeline of events.

1. Missing Applicant Submission (16 October 2025)

A full written response was issued on 16 October 2025 to Alex Jelley (cc Edward Stacey) titled "Clarification of Highway Baseline and Consultee Position." This response confirmed the Highways position (no objection; extant 2003 Section 278 agreement), confirmed LLFA acceptance of FRA v4 (29 July 2025) and corrected the "greenfield" error, and clarified that the Ecology / BNG metric and supporting evidence were already complete and exceeded +10 % net gain, with no Regulation 25 trigger. This submission followed an earlier clarification email from George Denny, dated 8 October 2025 at 14:31, titled "Clarification on Procedural Impact of Incorrect 'Greenfield' Classification – 24/01157/HYB." That correspondence, addressed to Alex Jelley, Martin and Edward and forwarded to the Lead Local Flood Authority, formally recorded that the land was not greenfield but formed part of the permitted and implemented 2002 planning consent (Ref 02/00685/COU). It confirmed that this consent authorised the importation of approximately 1.5 million tonnes of inert fill to contour and raise the golf course by 1–7 metres to overcome historic waterlogging, as recorded in the 2002 committee minutes and verified by the SV (2008) and Axis (2025) topographic surveys. The email noted that both the Environment Agency and HBBC Drainage Officer had accepted the FRA and Surface Water Addendum (July–August 2025) as satisfactory and requested that the LLFA formally acknowledge the site as a lawfully engineered development platform rather than a natural greenfield site. This clear procedural clarification pre-dated the 16 October response and the subsequent 11-hour Ecology consultee upload, establishing that the "greenfield" misclassification had already been formally corrected on the record. Its absence from the public portal renders the case record incomplete.

2. 11-Hour Ecology / BNG Consultee Response (28 October 2025)

The LCC Ecology consultee response is dated 28 October 2025 and was uploaded on the final day of the consultation period. The timing afforded no reasonable opportunity for reply, as the consultee submission was only noted late on Tuesday 28 October 2025 after 8 p.m., leaving only several hours to respond within the open consultation window. The response repeated several points already addressed within the applicant's 16 October submission and preceding clarifications and relied on out-of-date internal drafts that did not reflect the current portal record. While the Council may accept late consultee comments at its discretion, this 11-hour upload denied procedural fairness and compounded earlier delays and omissions.

3. Pattern of Omission and Suppression

The absence of the 16 October submission and overlapping consultee uploads continue a pattern where applicant clarifications have been either omitted or entered after later consultee comments, creating a false appearance of non-response. Such sequencing suppresses the true chronology and risks decisions being made on incomplete or outdated evidence.

4. Requested Action

1. Upload the 16 October 2025 response in full to the public portal, as it is now clear it's a material planning document forming part of the official case record and is proven to be such by the 11-hour inaccurate and damaging consultee assertion that followed on 28 October 2025. 2. Annotate the record that the LCC Ecology response (28 October 2025) was received at consultation closure, and therefore was submitted before the consultee had the benefit of reviewing the applicant's clarifications. 3. Confirm that the complete correspondence chain — including all clarifications and responses submitted prior to the close of consultation — is recognised as material information within the case file.

5. Lawful Ecological Baseline (2002/00685/COU)

The lawful ecological baseline for Kyngs Golf & Country Club was established under planning permission 02/00685/COU and the accompanying "Ecology Observations" report (Setter Associates, 2002). That document records that the pre-development land was flat, water-logged and of negligible ecological value, and that the approved works lawfully created a contoured, engineered and landscaped golf-course environment. Key extracts include: - "The proposed site at present does not offer any particular interesting feature, being flat in nature, suffering very badly from poor drainage and water logging, rendering it almost impossible to graze livestock." - "Five additional pond and lake features were incorporated within the golf-course layout to improve drainage and visual amenity as part of the engineered landscape design." - "Approximately 38.7 acres (32.5 %) were to be planted with indigenous trees, bushes and shrubs, wildflowers and coarse grasses as part of the accepted engineered and contoured golf-course landscaping, by importing in excess of 1.5 million tons of inert material, creating a managed and visually enhanced, intensively mown golf-course countryside setting." This establishes beyond doubt that the site's baseline is highly modified and man-made, not natural or semi-natural. Later consultee references to "greenfield" or riparian corridor conditions are therefore factually incorrect and inconsistent with the implemented lawful state accepted by HBBC in 2002. All subsequent Ecology / BNG assessments must therefore measure change from this engineered baseline, not from any hypothetical pre-2002 condition.

6. April 2025 Consultee Misinterpretation After Baseline Submission

Following submission of the Ecology Observations and Ecology Evaluations 02/00685/COU documents in early April 2025, the County Ecology consultee (Richard Kelly) issued a further response dated 11 April 2025. That note expressly acknowledged receipt of the 2002 baseline material but nevertheless repeated an identical "Holding Objection." Despite reviewing the approved 2002 ecological data and plan, the consultee again described the site as within a "riparian zone" and requested a new River Condition Assessment. This directly contradicts the lawful and implemented ecological framework established by permission 02/00685/COU, under which the watercourses, ponds and landscaped contours were lawfully created and enhanced. The April 2025 response therefore evidences a procedural failure to have regard to a material consideration, as the lawful baseline was before the consultee but was not reflected in the advice to the Local Planning Authority. All subsequent "Holding Objections" from the Ecology Team repeat this same internal error chain, compounding the misunderstanding originating in January and March 2025.

7. Baseline Clarification and Procedural Implications

For clarity, the lawful ecological baseline for Kyngs Golf & Country Club remains that established under the implemented 02/00685/COU permission (2002–2003). That consent lawfully authorised the extensive engineering and re-profiling works that created the present golf-course platform, water bodies and contouring. This baseline has been continuously maintained through mowing, drainage management and amenity use since completion and therefore remains the operative “existing condition” under the Town and Country Planning framework and DEFRA BNG guidance. While limited natural colonisation and seasonal variation have occurred within this maintained landscape, such changes do not alter the lawful baseline or convert the site into semi-natural habitat. Any consultee reference to an “increase in habitat value” or suggestion that the site should now be re-classified as greenfield or riparian land represents an ecological opinion only and cannot lawfully override the implemented and enduring planning consent. Attempts to reinterpret or disregard that established baseline would have unlawful procedural effect, as they would: - Misapply the DEFRA BNG metric by assessing change from a non-existent pre-2002 condition; - Undermine the principle of legitimate expectation attaching to an implemented consent; and - Introduce a false environmental baseline into the current application record, leading to potential misdirection in decision-making. BNG Clarification: The requirement for a full Biodiversity Net Gain assessment arose solely from the consultee’s misclassification of the site as “greenfield.” The land is lawfully developed and maintained under permission 02/00685/COU (2002–2003), constituting previously developed land. Under DEFRA BNG guidance, amenity and golf-course grassland of this type does not trigger a measurable habitat loss, and therefore a mandatory 10 % BNG uplift was not required in this case. The applicant nonetheless commissioned and submitted a full BNG assessment in good faith and at the explicit request of the determining authority. Any further delay or re-opening of that process would therefore be procedurally unreasonable and contrary to Paragraph 49 of the Planning Practice Guidance on unreasonable behaviour at appeal. Any continuing attempt to impose additional BNG requirements on this basis would extend beyond the lawful scope of the Environment Act 2021 provisions and misapply the DEFRA metric methodology. For these reasons, any consultee advice premised on a “greenfield” or “naturalised” baseline must be treated as procedurally unsound and corrected to align with the lawful 02/00685/COU framework.

Submitted for transparency and procedural accuracy.

Kind regards,

George Denny

Kyngs Golf & Country Club