

Town and County Planning Act 1990 (As Amended) - Section 78

Town and Country Planning (Inquiry Procedure) (England) Rules 2000

**Appeal by J D Rudkin Builders Limited against the refusal of St
Albans City and District Council, as Local Planning Authority,
to grant outline planning permission for residential
development of up to 115 dwellings, all matters reserved
except access**

at

Land to the east of Lye Lane, Bricket Wood, Herts, AL2 3TF

**APPENDICES TO THE EVIDENCE OF PHILLIP E HUGHES MRTPI
ON BEHALF OF ST ALBANS CITY & DISTRICT COUNCIL**

MAY 2024

PLANNING INSPECTORATE REF: APP/B1930/W/24/3338501

LOCAL PLANNING AUTHORITY REF: 5/2022/2443

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1



Lye Lane



Lye Lane

Google Earth

100 m



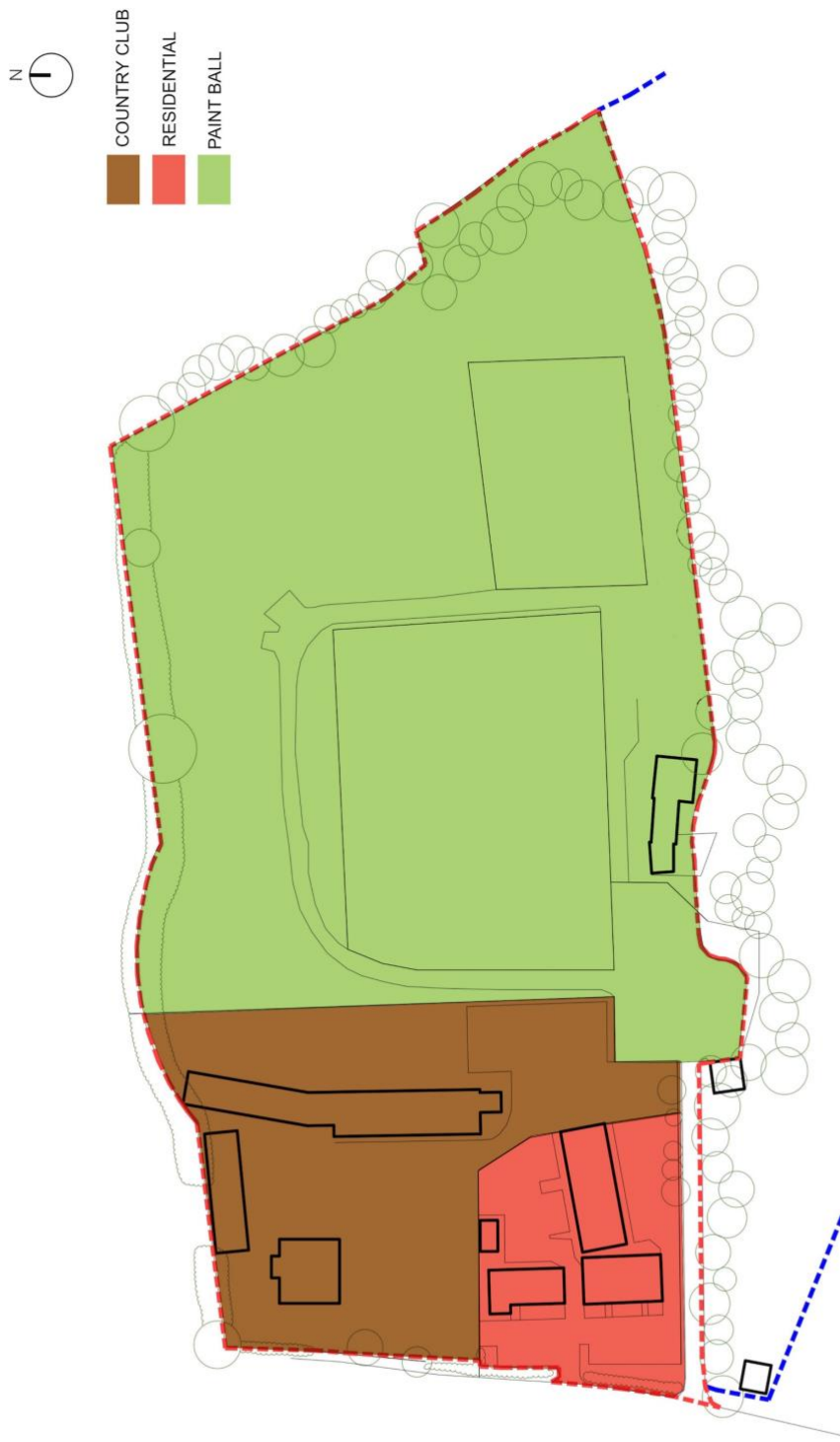
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Lye Lane

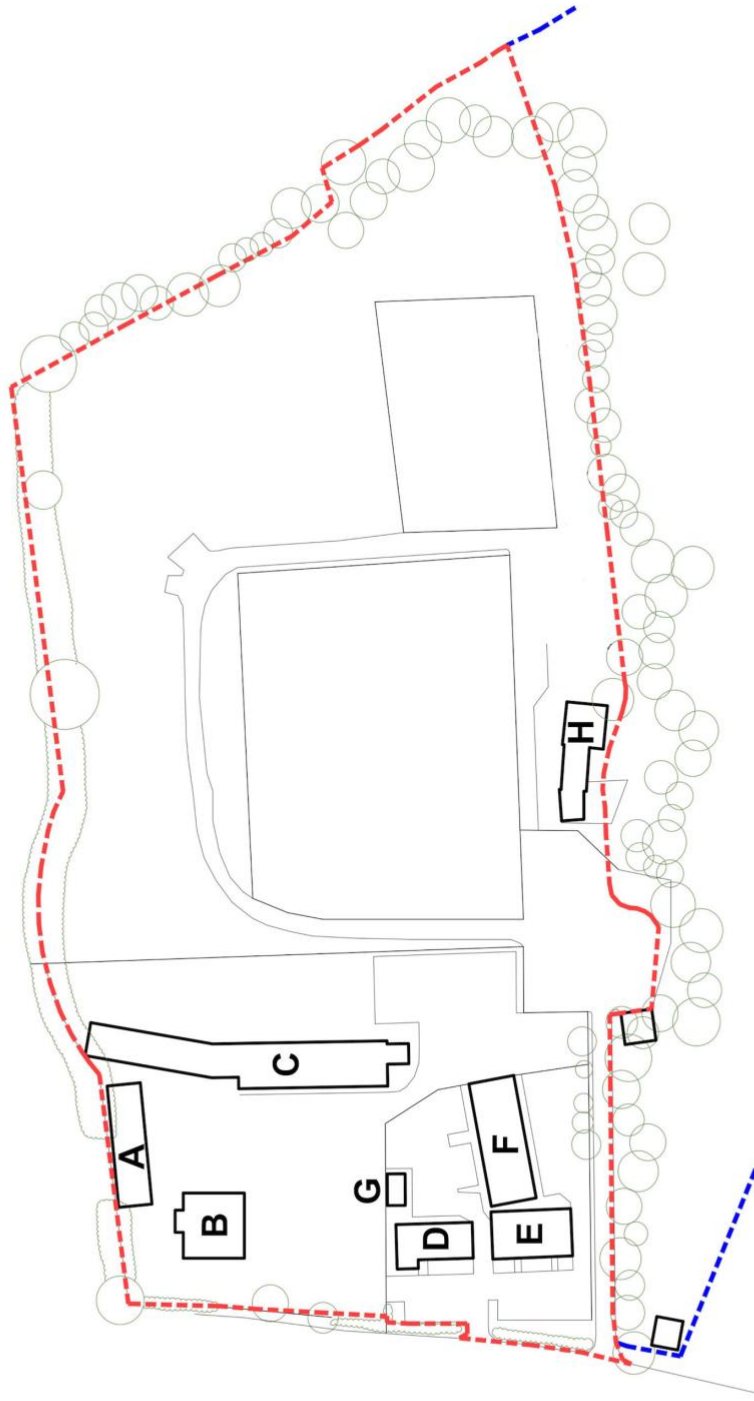
Google Earth

3



This plan has been created by tracing the Google aerial photo. The red / blue line is based on the ordnance survey map download

4



This plan has been created by tracing the Google aerial photo. The red / blue line is based on the ordnance survey map download

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HERTFORDSHIRE ECOLOGY

Providing ecological advice to Hertfordshire's Local Authorities

Dear Miranda

5/2022/2443

Outline application (access sought) - Demolition of existing buildings and construction of up to 115 dwellings and creation of new access

Bricket Wood Sports and Country Club, Paintball Site & Bricket Lodge, Lye Lane, Bricket Wood, Hertfordshire AL2 3TF

ADDITIONAL ECOLOGY COMMENTS

A footpath has been proposed to extend southwards from the proposed development site across the M25 and along the eastern side of Lye Lane to provide pedestrian access to the settlement of Bricket Wood.

South of the M25, and for a distance of approximately 300m, the eastern border of Lye Lane is formed by Blackgreen Wood.

Given the narrowness of Lye Lane, it is presumed the proposed footpath will encroach to a greater or lesser extent upon this woodland (or even lie completely within it) in order to provide the most direct link with the nearby settlement.

It is understood the proposed path will be 2m wide and is presumed it will be surfaced to provide functionality throughout the year. As such, it is anticipated that it will require proportionate excavations, foundations, drainage and disposal of soils, and that the use of suitably robust vehicles will be required. Accordingly, it is presumed that the footprint of the footpath and disturbed ground could extend to a width of three or four metres, although it may be slightly more or less. It is not known if this will require the disturbance of tree roots or, indeed, if some trees will need to be felled.

The boundary of the woodland appears to comprise an old, overgrown hornbeam hedge, a characteristic synonymous with ancient woodland.

Blackgreen Wood is owned St Stephen's Parish Council and managed, via an active [management plan](#) for biodiversity and the enjoyment of the local community. As such it has a network of (what appear to be unsurfaced) permissive and other paths which appear to support modest levels of use; they appear to be unsurfaced or at least lacking robust foundations or similar. It too, suggests it is an example of ancient woodland.

This is confirmed by its listing on the [ancient woodland inventory](#) and it can also be found, to a fuller extent on Bryant's map of Hertfordshire of 1822 when it extended north and south of the what is now the M25.

Given these characteristics it is also listed as a Local Wildlife Site (LWS) and on the Hertfordshire Environmental Record Centre (HERC) where it is described as follows:

Ancient semi-natural acidic Sessile Oak (Quercus petraea)/Hornbeam (Carpinus betulus) woodland dissected by a motorway. Pedunculate Oak (Quercus robur) and the hybrid oak (Q. x rosacea) are also recorded along with Hazel (Corylus avellana) coppice, birch (Betula spp.) and Holly (Ilex aquifolium). A diverse ground flora has been recorded, with Bluebell (Hyacinthoides non-scripta) dominant. Other species noted include Common Cow-wheat (Melampyrum pratense), Pill Sedge (Carex pilulifera), Wood Sorrel (Oxalis acetosella), Yellow Pimpernel (Lysimachia nemorum), Broad Buckler-fern (Dryopteris dilatata), Remote Sedge (Carex remota) and Goldilocks Buttercup (Ranunculus auricomus).

The woodland's status is acknowledged in the management plan which is, accordingly, managed via a Forestry Commission felling licence; there appears to be evidence of coppicing amongst other activities.

LWSs are afforded protection under paragraph 186 (a) of the [NPPF](#) as follows:

'... if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused' and

However, ancient woodland (and other 'irreplaceable habitats') is afforded even greater levels of protection (under paragraph c) as follows:

[development] *'... resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons ...'*

The NPPF sets a high bar and suggests that 'exceptional reasons' should be restricted to infrastructure projects (including nationally significant infrastructure projects).

Given its relative rarity, the fragmented nature of the remaining resource and its ecological importance, ancient woodland is, today, regarded as a Habitat of Principal Importance under s41 of the [Natural Environment and Rural Communities Act 2006 \(as amended\)](#), as a habitat of particular importance for the overall purpose of conserving biodiversity, a duty applied to all local planning authorities by s40(1).

Further, [standing advice by the Forestry Commission and Natural England](#) states (in language very similar to the NPPF):

'You should refuse planning permission if development will result in the loss or deterioration of ancient woodland, ancient trees and veteran trees unless both of the following applies:

- there are wholly exceptional reasons*
- there's a suitable compensation strategy in place'*

Importantly, this can be taken to apply even without bespoke comment from either of these public bodies.

Here, it is important to realise that harm to ancient woodlands does not only result from felling trees but can arise from more subtle activities such as compaction of roots and can arise anywhere within the root zone of individual trees which can extend to a considerable distance from a single tree. Accordingly, it recommends a buffer zone of at least 15m from the boundary of a woodland to avoid damage to roots or even larger under certain circumstances. Further, the loss of the ground flora can be similarly damaging even if trees are unaffected.

Harm can even arise from damaging the woodland bank if an entrance was required even if use was proposed of the existing paths (and this was considered suitable) though I note from the management plan that the existing network of paths does not provide a complete, direct route to the settlement nearby.

In addition, ancient woodland is not the only factor at play and the proposals are silent on whether the footpath would need to be illuminated and whether this, and other secondary elements, such as the associated cabling could have an impact on bat populations or other ecological features, such as the woodland ground flora, for instance.

Drawing on this, [best practice guidance for ecological assessment](#) strongly encourages first robust surveys and data analysis to identify whether the woodland is indeed ancient (if this is challenged) and then the use of the 'mitigation hierarchy', where harmful impacts on important ecological assets should first avoid damage, before mitigating any unavoidable harm and then compensate for unavoidable loss of the feature. Failure to avoid harm must be fully justified.

Further, if the need for the footpath is considered to have been submitted after 12 April 2024, it would be subject to the delivery of a mandatory biodiversity net gain which also endorses the use of the [mitigation hierarchy](#).

However, the biodiversity net gain metric should not be used on irreplaceable habitats making the delivery of a net gain challenging to achieve.

On balance, I believe the description of an ancient woodland can be justified yet, despite these protections and protocols, I understand the proposed footpath has not been subject to any ecological or biodiversity net gain assessment or even any survey. Further, I am not aware of any mitigation or consideration of alternatives. Accordingly, there is no evidence to show that the mitigation hierarchy has been considered or harm justified.

In addition, ancient woodland is not the only factor at play and the proposals are silent on whether the footpath would need to be illuminated and whether this and other secondary elements, such as the associated cabling, could have an impact on bat populations potentially using the woodland as a wildlife corridor, or other ecological features, such as the woodland ground flora, for instance.

Therefore, to consent to such a proposal now would conflict with the tests set out above. I say this knowing that whilst exceptional reasons can allow such protections to be overridden, I am not aware of evidence that suggests this, and in any event, such a decision would require a justification that based on the varying protections afforded above. Furthermore, the Council may not be the only public body with an interest as a felling licence from the Forestry Commission may also be required.

Though harmed in the past by construction of the M25 and other development, Blackgreen Wood continues to represent an important component of the natural heritage of St Albans and Hertfordshire. At present we do not know what impact the proposed footpath would create but equally we have no evidence to make such a decision.

B F Fleming
Hertfordshire Ecology

6 May 2024

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ST ALBANS CITY & DISTRICT COUNCIL

TREES & WOODLAND

Planning application ref: 5/2022/2443

Location: Bricket Wood Sports and Social Club

Proposal: Outline application (access sought) Demolition of existing buildings and construction of up to 115 dwellings and creation of new access.

Statutory Protection: Tree Preservation Order (TPO 1665 W1)

NOTE – Site is also identified as an Ancient and semi-natural woodland outside of the development site in 3rd party ownership.

Site Visit Made: Yes

Observations: -

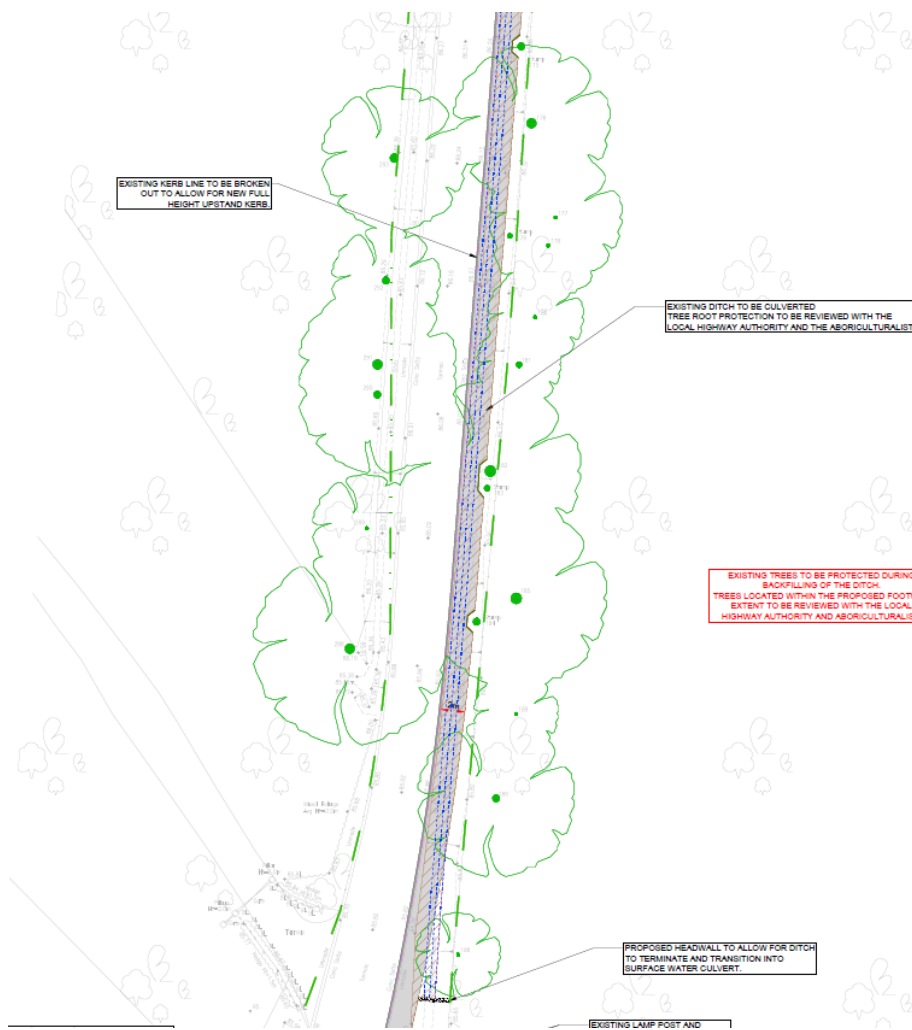
I have looked at the documents and the principles to be adopted are acceptable industry standards and approaches in principle, however.

My concerns are over the potential loss of TPO trees, and trees from a woodland identified as Ancient and semi-natural on the DEFRA magic maps (<https://magic.defra.gov.uk/MagicMap.aspx>) due to the construction logistics and post development impact on the trees longevity where retained.

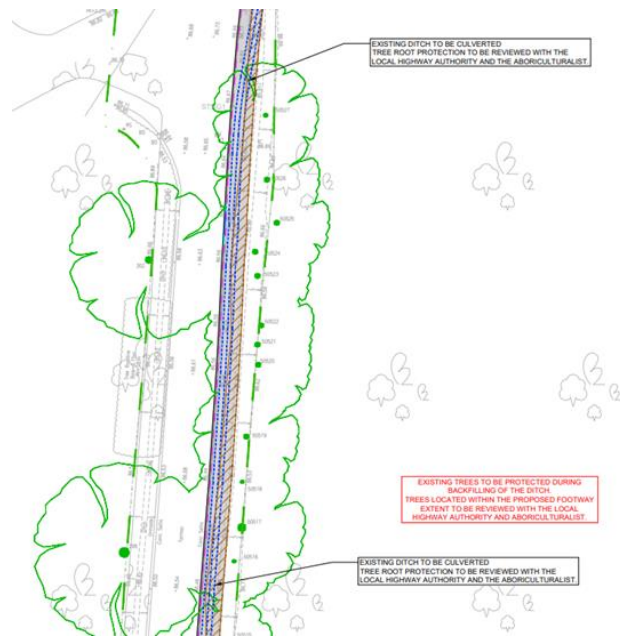
From the screen shot(s) below the realistic logistics of construction activities will result in the loss of trees which are afforded statutory protection, part of an ancient, semi-natural woodland, TPO and form an important 'rural' woodland edge to this road.

The trees have not been fully assessed both in terms of industry guidance BS 5837 Trees in Relation to Demolition, Design and Construction – Recommendations 2012, to provide the impacts of both construction logistics and the footpath through their root protection areas. And the impact of the trees in respect of their form and impact on the use of the path, as this will potentially result in further trees requiring removal due to post development pressure.

Drawing – 231436-CON-XX-00-SK-C-0003 Rev P02 - Sheet 3, section near access to Woodbury Manor Barn



Drawing – 231436-CON-XX-00-SK-C-0003 Rev P02 - Sheet 2 approaching the M25 bridge



Details provided for the profiles of the proposed footpath/culvert details show there is a significant impact into the RPA's of protected trees.

I do not disagree with the fact that where there are waterlogged ditches the ground is anaerobic and the development of roots is limited. However as can be seen from the screen shot(s) above there are sections where the ditch is shallow and not waterlogged. Therefore it is likely that there is root development.

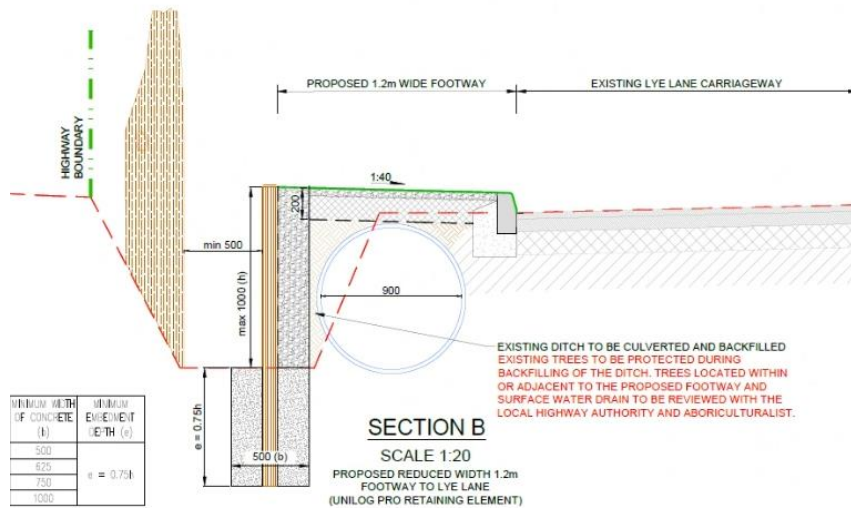
To culvert the ditches it is proposed to install a 900mm pipe which will require excavation down into the RPA's which will sever any roots present, some sections are showing a void of 500mm from the edge of the tree stem to the edge of the haunching. The haunching being installed 1m to the bottom of the culvert and then a further 0.75 below. With cementaneous material being used to secure structures within the RPA's and <500mm of tree stems, cement paste/slurry has a pH of 12.5 – 13.5 it is highly caustic and will be detrimental within such close proximity to the trees.

There are cross sections which are showing no dimensions between the tree stem and haunching with the distance appearing even less (see screen shots).

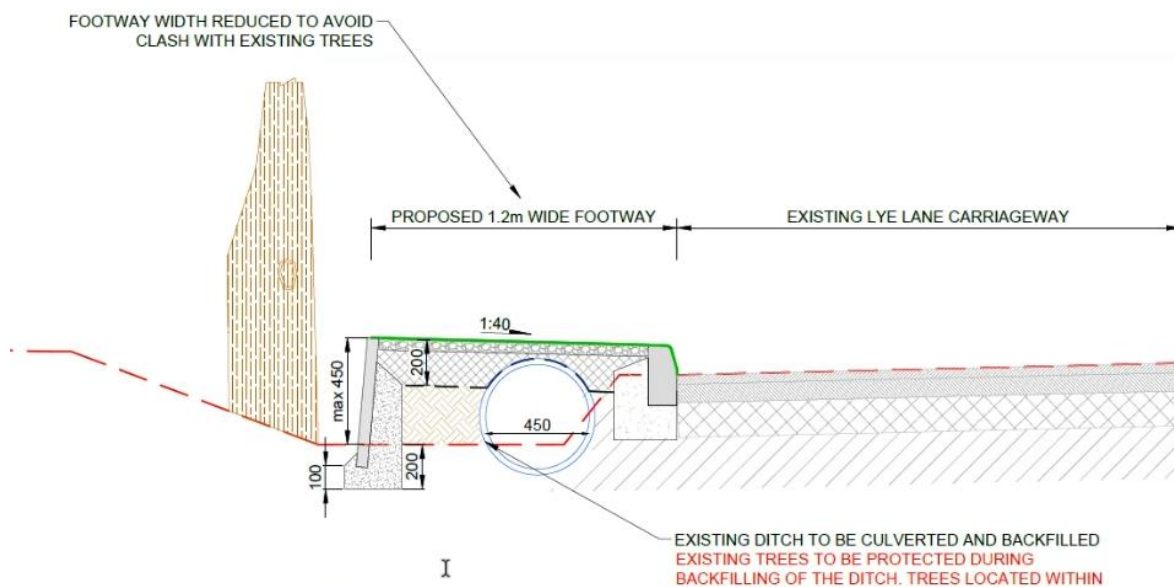
In culverting the ditches there is a requirement to backfill which will raise the ground level within the RPA of protected/retained trees. Raising the ground level within the RPA of trees will be detrimental as roots need to 'breathe' – gaseous exchange. While it is accepted that some ground conditions due to anaerobic conditions may inhibit root growth it is not a given that this is the case along the whole section therefore backfilling the ditch is not acceptable.

The extent of ground works within the RPA of protected trees is not acceptable and does not follow industry guidance, with industry guidance being the adoption of 'no-dig' in such situations, if acceptable at all. There is also future post development issues with these drainage channels becoming blocked by roots entering them leading to the road flooding.

Drawing SK-C-0013 cross sections



No dimension of distance from haunching to tree stem(s)



While the Arboricultural Method Statement provides details of installation following an industry accepted approach the reality of culverting the ditches and installing the footpaths, with the logistics of construction, will result in an extensive loss of trees changing the overall character of this wooded rural road within the extensive urban area.

If a footpath is approved, then there is nothing to potentially prevent the width of the path being increased through material or non-material amendments as criteria changes (as happens with such projects). With the principle of the footpath being granted more trees will be lost slowly eroding the protected woodland.

The culverting of the ditches to install a footpath is not acceptable.

Roz Richardson

Tree Officer