

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

22 January 2020

Item: 2

Application No.:	19/01344/FULL
Location:	Main Road And Surrounding Land From The Green To Junction With Bartletts Road Ascot Road Holyport Maidenhead
Proposal:	Construction of a ditch.
Applicant:	Janice Eden-Bagley
Agent:	Not Applicable
Parish/Ward:	Bray Parish/Bray

If you have a question about this report, please contact: Briony Franklin on 01628 796007 or at briony.franklin@rbwm.gov.uk

1. SUMMARY

- 1.1 Bray Parish Council is seeking planning permission for measures to help prevent incursion onto The Green in Holyport village. The original proposal included the construction of a ditch and bund. Following concerns raised on flooding grounds and visual amenity the application has now been amended to delete the bund. The proposed ditches would run either side of the A330 Ascot Road and would be set back from the road by just under one metre. They would be 600mm wide and have a depth of 450mm.
- 1.2 The proposed ditches would constitute appropriate development in the Green Belt. Provided they are suitably planted they would have no adverse impact on the character and appearance of the Conservation Area or the locality in general. In addition the ditches would pose no flood risk providing the material to be removed to form the ditches is removed from site immediately. Subject to the imposition of suitable conditions the proposal is considered to be acceptable.

It is recommended the Panel GRANTS planning permission with the conditions listed in Section 13 of this report.

2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended; such decisions can only be made by the Panel.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site comprises grass verge/ open land on either side of the A330 Ascot Road known as 'The Green' within Holyport Village.
- 3.2 The land is common land and is cared for and maintained by Bray Parish Council.

4. KEY CONSTRAINTS

- 4.1 The site lies within the designated Green Belt and the Holyport Conservation Area. The site also lies within Flood Zone 3 as indicated on the EA flood maps and lies to the south of the River Bourne. There are some listed buildings and important non-listed buildings situated close to the application site and a public footpath runs along the southern side of the A330.

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 Bray Parish Council proposes to introduce measures to help prevent incursion onto The Green. The original proposal included the construction of a ditch and bund. Following concerns raised by the Environment Agency and the Lead Local Flood Authority (LLFA) on flooding grounds, and visual concerns raised by the Conservation Officer, the application has been amended to delete the bund. Planning permission is therefore now sought for the ditch only, which would run either side of the A330 Ascot Road and would be set back from the road by just under one metre. It would be 600mm wide and have a depth of 450mm. The ditch would run for 280m along the north western side of the Ascot Road and 390m along the south eastern side of the Ascot Road.

6. DEVELOPMENT PLAN

Adopted Royal Borough Local Plan (2003)

- 6.1 The main Development Plan policies applying to the site are:

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1
Impact on the Green Belt	GB1 & GB2
Impact on the Conservation Area	CA2
Highways	T5
Trees	N6
Flood Risk	F1

These policies can be found at

https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices

7. MATERIAL PLANNING CONSIDERATIONS

National Planning Policy Framework Sections (NPPF) (2019)

Section 13- Protecting Green Belt land

Section 14- Meeting the challenge of climate change, flooding and coastal change

Section 16- Conserving and enhancing the historic environment

Borough Local Plan: Submission Version

Issue	Local Plan Policy
Appropriate Development in Green Belt and acceptable impact on Green Belt	SP1, SP5
Design in keeping with character and appearance of area	SP2, SP3
Impact on Heritage Assets	HE1
Manages flood risk and waterways	NR1
Trees, Woodlands and Hedgerows	NR2
Sustainable Transport	IF2

Borough Local Plan: Submission Version Proposed Changes (2019)

Issue	Local Plan Policy
Appropriate Development in Green Belt and acceptable impact on Green Belt	SP1 & QP5
Design in keeping with character and appearance of area	QP1, QP3
Impact on Heritage Assets	HE1
Managing Flood Risk and Waterways	NR1
Trees, Woodlands and Hedgerows	NR3
Sustainable Transport	IF2

7.1 The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. Following this process the Council prepared a report summarising the issues raised in the representations and setting out its response to them. This report, together with all the representations received during the representation period, the plan and its supporting documents was submitted to the Secretary of State for independent examination in January 2018. The Submission Version of the Borough Local Plan does not form part of the statutory development plan for the Borough.

7.2 In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV which are now out to public consultation until Sunday, 15 December 2019. All representations received will be reviewed by the Council to establish whether further changes are necessary before the Proposed Changes are submitted to the Inspector. In due course the Inspector will resume the Examination of the BLPSV. The BLPSV and the BLPSV together with the Proposed Changes are therefore material considerations for decision-making. However, given the above both should be given limited weight.

7.3 These documents can be found at:
<https://www3.rbwm.gov.uk/blp>

7.4 **Supplementary Planning Documents**

- RBWM Interpretation of Policy F1

7.5 **Other Local Strategies or Publications**

Other Strategies or publications material to the proposal are:

- Holyport Conservation Area Appraisal

More information on these documents can be found at:

https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning

8. **CONSULTATIONS CARRIED OUT**

Comments from interested parties

No comments have been received as a result of 26 occupiers directly notified of the application or as a result of two site notices posted on the 20th June 2019 or an advertisement in the Local Press on the 20th June 2019.

Statutory consultees

Consultee	Comment	Where in the report this is considered
Conservation Officer	<p>Concern that bund would have a visual effect on the openness of The Green and would cause less than substantial harm to the significance of the Conservation Area.</p> <p><u>Amended proposal</u> (ditch only):</p> <p>No objection to the ditch provided it is appropriately landscaped/planted</p>	Paragraphs 9.4 & 9.5
Tree officer	<p>The installation of the proposed ditch and bund should not have a significant impact on the trees growing within or adjacent to this site and no objection is raised to the application subject to a condition relating to tree protection.</p>	Paragraph 9.12
Highways Section	<p>No highway concerns.</p> <p>A construction management plan and informatives are required. The applicant would need to obtain the relevant licences if work or machinery is to operate or affect the public highway.</p>	Paragraph 9.11
Environment Agency	<p>The site lies within Flood Zone 3b (functional flood plain). Functional Flood plain is defined as 'Land where water has to flow or be stored in times of flood' in accordance with Table 1 'Flood Risk' in the Planning Practice Guidance.</p> <p>In the absence of an acceptable FRA we object and refusal is recommended. The FRA does not adequately assess the flood risk raised by the development.</p> <p><u>Amended proposal</u> (ditch only):</p> <p>The revised application and FRA has satisfactorily addressed earlier concerns and the previous objection is withdrawn.</p> <p>The proposed development will only meet the NPPF's requirements in relation to flood risk if a condition is imposed to ensure the material to form the ditch is removed immediately from site.</p>	Paragraphs 9.6 -9.10
Lead Local Flood Authority	<p>No concerns regarding excavation of the proposed ditch. Concern regarding the potential impact of the proposed bund on overland pluvial (surface water) and fluvial flows. By placing a bund with a height of up to 600mm within an area at risk of flooding, the flood depth and extents upstream may be exacerbated.</p> <p><u>Amended proposal</u> (ditch only):</p> <p>No objection</p>	Paragraphs 9.6-9.10
Environmental Protection	<p>Suggested conditions relating to construction working hours and collection and delivery times. Informatives</p>	Paragraph 9.15

	relating to dust and smoke control.	
Rights of Way officer	No comments received.	Paragraph 9.16
Archaeology officer	There are potential archaeological implications associated with this proposed scheme. The site falls within an area of archaeological significance and archaeological remains may be damaged by ground disturbance for the proposed development. A condition is required to mitigate the impacts of the development in accordance with paragraph 141 of the NPPF.	Paragraph 9.14

Consultees

Consultee	Comment	Where in the report this is considered
Bray Parish Council	<p>Recommends approval.</p> <p><u>Amended proposal:</u></p> <p>Bray Parish Council has recommended this application be approved and we have no further comment to make.</p>	Noted

9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Green Belt
- ii Heritage Assets (Conservation Area and Listed buildings) and impact on character and visual amenity of the area.
- iii Flood Risk
- iv Other material considerations

Green Belt

9.2 The site is located within the designated Green Belt and the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Under paragraph 146 of the NPPF an engineering operation is not inappropriate development in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land within it. Local Plan policies GB1 and GB2 are broadly in line with the NPPF.

9.3 The proposal to construct a ditch would constitute an engineering operation and would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. It would therefore be appropriate development in the Green Belt and would accord with Local Plan policies GB1 and GB2 and paragraph 146 of the NPPF.

Heritage Assets (Conservation Area and Listed Buildings) and impact on the character and visual amenity of the area.

9.4 The site lies within the Holyport Conservation Area and Local Plan policy CA2 requires development to enhance or preserve the character or appearance of the Conservation Area. The

open level grassed space of The Green is an important feature of the Conservation Area and forms the setting of several listed and important non-listed buildings. The character of The Green lies in its openness and it has value to the community because of its accessibility for walkers, riders and local events. Any preventative measures need to maintain these features as much as possible and concern was raised by the Conservation Officer that the bunds would detract from the openness of the area and would cause less than substantial harm to the significance of the Conservation Area.

- 9.5 The application has now been amended to delete the bund and no objection is raised to the construction of the ditch in terms of the character and appearance of the Conservation Area or the locality in general, provided it is appropriately landscaped/planted. The landscape officer has suggested that the ditch is planted with a wildflower seed mix and appropriate planting can be secured by condition. On this basis the proposal is considered to accord with Local Plan policies CA2 and DG1.

Flood Risk

- 9.6 The site lies within Flood Zone 3b (functional flood plain). Functional floodplain is defined as 'land where water has to flow or be stored in times of flood' in accordance with table 1 'Flood Risk' in the Planning Practice Guidance. In Flood Zone 3b (functional floodplain) only water-compatible uses and the essential infrastructure listed on table 2 of the Technical Guidance should be permitted and should be designed and constructed to remain operational and safe for users in times of flood; result in no net loss of floodplain storage and not impede water flows and not increase flood risk elsewhere.
- 9.7 Local Plan policy F1 states that within areas liable to flood, development will not be permitted unless it can be demonstrated that the proposal would not of itself, or cumulatively in conjunction with other development 1) impede the flow of flood water; or 2) reduce the capacity of the flood plain to store flood water; or 3) increase the number of people or properties at risk from flooding.
- 9.8 The Environment Agency raised objection to the original proposal to construct a ditch and bund. The submitted FRA did not comply with paragraph 163 of the NPPF and did not adequately assess the flood risk posed by the development. The FRA failed to consider whether flood risk would be increased in the surrounding area. In addition the LLFA raised concern regarding the potential impact of the proposed bund on overland pluvial (surface water) and fluvial flows. By placing a bund with a height of up to 600mm within an area at risk of flooding, the flood depth and extents upstream could be exacerbated.
- 9.9 The application has been amended to delete the bund and a revised FRA has been submitted. The EA has now withdrawn its objection. However the proposed development would only meet the NPPF's requirements in relation to flood risk provided a condition is imposed to ensure that the development is carried out in accordance with the revised FRA and that the materials removed to form the ditches is removed immediately from the site in order to prevent an increase in the risk of flooding. The LLFA has also confirmed they have no objection to the revised proposal.
- 9.10 The revised proposal would accord with Local Plan policy F1 and the guidance set out in paragraphs 155-165 of the NPPF.

Other Material Considerations

- 9.11 During the course of the application the Parish Council has confirmed that the soil from the ditch will be disposed of in accordance with regulations and a reputable local company, with the required documentation, will be used. The Highway Authority has raised no objection to the proposal subject to a Construction Management Plan and Informatives being added advising the applicant of the need to obtain the necessary licences if work or machinery is to affect the public highway.
- 9.12 The applicant has also confirmed that the existing drain which crosses underneath the A330 Ascot Road, the post and rail fencing and the nearby planting and trees would remain unaffected by the proposal. The tree officer has raised no objection to the proposal in terms of

its impact on trees subject to the imposition of a condition to secure appropriate tree protection measures.

9.13 The applicant has acknowledged that should further measures be deemed necessary to prevent any incursion from the north such as bollards or posts, these proposals would be subject of a separate planning application.

9.14 The site falls within an area of archaeological significance and archaeological remains may be damaged by ground disturbance for the proposed development. A condition is therefore required to mitigate the impacts of the development in accordance with paragraph 141 of the NPPF.

9.15 The Environmental Protection team has suggested the imposition of conditions relating to construction working hours and collection and delivery times and informatives relating to dust and smoke control. It is however considered in this case that these issues can be adequately covered by the Considerate Constructors scheme informative. It is not considered that the construction of the ditch would have an adverse impact on the neighbouring residential properties.

9.16 The public footpath which runs along the south side of the A330 would remain unaffected by the proposals.

10. COMMUNITY INFRASTRUCTURE LEVY (CIL)

10.1 The development is not CIL liable.

11. CONCLUSION

11.1 The proposed ditch would constitute appropriate development in the Green Belt and subject to suitable planting would have no adverse impact on the Holyport Conservation Area or the character and appearance of the locality in general. In addition the proposal would pose no risk to flooding provided the soil to be removed to form the ditch is removed immediately from site and the land levels are not raised in any way.

11.2 The proposal accords with Local Plan policies GB1, GB2, DG1, CA2, N6, T5 and F1 and with the relevant sections of the NPPF as a material planning consideration.

12. APPENDICES TO THIS REPORT

- Appendix A - Location Plan
- Appendix B – Plan showing proposed ditch
- Appendix C – Cross section view of proposed ditch

13. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

1 The development hereby permitted shall be commenced within three years from the date of this permission.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2 There shall be no raising of existing ground levels on the site.

Reason: To prevent the increased risk of flooding elsewhere due to impedance of flood flows and reduction of floodwater storage capacity. Relevant Policies - Local Plan F1.

3 The development shall be carried out in accordance with the revised Flood Risk Assessment entitled 'The Green, Holyport Road, Holyport, Maidenhead' received on the 12th November 2019

which requires the following mitigation measure:

- the material removed to form the ditches is to be removed immediately from the site.

Reason: To prevent an increase in the risk of flooding by ensuring the satisfactory disposal of spoil away from the site. This is in accordance with paragraph 163 of the NPPF and adopted policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan 2003.

- 4 Prior to any equipment, machinery or materials being brought onto the site, details of the measures to protect, during construction, the trees growing within and adjacent to the site, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to any equipment, machinery or materials being brought onto the site, and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. These measures shall include fencing in accordance with British Standard 5837. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: To protect trees which contribute to the visual amenities of the site and surrounding area. Relevant Policies - Local Plan DG1, N6.

- 5 The ditches shall be planted with a wildflower seed mix specification comprising 70% Strong Creeping Red Fescue, 20% Smooth Stalked Meadow Grass and 10% Creeping Bent, spread 25gm per sq.m unless any variation in the planting specification is first agreed in writing by the Local Planning Authority. The planting shall be carried out in the first planting season following the construction of the ditches or in accordance with a programme first agreed in writing by the Local Planning Authority, and thereafter maintained and retained in accordance with the approved details.

Reason: To ensure satisfactory landscaping of the site in the interests of visual amenity. Relevant Policies - Local Plan DG1 and CA2.

- 6 No development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording Berkshire Archaeology and Archaeological Service for: Royal Borough of Windsor & Maidenhead, Reading Borough Council, Slough Borough Council, Wokingham Borough Council & Bracknell Forest Council
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall be carried out in accordance with the approved Written Scheme of Investigation.

Reason: The site lies in an area of archaeological potential, for all periods. The potential impacts of the development can be mitigated through a programme of archaeological work. This is in accordance with paragraph 189 of the NPPF.

- 7 Prior to the commencement of any works, a Construction Management Plan showing how construction traffic, facilities for operatives and vehicle parking and manoeuvring will be accommodated during the works period, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be implemented as approved and maintained for the duration of the works or as may be agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Local Plan T5.

- 8 The development hereby permitted shall be carried out in accordance with the approved plans listed below.

Reason: To ensure that the development is carried out in accordance with the approved particulars and plans.

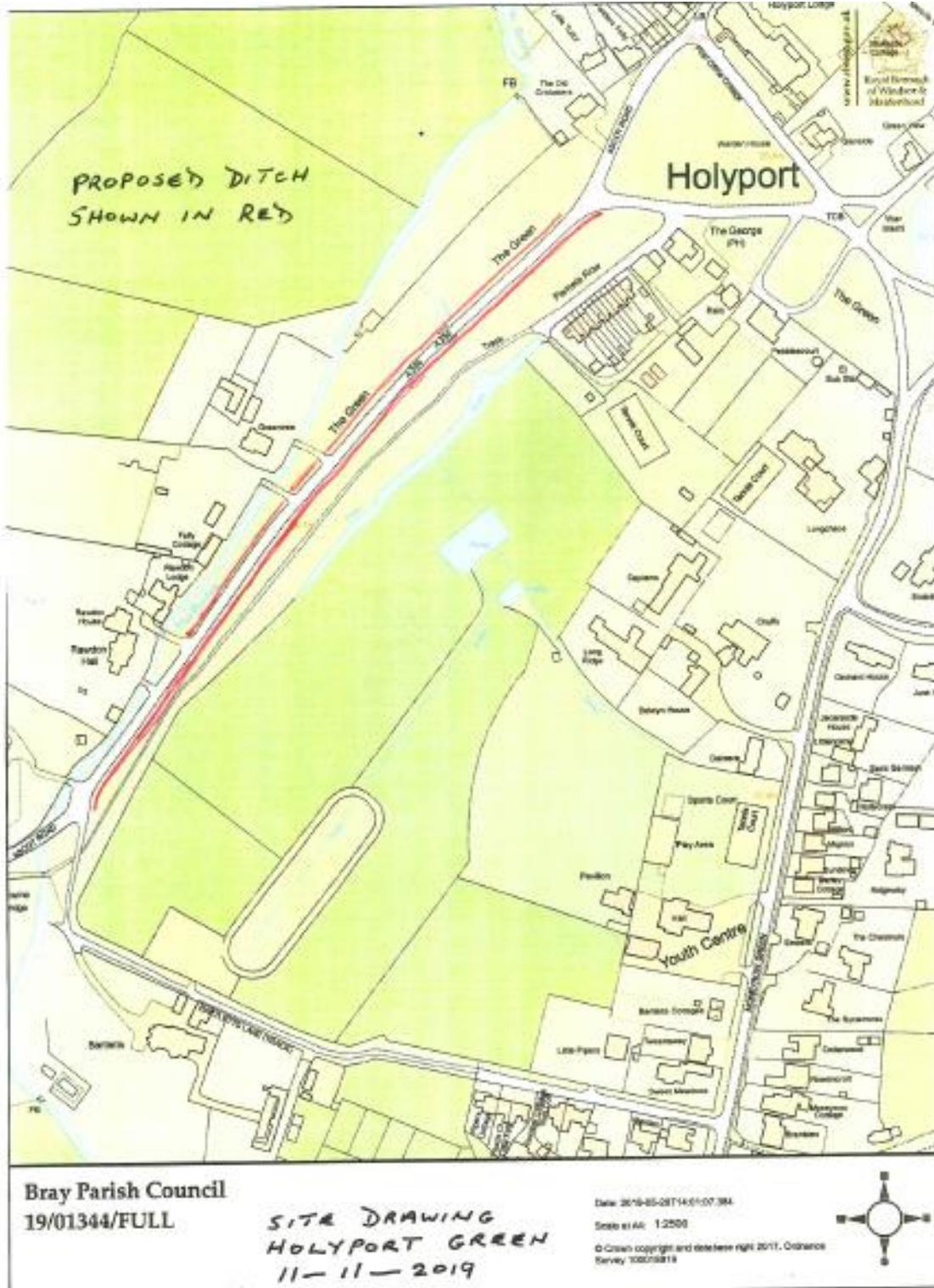
Informatives

- 1 Due to the close proximity of the site to existing residential properties, the applicant's attention is

drawn to the Considerate Constructors Scheme initiative. This initiative encourages contractors and construction companies to adopt a considerate and respectful approach to construction works, so that neighbours are not unduly affected by noise, smells, operational hours, vehicle parking at the site or making deliveries, and general disruption caused by the works. By signing up to the scheme, contractors and construction companies commit to being considerate and good neighbours, as well as being clean, respectful, safe, environmentally conscious, responsible and accountable. The Council highly recommends the Considerate Constructors Scheme as a way of avoiding problems and complaints from local residents and further information on how to participate can be found at www.ccscheme.org.uk

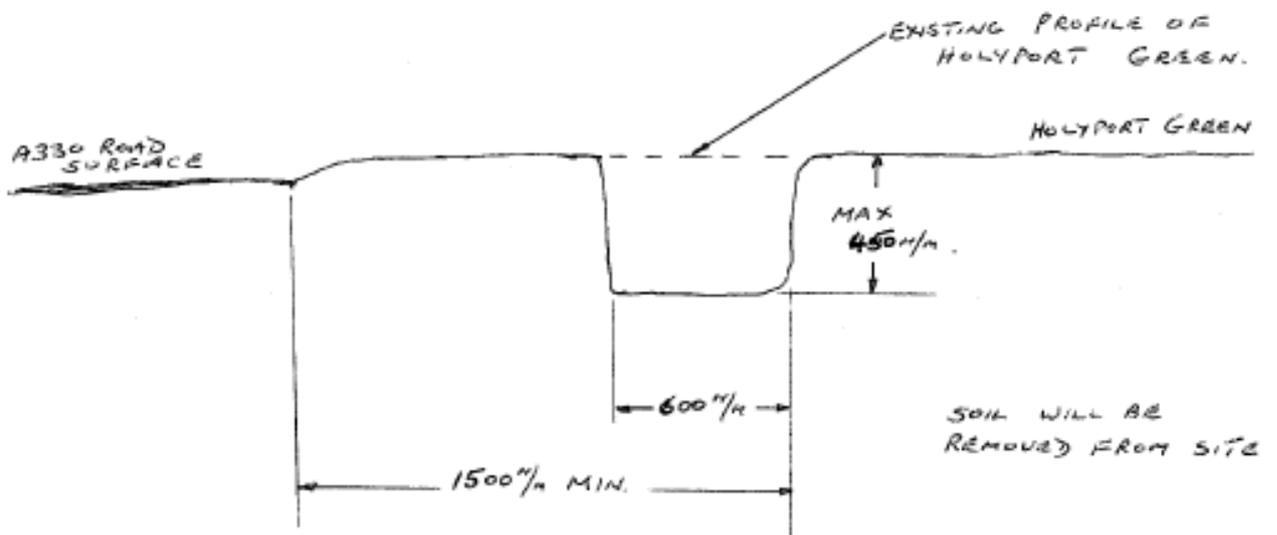
- 2 The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which enables the Highway Authority to recover expenses due to extraordinary traffic.
- 3 The attention of the applicant is drawn to the Berkshire Act 1986, Part II, Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway or grass verge arising during building operations.
- 4 In order to protect the stability of the highway it is advised that no excavation is carried out within 15 metres of a public highway without the written approval of the Highway Authority. The Highway Manager should be contacted at the Town Hall, St Ives Road, Maidenhead, SL6 1RF tel: 01628 796595.
- 5 Any incidental works affecting the adjoining highway shall be approved by, and a licence obtained from the The Streetcare Services Manager at Tinkers Lane Depot Tinkers Lane Windsor SL4 4LR tel: 01628 796801 at least 4 weeks before any development is due to commence.
- 6 No builders materials, plant or vehicles related to the implementation of the development should be parked/stored on the public highway so as to cause an obstruction at any time.
- 7 The granting of planning permission does not give the applicant/developer consent to carry out works on the public highway (verge, footway or carriageway). To gain consent from the Highway Authority, not less than 28 days notice shall be given to the Royal Borough of Windsor and Maidenhead - Streetcare Section, (telephone 01628 683804) before any work is carried out, this shall include for materials and skips which are stored within the highway extents, hoarding etc. A charge will be made for the carrying out of inspections and the issue of permits.
- 8 The Environment Agency has advised that The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place on or within 8 metres of a main river (16 metres if tidal); on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal); on or within 16 metres of a sea defence; involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert; in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission. For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity. Please note that the spoil will need to be removed from the floodplain entirely. A method of works will need to be provided and it must be ensured that the works do not compromise the integrity of the main river.

APPENDIX B – PROPOSED LOCATION OF DITCH



APPENDIX C – CROSS SECTION OF PROPOSED DITCH

BRAY PARISH COUNCIL
CROSS SECTION VIEW
OF PROPOSED DITCH
FOR HOLYPORT GREEN.



DWG OCTOBER 2019