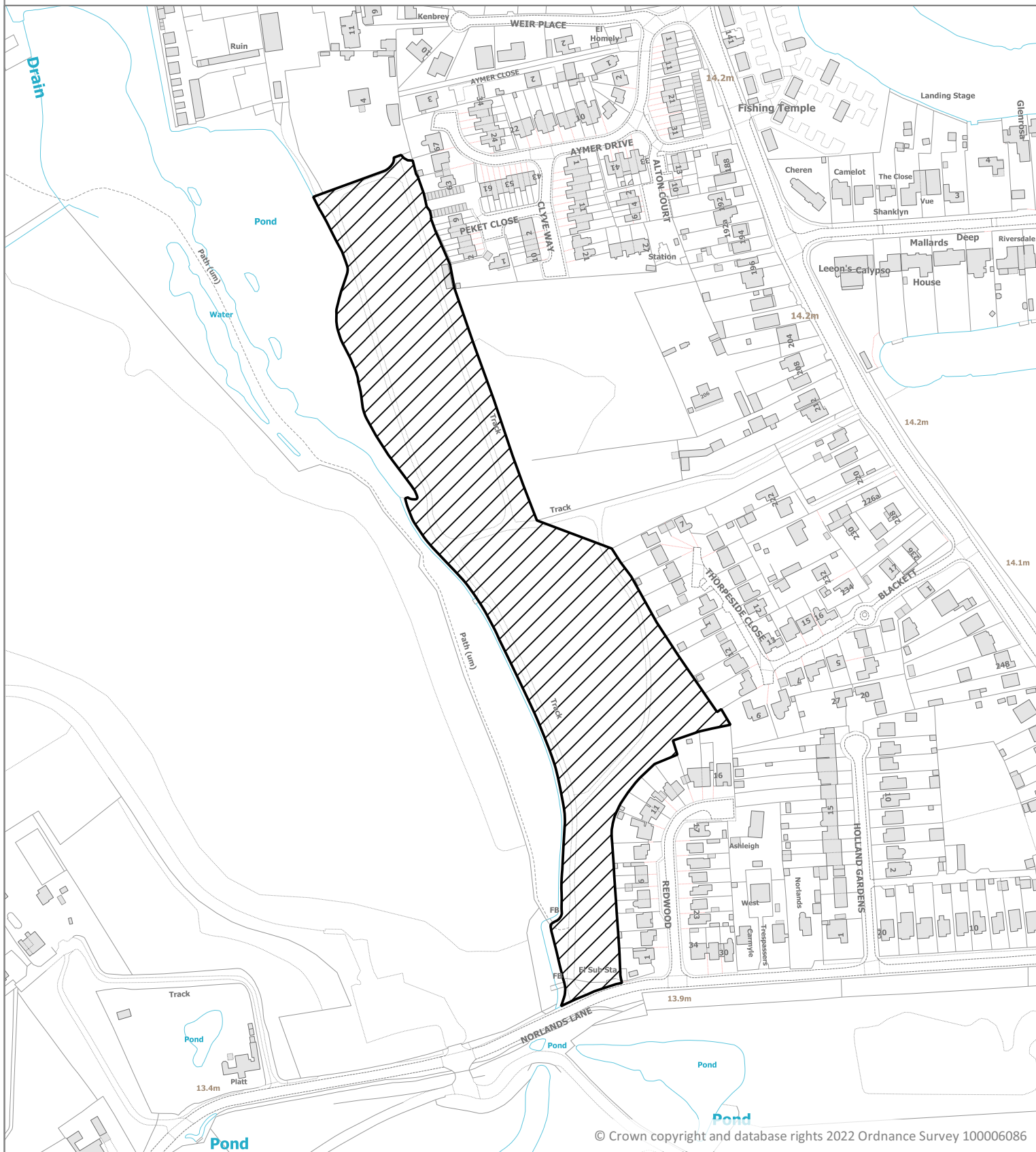




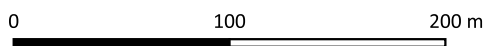
Date: 02/03/2022

4 Aymer Close, Staines-Up-on-Thames, TW18 3NL



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Scale: 1:3,500



RU.20/0810



COMMITTEE AGENDA REFERENCE: 5a

APPLICATION REF:	RU.20/0810
LOCATION	4 Aymer Close, Staines-Upon-Thames, TW18 3NL
PROPOSAL	The retention and redistribution of soils at land at 4 Aymer Close and the use of the land for the private grazing of horses.
TYPE	Full Planning Permission
EXPIRY DATE	07/08/2020
WARD	Thorpe
CASE OFFICER	Justin Williams
REASON FOR COMMITTEE DETERMINATION	Major application with significant local interest.
<i>If you have questions about this report please contact Ashley Smith, Victoria Gibson or the case officer.</i>	

1. SUMMARY OF RECOMMENDATION

It is recommended the Planning Committee authorises the CHDMBC to refuse Planning Permission of the following grounds:	
1.	The applicant has not demonstrated that the proposed retention and redistribution of material on the site, over and above the 2010 land level at the site (level of the land pre land raising), would not result in an increase in flood risk. As such the proposal fails to comply with Policy EE13 of the Runnymede 2030 Local Plan and policy and guidance within the NPPF and NPPG.

2. DETAILS OF THE SITE AND ITS SURROUNDINGS

- 2.1 The application site comprises of a large parcel of land which stretches from Norlands Lane in the south to the property at 4 Aymer Close to the North. It abuts several residential properties to the east of the site. The Mead Lake Ditch lies to the west of the site and partially forms the western boundary. The site is primarily accessed from a lane between 214 and 216 Chertsey Lane, however, there is also access via 4 Aymer Close. There are large boulders on the boundary with Norlands Lane. The site is entirely within the high-risk flood zone (Flood zone 3A and partially within the functional flood plain (Flood zone 3B. The site is also within a ground water protection zone.) The site lies within the Green Belt. Furthermore, part of the western section of the site also falls within an area indicated for the proposed River Thames Scheme flood diversion channel.

3. APPLICATION DETAILS

- 3.1 The applicant has applied for planning permission for the retention of the imported material on the land and its redistribute and to use the site for the private grazing of horses.
- 3.2 The material on site would be moved from areas of the site in the functional flood plain to areas outside of the functional flood plain. This would result in some lowering of land levels at the site and some raising of land levels. The applicant states that land levels on the site have been raised by an average of 0.53 metres across the site and the works would create a mound located in the southern part of the site which would have a height of approximately 1.4 metres over current land levels. This would be graded and would not include any structures.
- 3.3 The applicant has submitted a soil report, Flood Risk Assessment, Planning Statement and Topographic information in support of the application.
- 3.4 The planning statement details how the works would be carried out at the site with soils being moved on the site using a GPS Navigator and the ground levels changed to the proposed heights by redistributing material to areas outside of the functional flood zone. The applicant states that the land once completed would have an open appearance and would not impact on the amenities of the Green Belt. The statement refers to flood risk and notes that it was agreed at the Planning Hearing and in the signed statement of Common Ground that the excess material on the site could be redeposited from one flood area to an area on the site which lies outside of the 1 in 100 flood with a 25% allowance. The statement details that the proposed works would not result in an increase in flood risk on or off the site. The statement refers to the proposed hours of operation being between 08:00 – 17:00 Monday to Friday, but not at all on Saturdays, Sundays and Bank Holidays.
- 3.5 The applicant has also submitted a method statement in how works at the site would be carried out with a skip on the site to remove any objects encountered at the site including metal, wood and plastic.

4. RELEVANT PLANNING HISTORY

- 4.1 The following history is considered relevant to this application:

Reference	Details
RU.14/0016	Change of use of land to agriculture and equestrian following phased restoration of land with imported topsoil. Erection of replacement ancillary barn to be used in connection with the land restoration and subsequently storage of hay and stabling of horses. Granted September 2014.
RU.13/0406	Change of use of the land to agriculture and equestrian with erection of an ancillary barn for the storage of hay in connection with land restoration. Refused July 2013.

Planning Enforcement History

12 October 2015 – Enforcement Notice served regarding formation of bunds – not appealed

26 September 2016 – Temporary Stop Notice served.

21 October 2016 – Enforcement Notice and Stop Notice served Withdrawn 16 December 2016

16 December 2016 – Enforcement Notice served for the following

Unauthorised engineering operation has occurred resulting in the raising of land levels including the deposition of material of unknown origin.

The Enforcement Notice required the applicant to cease engineering operations comprising of the importation and deposition of material. And to remove from the land all materials in excess of land levels indicated by Topographical survey.

Appeal dismissed 20 February 2020 for Enforcement Notice issued 16 December 2016.

Appeal was on grounds F and G only

F– The steps required by the Notice are excessive

G – the time given to comply with the notice is too short.

The enforcement notice was varied and upheld with the compliance period extended to 15 months. This is 20 May 2021 – The Enforcement Notice is therefore live and extant.

5 SUMMARY OF MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework and Guidance.
- 5.2 The Runnymede 2030 Local Plan was adopted on 16 July 2020 and the policies have to be read as a whole. Any specific key policies will be referred to in the planning considerations.
- 5.3 This site falls within the designated Thorpe Neighbourhood Area.

6. CONSULTATIONS CARRIED OUT

6.1 Consultees responses

Consultee	Comments
Surrey County Minerals and waste	No comments received.
RBC Contaminated Land Officer	No objection subject to conditions

Environment Agency	Object to the application on grounds that the submitted Flood Risk Assessment fails to demonstrate that the proposal would not increase flood risk on or off site
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Representations and comments from interested parties

6.2 159 Neighbouring properties were consulted in addition to being advertised on the Council's website and 25 letters of representation have been received from individual householders and one letter of representation has been received from the Thorpe Ward Residents Association. These are summarised below:

- The dismissed appeal upheld the residents' concerns:
- Material deposited on the land was waste, bricks, concrete, tarmac, builders waste and not topsoil
- The raising level of the land vastly exceeds the level permitted by the original planning application
- Reprofilling the land does not address the landowner's violation of the original planning consent
- The works are an engineering operation on green belt land
- The works interfere with the openness and visual impact on the Green Belt
- Increasing the land height impacts on the privacy of the occupiers of the adjacent neighbouring properties.
- The raised land will prevent the slow drainage of flood water into the street
- The application refers to the material as soil, this is waste soil
- Any increase in risk to residents from flooding is unacceptable
- Residents have been flooded out in the past and this would further increase this risk.
- More soil has been added to the site since the last survey
- The site was previously a green belt area for wildlife and is now just a mound of soil full of weeds and rubbish.
- The material dumped on the land could lead to contamination of adjacent neighbouring properties private gardens
- The raised soil level could increase flooding, if not documentation stating that it would ne should be provided.
- The landowner should be made to remove the waste if the Council are to have any credibility in the future.
- The depth of the soil in some parts is up to 4ft and impacts on the visual amenities of the occupiers of the adjacent neighbouring properties.
- The area has giant hogweed growing on it which is poisonous and causes burns
- The application is for water compatible use what is this? (Officer comment – The National Planning Policy Guidance Paragraph 66 Reference ID 7-066-20140306 specifies what these uses are notably:
 - Flood control infrastructure.
 - Water transmission infrastructure and pumping stations.
 - Sewage transmission infrastructure and pumping stations.
 - Sand and gravel working.
 - Docks, marinas and wharves.
 - Navigation facilities.
 - Ministry of Defence installations.
 - Ship building, repairing, and dismantling, dockside fish processing and refrigeration and compatible activities requiring a waterside location.
 - Water-based recreation (excluding sleeping accommodation).

- Lifeguard and coastguard stations.
- Amenity open space, nature conservation and biodiversity, outdoor sports and recreation and essential facilities such as changing rooms.
- Essential ancillary sleeping or residential accommodation for staff required by uses in this category, subject to a specific warning and evacuation plan.
- The site has previously been used for caravans and an airport car park
- The EA has stated that this is waste soil.
- There is road planning, builders waste and metal sticking out of the ground and not soil.
- The Enforcement Notice should not be overturned but pursued to get the waste removed
- The change in levels would reduce the openness of the Green Belt in the area.
- The raised land will interrupt the natural movement of water in the area.
- Residents should not be exposed to any increase in flood risk
- There was Japanese Knotweed previously on the land. Has this been eradicated?
- The material that has been brought onto the site has buried methane vent ducts
- The depiction of the flood zone on Runnymede rMaps is not a reliable indicator for the redistribution of waste soil on the site.
- The waste soil will reduce the capacity of the flood plain to store water and impede the flow of flood water.
- The level of the land is nearly to that of a garden fence.
- The applicant has a history of flouting planning law, if granted the applicant will continue to flout the law.
- The ground has been heavily compacted and there is no drainage for the water to go other than adjacent neighbouring properties
- The application should be subject to an Environmental Impact Assessment.
- The site is on RBC's Contaminated Land Register and an intrusive investigation will provide the authority with a full and proper record of the precise nature of the soils.
- The gas monitoring system on the site has been destroyed by the material which has been brought onto the site.

7. PLANNING CONSIDERATIONS

- 7.1 In the determination of this application regard must be had to the Development Plan and National policy within the NPPF. The application site is located within the Green Belt where there is a strong presumption against inappropriate development. This must be considered in light of the presumption in favour of sustainable development advocated by the NPPF. The key planning matters are whether the proposed works and use of the land are an appropriate form of development in the Green Belt, the impact the proposed works would have on the openness of the Green Belt, flood risk and the amenities of the occupiers of the adjacent neighbouring properties.
- 7.2 The proposed works would result in an engineering operation by the moving of soil around the site. The NPPF states that engineering operations are an appropriate form of development provided the works preserve openness and do not conflict with the purposes of including land within the Green Belt. Policy EE18 of the Runnymede 2030 Local Plan also refers to this, and states that the extent and visual impact of the changes in land levels will be considered in assessing such proposals, as will the purpose and intent of future use in order to ensure that the visual effects are not harmful.
- 7.3 The proposed works would remodel the land resulting in a mound approximately 1.4 metres high in a central parcel of land in the southern part of the site, covering an area of

approximately 40 metres wide at its widest point reducing to a width of approximately 10 metres and being approximately 60 metres long. This would result in the lowering of land at some parts of the site, with the cross sections showing a reduction in height on the boundaries of the site with the residential properties in Thorpeside Close by approximately one metre. The mound would be graded and seeded to leave a final grassed appearance. No structures are proposed. It is considered that the proposal would not materially impact on the openness of the Green Belt nor conflict with the purposes of the Green Belt. The proposal would comply with Policy EE18 of the Runnymede 2030 Local Plan.

- 7.4 The application site is located wholly within the high-risk flood zone (flood zone 3a), however, functional floodplain (flood zone 3b) also covers a large area of the site. The NPPF states that when determining any applications, local planning authorities should ensure that flood risk is not increased elsewhere and applications should be supported by a specific flood risk assessment. The applicant has submitted a Flood Risk Assessment. The submitted FRA indicates that the site is defined by the Enforcement Notice and therefore the redistribution of soils cannot take place elsewhere and subsequently passes the sequential test.
- 7.5 Furthermore, the use of the site for the private grazing of horses would be water compatible which is appropriate in the high-risk flood plain Flood zone 3b. The FRA states that the proposed works do not increase the risk of flooding on or off site. Following objections by the Environment Agency regarding an unacceptable Flood Risk Assessment and lack of adequate information to demonstrate that the risks of pollution posed to water quality could be safely managed the applicant submitted a revised Flood Risk Assessment, however, the Environment Agency maintained their objections.
- 7.6 The applicant subsequently submitted additional information regarding a method statement about how the works would be undertaken. Following this, the Environment Agency have withdrawn their objection regarding risks to water quality but maintain their objection on the grounds that the proposal would increase flood risk in comparison to the baseline data which are the levels of the land in May 2010 plus 300mm.
- 7.7 During the previous appeal, a joint statement was agreed (the then appellant now applicant, Runnymede Borough Council and the Environment Agency) which agreed the following:
- i) the current level of the land is approximately 0.53 metres greater than the 2010 levels, albeit the depth of fill across the site varies greatly within this average;
 - ii) that an increase in ground levels of 0.3m greater than the 2010 levels throughout the site is acceptable given that this has been previously approved under application RU.14/0016 and the Environment Agency's own flood defence scheme. These schemes allowed an average increase in ground levels of 0.3 metres above the 2010 levels; and
 - iii) in areas outside of the functional flood plain (FZ 3b), it was agreed that the level of the land raising may exceed 0.3 metres as this would not represent an overall increase risk of flooding within the River Thames floodplain or off site.
- 7.8 There has been changes to the drawing numbers, but the applicant has confirmed that the key drawings for the appeal and this current application are fundamentally the same.
- 7.9 The Council has requested clarity on the reason for the objection from the Environment Agency and whether the previously agreed position altered their point of view on the matter. The EA confirmed it did not, and maintained their objection to the application and consider that the applicant has not demonstrated that the proposal retention and distribution of material

over and above the 2010 levels would not increase flood risk elsewhere. The Environment Agency is the statutory consultee and government body on flooding matters and therefore in line with guidance the Council must attribute significant weight to their objections, the EA has confirmed that they consider that a reason for refusal is entirely justified in Planning Grounds relating to Flood Risk and that they are willing and able to demonstrate the harm and risk caused.

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No 595) should members consider going against Environment Agency advice then the application would need to be referred to the National Planning Casework Unit to see if the Secretary of State wished to call the application in for determination by Public Inquiry.

- 7.10 The proposed works would retain material on site but would reprofile the land. As detailed above this would include the lowering of land in parts of the site. The proposed cross sections of the proposal show the land levels being lowered near the boundaries of the site and therefore it is considered that the proposed works would have a betterment to the occupiers of the adjacent neighbouring properties than the current situation on site. The proposed mound would be central to the site and being graded would not be an over-dominant form of development. The proposed works would therefore comply with Policy EE1 of the Runnymede 2030 Local Plan in not having an adverse impact on the amenities of the occupiers of the adjacent neighbouring properties nor the character and appearance of the area.
- 7.11 The applicant has confirmed that the land would be used for the grazing of horses for private use. This would be development that would be compatible with the flood risk and would not cause any material level of noise and disturbance to the occupiers of the adjacent neighbouring properties. The applicant has confirmed the hours of operation for the remodelling works and this could be secured by condition if other matters of the application be considered acceptable along with a condition to securing the use for the grazing of private horses and not for any commercial use.
- 7.12 The application site is former landfill site. The applicant has submitted a soil sampling exercise to accompany the application as material has been brought onto the site. The report outlines that the samples taken were free from significant contamination and had a low level of contaminants which is considered acceptable in relation to the proposed use of the site. The Council's Contaminated Land Officer raises no objection to the application subject to further information being submitted regarding the nature and extent of any potential contamination and if found to required details of a remediation scheme to be submitted. This could be secured via condition should the application be considered acceptable on other grounds.
- 7.13 Concerns have been raised from residents that there are invasive species on the land, i.e., Japanese knotweed and Giant Hogweed. Methods to control this could be secured by condition should the application be considered acceptable on other grounds.
- 7.14 The Enforcement Notice is live, and the applicant is in breach of this Notice. Members are advised that should the application be refused then the applicant can appeal against this decision if an appeal is submitted within 6 months of the decision. Consequently, any action for noncompliance with the Enforcement Notice should be set aside for a period of six months from the date of the decision to facilitate this. Alternatively, should members recommend approval of the application, as indicated above the application will be referred to the National Planning Casework Unit to see if they wish to call the application in to be determined via a Public Inquiry.

8. PLANNING OBLIGATIONS/COMMUNITY INFRASTRUCTURE LEVY (CIL)

8.1 The proposal is not CIL liable

9. EQUALITY AND HUMAN RIGHTS CONSIDERATIONS

9.1 Consideration has been given to Articles 1 and 8 of the First Protocol of the European Convention on Human Rights. It is not considered that the decision would result in a violation of any person's rights under the Convention.

Consideration has been given to s149 of the Equality Act 2010 (as amended), which has imposes a public sector equality duty that requires a public authority in the exercise of its functions to have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

It is considered that the decision would have regard to this duty.

10. CONCLUSIONS

10.1 The applicant proposes ground remodelling works within the high-risk flood zone. The works would involve moving existing material on the land and forming a mound. This is not considered to impact the openness of the Green Belt nor would it impact on the amenities of the occupiers of the adjacent neighbouring properties or character and appearance of the area.

The applicant has submitted a Flood Risk Assessment of the proposed remodelling works; however, the Environment Agency do not consider that the applicant has demonstrated that the works would not increase the risk of flood at the site and elsewhere. The EA has indicated that they consider this warrants the refusal of planning permission. Therefore, the proposal fails to comply with Policy EE13 of the Runnymede 2030 Local Plan. There is a current live enforcement notice on the site with regard to imported material on the site. Should the application be refused any such action for non-compliance with the Enforcement Notice should be set aside for a period of six months to allow for any possible appeal.

10.2 The development has been assessed against the following Development Plan policies – EE13, EE1 and EE18 of the Runnymede 2030 Local Plan, the policies of the NPPF, guidance in the PPG, and other material considerations including third party representations. It has been concluded that the development would result in harm that would justify refusal in the public interest.

11. FORMAL OFFICER RECOMMENDATION

To authorise the CHDMBC to refuse planning permission for the following reason:

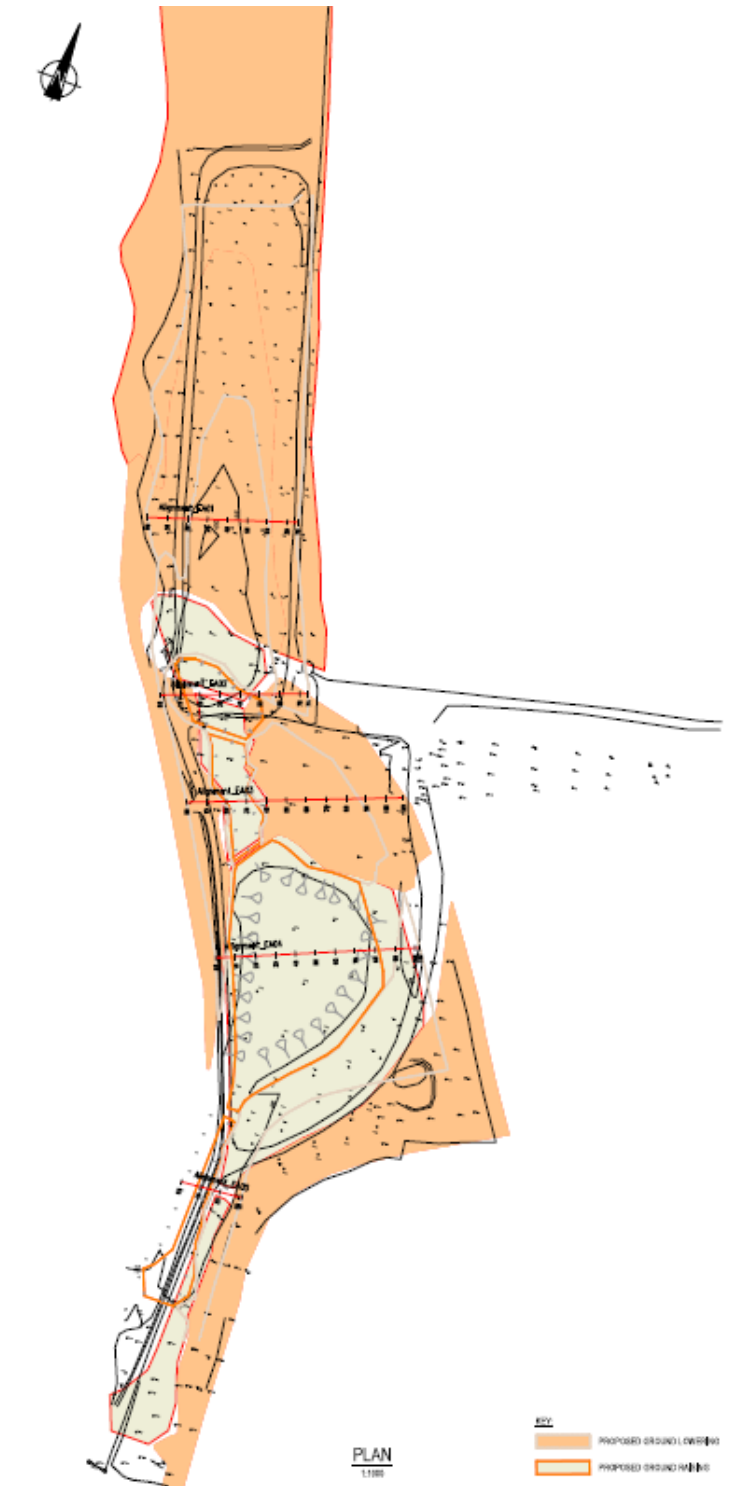
The applicant has not demonstrated that the proposed retention and redistribution of material on the site, over and above the 2010 land level at the site (level of the land pre land raising), would not result in an increase in flood risk. As such the proposal fails to comply with Policy EE13 of the Runnymede 2030 Local Plan and policy and guidance within the NPPF and NPPG.

Plans for RU.20/0810 – Land at 4 Aymer Close Staines upon Thames

Proposed Site Layout Plan

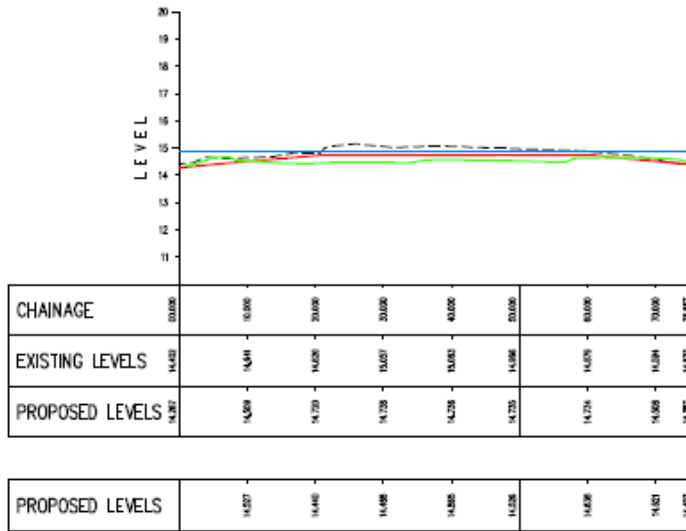
Orange areas = proposed ground lowering

Lighter areas = proposed ground raising

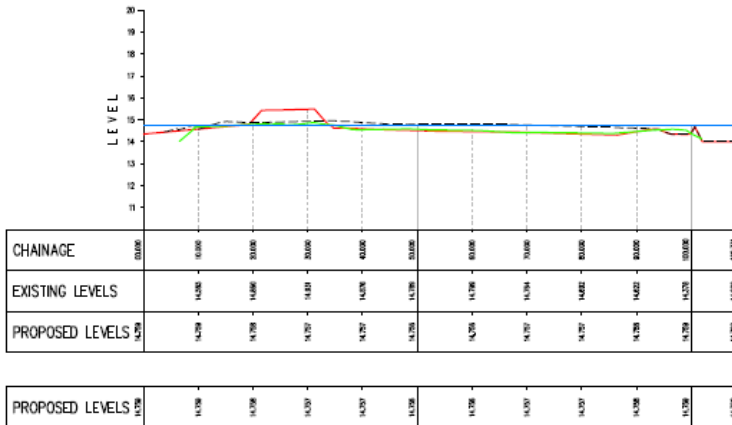


Proposed cross sections

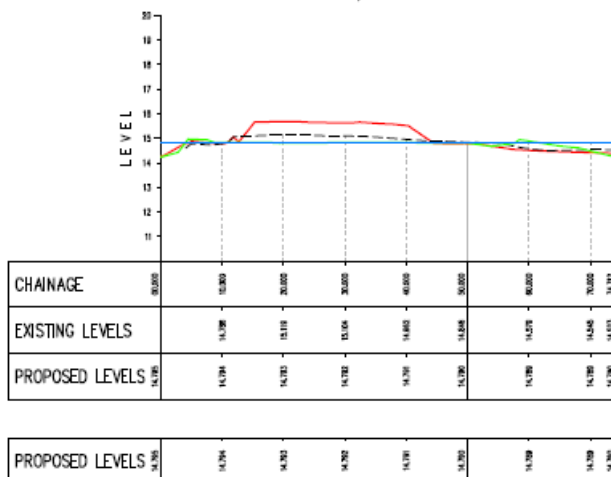
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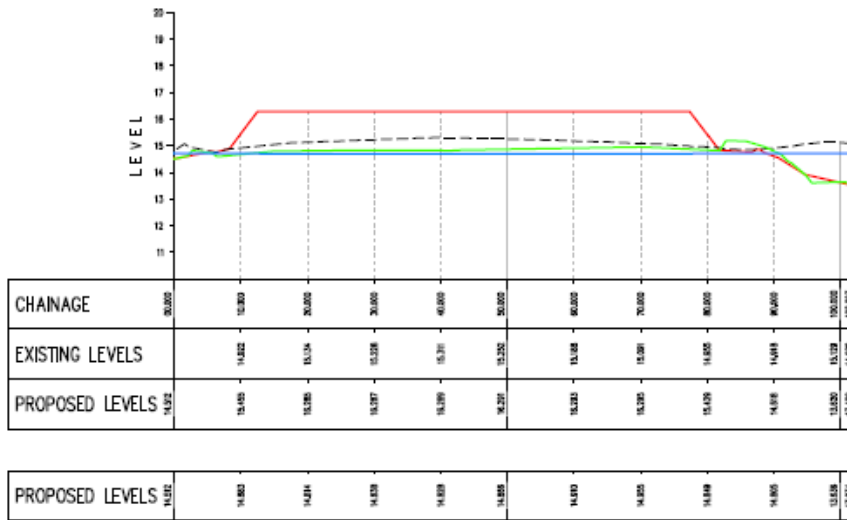
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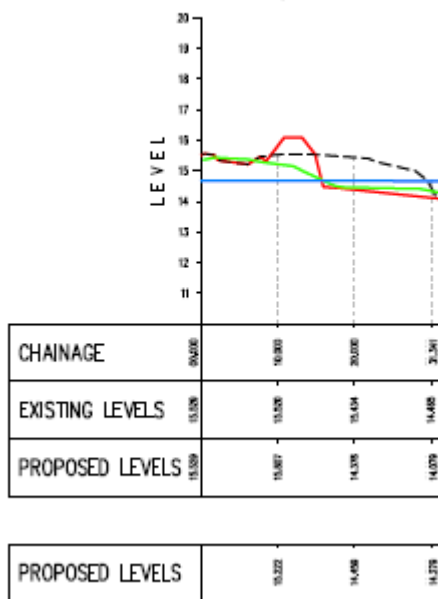
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ALIGNMENT_EA05_PV11
SCALE: H 1:500, V 1:125. DATUM: 10.000



Key:

Dotted line = Existing ground profile

Red = Proposed ground profile

Green = Approved ground profile under RU.14/0016

Blue = 1 in 100 +25% CC Flood level