



Appeal Decision

Site visit made on 19 May 2026

by J Woolcock BNatRes MURP PGDipLaw MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th June 2026

Appeal Ref: APP/D3830/W/25/3373103

Unit 19 Bolney Grange Business Park, Haywards Heath, RH17 5PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) against a refusal to grant planning permission.
 - The appeal is made by UK Helix against the decision of Mid Sussex District Council (MSDC).
 - The application Ref is DM/25/0096.
 - The development proposed is a rear extension to existing industrial unit.
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Decision

1. The appeal is allowed and planning permission is granted for rear extension to existing industrial unit at Unit 19 Bolney Grange Industrial Park, Haywards Heath, RH17 5PB in accordance with the terms of the application, Ref DM/25/0096, and the plans submitted with it, subject to the conditions in the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by UK Helix against MSDC. This application is the subject of a separate Decision.

Policy

3. The development plan for the locality includes the Mid Sussex District Plan 2014-2031 (MSDP) and the Bolney Neighbourhood Plan 2015-2031 (BNP). The District Plan 2021–2039, which was submitted for Examination on 8 July 2024, remains at examination stage. This limits the weight that can be given to emerging policies. However, the current version of the District Plan largely carries forward existing local and national policies for flood risk and sustainable drainage. I was also referred to West Sussex LLFA Culvert Policy (the Culvert Policy).

Main issue

4. The main issue in this appeal is the effect of the proposed development on surface water drainage and future flood risk in the locality.

Reasons

5. The proposed development is for a single storey rear extension 10m deep and 11.3m wide. It would over sail, on screw pile foundations, a ditch that lies to the rear of the unit. The application was refused on the grounds that the extension over an ordinary watercourse would fail to maintain a maintenance strip and that this could lead to future flood risk to the site and adjacent neighbouring properties.

6. The site lies within Flood Zone 1 where there is low probability of river flooding. The lowest level of the proposed extension, the underside of the block and beam floor, would be higher than the bank levels of the ditch, so the pre-development capacity of the ditch would be unaffected by the proposal. A void up to one metre in height would exist beneath the extension. Future clearance and maintenance for the 11.3m length of the ditch over sailed by the extension would be from the side elevation and two 675mm x 675mm proposed floor hatches.
7. MSDC considers that this would not provide a practical or safe means of access for ongoing management of the ditch. I disagree. It seems to me that, albeit within the confined space under the proposed extension, various means of maintenance for this short length of ditch would be feasible, including long-handled rakes, silt suction pumps and robotic crawlers. The details of such a maintenance regime could be the subject of a planning condition.
8. There is an existing drainage outfall, with splayed wing walls, to the ditch. This is located to the north-east of the existing industrial building. Part of the outfall appears on Drawing 101 C to be sited within the plot boundary line of Unit 19. This outfall serves neighbouring development within the Bolney Grange Business Park. The proposed extension would be sited close to this outfall. However, given that it would over sail the ditch on screw pile foundations, I am satisfied that suitable construction design could be devised and implemented to safeguard the structural integrity of this outfall. This is a matter that could be addressed by a planning condition.
9. Subject to the imposition of appropriate planning conditions, which could include provision for SuDS, the proposed extension would ensure that the development was safe across its lifetime and that it would not be likely to increase the risk of flooding elsewhere. I find no conflict with MSDP Policy DP41. I am satisfied that the proposal could incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff that would be proportionate to the nature and scale of the proposal in accordance with the National Planning Policy Framework regarding drainage and flood risk.
10. There is a dispute about whether the ditch is an ordinary watercourse. The Land Drainage Act 1991 defines a “watercourse” as including all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages, through which water flows. An “ordinary watercourse” means a watercourse that does not form part of a main river. Therefore, an ordinary watercourse is defined by omission but must still fulfil the prerequisite requirements of a watercourse. Main rivers are officially mapped but small streams and ditches do not have to be recorded to be legally classified as an ordinary watercourse. Whether a ditch is an ordinary watercourse is a matter of fact and degree. Much will depend upon the extent to which water flows through the ditch.
11. MSDC records the ditch extending eastward from the rear of Unit 18 as an ‘inland watercourse’. However, that is not determinative of the status of the part of the ditch that lies to the rear of Units 18 and 19. These units are located to the west of the existing splayed wing walls of the outfall into the ditch. The ditch then drains towards the east. Drainage from neighbouring development on the estate via the existing outfall does not flow in the part of the ditch that lies to the rear of Units 18 and 19. It was evident at my site visit that the ditch to the rear of Units 18 and 19

is set at a higher level than the level of the ditch at the outfall and further downstream to the east. From the technical evidence submitted and my appreciation of the lie of the land at my site visit, it is evident that the potential drainage catchment area for the part of the ditch to the rear of Units 18 and 19 is very small. No convincing evidence has been adduced to establish that water flows through this part of the ditch, in sufficient quantity and frequency, for it to qualify as a 'watercourse' for the purposes of the Land Drainage Act.

12. If I am wrong about the status of the ditch to the rear of Units 18 and 19, then the culverting of a watercourse, or the alteration of an existing ordinary watercourse, would require land drainage consent under the Land Drainage Act 1991 (as amended). The Culvert Policy notes that the requirement for ordinary watercourse land drainage consent is independent of the need for planning permission, and the granting of planning permission does not imply or guarantee that Land Drainage consent will be forthcoming. If this part of the ditch is an ordinary watercourse, then reliance can be placed on the effectiveness of control by a different regulatory framework.
13. The Culvert Policy states that buildings and structures must not be sited within 5m from the outer edge of new or existing culverts/watercourses. However, this document is an explanation of the agreed West Sussex County Council and District and Borough Council policy regarding the culverting of ordinary watercourses, and a guide to good practice and design principles. Given the status of the Culvert Policy, it does not establish a mandatory requirement for a 5m set back. Furthermore, as policy, it must be applied with some flexibility so as to be reasonably responsive in a variety of drainage situations. I have found in this case that appropriate maintenance could be secured for this short length of ditch without reliance on a 5m wide maintenance strip. Subject to an approved design and siting for the proposed screw pile foundations, the extension would not impair the future operation and maintenance of the existing outfall into the ditch, which would be within 5m of the extension.
14. Nearby trees could be safeguarded by the imposition of planning conditions. The proposed extension would not have an unacceptable impact on the local landscape and so would not be at odds with BNP Policy BOLE2. It would provide space to expand a growing business. This would benefit the local economy. The proposal would be consistent with the strategic objective of MSDP Policy DP1 to promote a place where local enterprise thrives. The resultant economic benefits would outweigh any harm arising from the appeal scheme to the local drainage system and the likelihood of any increase in the risk of flooding. The planning balance falls in favour of the proposal, and it would accord with the development plan taken as a whole.

Other matters

15. The appeal scheme would not establish any precedent for other development affecting the ditch. Any other scheme would need to be determined having regard to the particular circumstances and the application of relevant policy. I have determined this appeal on the specific merits of the proposal.

Conditions

16. The standard commencement condition should apply (Condition 1). It would be necessary to define the permission and ensure that the development was carried out in accordance with the approved plans (Condition 2).¹ External materials would need to be specified in the interests of the appearance of the area (Condition 3). Provisions for protected species and biodiversity enhancement would be necessary for nature conservation reasons (Conditions 4 and 5). Lighting controls would be required to minimise disturbance to bats (Condition 6). Measures to protect nearby trees should be undertaken in the interests of the appearance of the area (Condition 7).
17. Surface water drainage would need to be approved and implemented to safeguard neighbouring development (Condition 8). Given that the extension would over sail the ditch, it would be necessary to approve and implement a detailed ditch maintenance plan for the lifetime of the development in the interests of the amenity of the locality (Condition 9). For similar reasons, it would be necessary to approve details about the screw pile foundations and protective measures for the ditch and its nearby outfall during construction (Condition 10). Conditions 9 and 10 would need to be pre-commencement conditions to secure provisions for the ditch prior to the start of construction.
18. The appellant has given written agreement to the terms of the pre-commencement conditions. Minor amendments to the wording of the suggested conditions would be necessary in the interest of precision and enforceability.

Conclusion

19. For the reasons given above the appeal should be allowed.
20. Due to the provisions of Schedule 7 of the 1990 Act and as none of the statutory exemptions apply in this case, the development may not be begun unless a biodiversity gain plan has been submitted to and approved in writing by the local planning authority.

J Woolcock

INSPECTOR

¹ There were some discrepancies in the numbering of plans, which was clarified by MSDC and the appellant in an exchange of emails dated 28 May and 3 June 2026.

Schedule of Conditions (1-10)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - KD.1634.1_A.001 Site Plan
 - KD.1634.1_A.002 Location Plan
 - KD.1634.1_A.100 Existing Plans
 - KD.1634.1_A.101 C Proposed Plans
 - KD.1634.1_A.200 Existing Elevations and Section
 - KD.1634.1_A.201 B Proposed East and North Elevations and Section
 - KD.1634.1_A.202 Existing and Proposed West Elevation
3. No external materials shall be used other than those specified on the approved plans and application details.
4. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (JWK Wildlife Surveys, December 2024).
5. Prior to any works above slab level a Biodiversity Enhancement Layout for the biodiversity enhancements listed in the Preliminary Ecological Appraisal (JWK Wildlife Surveys, December 2024) shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include; detailed designs or product descriptions for biodiversity enhancements; and locations, orientations and heights for biodiversity enhancements on appropriate drawings. The enhancement measures shall be implemented in accordance with the approved details prior to the extension hereby permitted being occupied or brought into use, and all features shall be retained in that manner thereafter.
6. Prior to beneficial use a lighting design scheme for biodiversity based on Guidance Note: 08/23 Institute of Lighting Professionals shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the approved specifications and locations. The lighting shall be maintained thereafter in accordance with the approved scheme. Under no circumstances should any other external lighting be installed without prior written consent from the local planning authority.

7. The works shall be carried out in accordance with the protection measures set out within the Tree Report submitted 13 January 2023.
8. The development hereby permitted shall not commence unless and until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. The extension hereby permitted shall not be occupied or brought into use, until all the approved drainage works have been carried out in accordance with the approved details.
9. The development hereby permitted shall not commence unless and until a detailed ditch maintenance plan demonstrating how the existing ditch to the rear of Unit 19 will be accessed, inspected and maintained for the lifetime of the development has been submitted to and approved in writing by the local planning authority. The extension shall not be occupied or used except in accordance with the approved ditch maintenance plan.
10. The development hereby permitted shall not commence unless and until details of the screw pile foundations and protective measures for the ditch and nearby outfall during construction have been submitted to and approved in writing by the local planning authority. The extension shall be constructed in accordance with the approved details.