

Reference No:	08/03101/TPO	Works To Trees Covered by TPO
Proposal:	Consent to fell the following trees within two years: tree no's 15, 16, 17, 18, 19, 20 and 28 on the south side of the SSSI and tree no's 29, 30, 33, 34, 35, 36, 37, 41, 47, 56, 65 and 71 from the north side of the SSSI and to fell within five years tree no's 31, 32, 40, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 62, 63, 64, 66, 67, 68, 69 and 70 on the north side of the SSSI	
Location:	Kinghorn Lane Maidenhead SL6 7QG	
Applicant:	Mr James Bennis	
Agent:	Not applicable	
Date Received:	30th December 2008	
Case Officer:	Helen Leonard	Member Call-in:
Recommendation:	PERM	Date of Expiry: 24 February 2009

1. SUMMARY

- 1.1 The application is to fell trees in Cannoncourt Farm Pit Site of Special Scientific Interest (SSSI) covered by Tree Preservation Order no. 26 of 1991. The works would be done in two phases. The first phase is the removal of 19 trees within two years and the second phase is the removal of an additional 28 trees within the period of 3 to 5 years. These trees are situated on the pit face and the works are to prevent future damage to the SSSI whose designated interest is geological history.

It is recommended the Panel grants permission for the works as described in the application with the conditions listed in Section 10 of this report.

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Mrs Khan due to it being a contentious issue of high public interest.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The SSSI is roughly 'L' shaped and is situated off Kinghorn Lane, running parallel to the public footpath to the south. The site also borders residential properties, nos. 13, 14, 15, 19, 21, 33 and 42 Kinghorn Park. There are 14 mature Lime trees situated on the southern boundary of the SSSI, which are the most prominent trees on the site, being seen from a wide area. They predate the SSSI designation and are also included in the TPO but are **not** the subject of this application. There are a number of other trees which appear to have self-seeded which are growing up on the pit face, they also contribute to the character of the area but to a lesser degree and it is these trees which are subject of the application. The land coverage of the TPO mirrors that of the SSSI.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 4.1 The following sets out the history of tree work applications over the last 10 years:

95/00925/ TPO	To deadwood prune fourteen Limes and to coppice six trees and to crown reduce others.	Approved 04.05.1995
95/00926/ TPO	To fell some Sycamore trees and to prune an Oak	Approved 22.01.1996
98/33289/	To prune two sycamores, to fell a Sycamore and re-	Approved

TPO	coppice three Hazels in Kinghorn nature reserve to south of 17 Kinghorn Park	14.12.1998
02/38276/ TPO	TPO to fell one Sycamore and one Lime tree and to prune one other tree in Nature Reserve	Refused 20.3.2002
04/01684/ TPO	Consent to raise crown of row of Lime trees by 2.5m remove one stem of Sycamore (T6) and reduce back overhang of Sycamore (T7)	Approved 31.01.2005
07/02948/ TPO	Consent to fell one Oak and one Ash tree. Tip back foliage on one Oak that is overhanging the summerhouse at 21	Approved 18.12.2007
08/00687/ TPO	Consent to fell 2 Sycamore trees	Approved 16.5.2008

4.2 Consent is sought to fell the following trees within two years: tree nos. 15, 16, 17, 18, 19, 20 and 28 on the south side of the SSSI and tree nos. 29, 30, 33, 34, 35, 36, 37, 41, 47, 56, 65 and 71 on the north side of the SSSI and to fell within five years tree nos. 31, 32, 40, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 62, 63, 64, 66, 67, 68, 69 and 70 on the north side of the SSSI.

4.3 A number of these trees are young and therefore quite small, with most of the others not having reached maturity. One of the more notable trees, because of its large size, is a twin stemmed Sycamore, no. 26. However, it has a significant defect at its major fork union and as such this tree is structurally weak. Tree no. 64 is a small Oak, which is dying and can be removed under an exemption.

5 MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

5.1 Tree works applications are not determined in accordance with the Local Plan or Structure Plan. The application must be determined on its merits taking into account the reasons for the application and the impact the works may have on amenity.

Other Strategies or Publications

5.2 Other Strategies or publications relevant to the proposal are:

- Natural England 'Sites of Special Scientific Interest (SSSIs)' - view at www.naturalengland.org.uk

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i The impact on Cannoncourt Farm Pit SSSI.
- ii The impact on public amenity.

The impact on Cannoncourt Farm Pit SSSI

6.2 The site was formerly known as Cooper's Pit, Maidenhead SSSI with the boundary being revised in 1987. The SSSI is designated as an area nationally important for its geological interest, as described in the citation:

6.3

'This pit worked gravels of the Lynch Hill Terrace of the Thames, and has yielded large numbers of Palaeolithic implements since the beginning of the century, including the largest hand axe discovered to date in the British Isles (and probably

Europe). The Lynch Hill Terrace and its associated Acheulian and Levallois industries was formerly included with the Boyn Hill Terrace, and it was in the Maidenhead area that it was first described as a separate feature. The Industry at Furze Platt is markedly different from that in the Lynch Hill Terrace at Iver, suggesting a major problem of correlation between archaeological and geomorphological/geological evidence. To solve this problem will require further investigation of the Lynch Hill deposits, and the historical significance of the gravel at Furze Platt means that this site is one of considerable importance. ‘

- 6.4** Natural England is responsible for identifying and protecting SSSI in England under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000). In a letter from Natural England, sent to us prior to the application, they state:
- 6.5** *The site is a significant resource for informing our understanding of the geological/geomorphical and human history associated with the River Thames, its landscape and further afield. It was first designated as a SSSI in 1954, with subsequent boundary changes. As a designated site, there is legislation requiring that both the landowner and the local authority conserve the notified interests of the SSSI.*
- 6.6** *Management of the SSSI should aim to maintain the site in ‘favourable’ condition, in order to conserve the interest and to meet national government targets. Favourable condition is defined by the Conservation Objectives, which identify the gravel beds containing Palaeolithic artefacts as requiring conservation and, in relation to vegetation, state that the gravel beds are vulnerable to damage and disturbance by trees and shrub roots. Disturbance is detrimental to the geological stratigraphy and associated archaeology, reducing the research value.*
- 6.7** *There is evidence of trees covered by the TPO causing damage to the SSSI in the recent past and also there are trees presenting a threat to the SSSI in the future. In terms of priority for removal, of particular note are the heavier or unstable trees growing on sloping ground because adaptive root growth or slipping/lifting rootplates threaten ground disturbance.*
- 6.8** Survival of a tree depends on its roots being able to absorb enough water from the soil to sustain the foliage and on developing a strong root system capable of keeping the tree upright through autumn and winter gales. To achieve this the tree’s roots must exploit a very large volume of soil. However, the assumption that these requirements are met by a system of roots growing predominately downwards and that anchoring roots are very thick and descend into the soil for many metres is incorrect. In reality tree roots grow in any direction more or less parallel with the soil surface rather than vertically, which is also true for trees growing on sloping land. Roots are usually relatively shallow – most of a tree’s roots are in the upper metre of soil, though dependent on soil conditions and species concerned they can extend down to 2 metres, and in rare cases more. Tree roots usually radiate outwards from a tree for a distance equivalent to at least the tree’s height and can be 30cm or more in diameter at the base of the trunk. Roots sub-divide and taper rapidly as they extend out from the trunk and are only 2-3cm in diameter, and often much less at 3-4m distance from the trunk. It is the rooting system within 2-3m of a tree that is normally termed the root plate.
- 6.9** Tree roots can assist in binding soil particles and reduce erosion, but as trees get older they can become more susceptible to windthrow especially if they are growing on less stable land, such as a pit face. Trees can therefore pose a greater problem. From a recent site visit it was noted that the root plates of two trees on the pit face had failed and in doing so had lifted up the ground, removing and disturbing some of the soil strata. As an alternative, the establishment of grasses and other meadow plants can provide good resistance to erosion, as they can provide a dense mat of roots and would have another advantage in supporting other wildlife.

- 6.10** Tree roots can also potentially disturb geological deposits by growing through the soil and exerting a direct pressure, which can cause dislodgement. This may be more of a problem where trees grow on a steep bank where their root distribution can be more extensive than if growing on flat land. As many of the trees, subject of this application are young or middle aged, the potential for future root growth is significant. As the trees mature, the risk to the SSSI thereby increases.
- 6.11** After trees are felled, any root shrinkage or decay that may occur is unlikely to affect the SSSI, but is outweighed by the further damage that could be done by additional root growth.

The impact on public amenity

- 6.12** When the Cannoncourt Farm Pit was designated a SSSI in 1954, the only significant site features, apart from the pit itself would have been the Lime trees. These Lime trees are approximately 80-100 years old and are important features in the landscape. It should be emphasised that these Lime trees are being retained. It is unlikely that any of the trees subject to this application would have been growing when the site was designated a SSSI. They appear to have grown up since, having been self-seeded.
- 6.13** There are two distinct areas within the SSSI where the trees are proposed to be removed. Six trees are growing on the pit face adjacent to the boundary with the rear gardens of 13 and 15 Kinghorn Park, with a further Sycamore tree next to the boundary with 19 Kinghorn Park. However, views of these trees from public areas are very limited owing to the smaller size of the trees and the site being bounded by a high wall along its southern boundary, a solid gate on the east and the residential properties to the north. The removal of these trees would therefore have a limited effect on public visual amenity. The second area, which is more significant due to the numbers of trees concerned, is situated around the pit face in the northern section of the SSSI, between 19, 21 and 33 Kinghorn Park. 12 trees here would be removed in the first phase of works and 28 would be removed in the second phase. Collectively the trees do provide a pleasant visual separation between properties and can be clearly seen from vantage points along Kinghorn Park, in particular at the end of the cul-de-sac to which it is adjacent. Once this work is completed, the only trees remaining on site would be the mature line of Lime trees.
- 6.14** The loss of trees and associated amenity benefits would be regrettable but on balance it does not outweigh the likely damage that could be done to the SSSI by retaining the trees.
- 6.15** However, from discussions with Natural England, they would not object to the replacement planting of trees, provided they are positioned outside the SSSI. In order to mitigate the impact of the tree loss, a condition would be applied to secure the planting of a second line of Lime trees, between the existing line of Lime trees and the wall that marks the southern boundary of the site. This planting would be carried out within phase 1, so that the trees are establishing prior to the phase 2 tree removal. Public Rights of Way have commented and have no objections to the proposed planting, but as it would be within the width of the public right of way a Licence should be required under Section 142 of the Highways Act 1980 (*Licence to plant trees, shrubs etc. in the highway*). As the new trees would not be covered by the TPO, it would be the intention to make a new TPO to incorporate the new plantings and the existing line of Lime trees and to revoke the old TPO.

Other material considerations

- 6.16** Anyone can apply for consent under a TPO. You do not have to have a legal interest in the land and, unlike applications for planning permission, a TPO application does not have to be accompanied by a certificate that the applicant is the owner of the land concerned, or that the owner has been notified. But an applicant who is not the owner of the trees is advised to consult the owner before making an application; the applicant is also advised to notify the owner as soon as the application has been submitted. The Council's decision on the application should be based on the merits of the case, in the public interest. If permission is granted it will be for the applicant to make sure any necessary permission is obtained from the owner of the tree before carrying out the work. An informative to this effect is always attached to decision notices.
- 6.17** It has been suggested that the works to the SSSI will provide an opportunity to remove the southern boundary wall, reset the boundary and restore footpath 30. However, this is an issue that is separate from this tree work application and representation has been made to the Rights of Way Team to deal with this matter.
- 6.18** The application does not state that stumps will be removed. In previous tree removal works, stumps have been left in situ to prevent damage to the SSSI. However, if stumps were removed and caused damage to the SSSI, then it is up to Natural England to take any necessary enforcement action. A condition would be added that requires the applicant to submit a methodology for the tree works to ensure they are carried out in a safe and controlled manner without damage to SSSI or remaining trees. However, it is up to the applicant to choose the best access for removing material off site and to gain any necessary permissions if so required.
- 6.19** Light levels may increase to the applicant's property as a result of the works, but this is not the reason given to justify the works, which is the effect on the SSSI.
- 6.20** Natural England have confirmed that the two property owners involved in managing the SSSI are now fully aware of what activities should not be carried out on the SSSI. Natural England are responsible for and have the power to carry out enforcement action should the landowners carry out operations likely to damage without consent, or intentionally or recklessly damage or destroy any features of SSSI interest.
- 6.21** The Wildlife and Countryside Act 1981 places a general duty on the Council to take reasonable steps to further the conservation and enhancement of the special interest features of SSSI. PPG9 gives further advice on this in a development context. Should a development application be submitted, Natural England would be consulted and it would be judged on its merits in line with national and local planning policy.
- 6.22** It is Natural England's role to secure appropriate management, which conserves the SSSI interest. Natural England continue to liaise with the managers of the site to achieve this.
- 6.23** TPO's make provision for the payment by the Council of compensation for loss or damage caused or incurred as a result of:
7 their refusal of any consent under the TPO, or
8 their grant of a consent subject to conditions
If the Council believe that some loss or damage is likely it does not necessarily follow that they should grant consent; they should merely take this factor into account alongside other key consideration, such as the amenity value of the trees, before reaching their final decision.

7. Consultations carried out

7 occupiers were notified directly of the application.

A yellow site notice was displayed to give opportunity for third parties to comment. Details of the application are held on a public register, which can be accessed via the Council's website or in person at the Council offices.

Comments from interested parties

2 letters were received supporting the application, summarised as:

Comment		Where in the report this is considered
1.	Need to conserve the unique geological features of the site from damage caused by tree roots, particularly those growing on the sloping ground of the pit face. Dead, dying and dangerous trees should also be removed.	6.2
2.	The interests of Natural England should outweigh the interests of a few residents, however pleasant the amenity is for them.	6.2

25 letters were received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	Changes have taken place over the years with removal of trees in the past creating large clearings. Before large fence installed could see wildlife in what was a natural coppice.	4.1
2.	Inappropriate management of site, shed installed, electricity cables and bonfires on land, fruit trees and Leyland cypress planted, fence removed separating the SSSI to increase garden plot . Enforcement is needed.	6.4
3.	Tree roots contribute in preventing erosion of 'loose' geology, so why remove them.	6.2
4.	The TPO should not be lifted.	6.3
5.	Loss of habitat for wildlife eg. nesting sites for birds. Bats have been seen and are a protected species. Previously designated as a Nature Reserve.	6.2 and 6.3
6.	In August 2007 Natural England reported the status of the site was 'favourable' despite the presence of trees, so works cannot be urgent or essential to preserve the SSSI	6.2
7.	Removal of stumps and roots will cause more widespread damage	6.4
8.	Trees provide natural screening, aiding privacy between neighbours	6.3
9.	Appreciated by wider community including dog walkers and ramblers	6.3
10.	No factual evidence from a geology expert to support this application	6.2
11.	The SSSI could be damaged in the process of tree removal, by lorries etc.	6.4
12.	Potential damage to surface of Kinghorn Lane as it is not suitable for heavy lorries and there could be risks to pedestrians from lorries reversing and add to congestion.	6.4
13.	The SSSI could be damaged via root shrinkage, once trees	6.3

	felled	
14.	The reason for destruction of woodland is for the applicant's benefit of increased light.	6.4
15.	Believe it will lead to eventual development of the site.	6.4
16.	The Palaeolithic Age covers period from 500,000 to 10,000 BC so there may have been many hundreds of generations of trees, which have stood over shale beds and shale beds extends to a maximum of 5.1m deep but as tree roots tend to be shallow, so removal of these trees is questionable.	6.2
17.	The Natural England endorsed tree removal will transform the centuries old woodland ecology to a grassland ecosystem and will alter soil structure with unknown consequences for the alluvial shales.	6.2
18.	Will have a significant impact on the environment and lead to more urbanisation in a rural setting.	6.3
19.	No definitive replanting scheme has been proposed.	6.3
20.	No reason why careful management of the trees, the risk to the SSSI could be reduced.	6.2
21.	Trees reduce noise pollution from surrounding road network and airborne pollution.	6.3
22.	Trees provide shade from heat in summer	6.3

4 letters were received making observations the application, summarised as:

Comment		Where in the report this is considered
1.	Seems to be a case for tree removal on conservation grounds, but important to retain the mature line of Lime trees. Might give an opportunity to remove the wall and reset boundary to allow restoration of footpath 30.	6.2, 6.3, 6.4
2.	Would like assurances that works will be carried out by professionals, material removed from site and not burnt and access for removal of waste to be agreed.	6.4
3.	If trees are to be removed then replacements should be planted.	6.3
4.	It used to be a 'nature reserve' so would be a shame to remove all the trees, though some trees may need to be removed because they are dangerous.	6.2 and 6.3
5.	A long term management plan should be agreed for the site.	6.4
6.	Application carried name of 'Kinghorn Park (Nature Reserve) Residents Association, but it is a limited company formed by two residents and does not represent views of other Kinghorn Park residents. Company does not follow best practice nature reserve management techniques and wildlife has declined in recent years.	6.4
7.	Only remove those trees causing damage to the SSSI and leave those not presently endangering the site. Work should be done over a phased period of time.	6.2
8.	Should not use Kinghorn Lane for access as it is an un-made, unadopted lane of narrow width and paid for by residents who face onto the lane.	6.4
9.	Dead wood should be left on site to create an ecosystem.	6.4

Statutory consultees

Consultee	Comment	Where in the report this is considered
Natural England	Already involved prior to the application and submitted information to support the application.	Para. No. 6.2

9. APPENDICES TO THIS REPORT

- Appendix A - Site location plan
- Appendix B – SSSI map etc
- Appendix C – plan showing proposed trees to be felled

10. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

Conditions and Reasons

- 1 The removal of trees as part of phase 1 works, numbers: 15,16, 17, 18, 19, 20, 28, 29, 30, 33, 34, 35, 36, 37, 41, 47, 56, 65 and 71 must be carried out within two years from the date of consent. The removal of trees as part of phase 2 works, numbers: 31, 32, 40, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 62, 63, 64, 66, 67, 68, 69 and 70 must not be carried out before two years from the date of consent, but must be completed within five years from the date of consent. In the event of the works not being completed by those dates, a further application to and prior written consent from the Local Planning Authority may be required.
Reason: To ensure the works are carried out in the most appropriate time frame.
- 2 The works must be carried out in accordance with British Standard 3998:1989, 'Recommendations for Tree Work', and the current Arboriculture and Forestry Advisory Group best practice guides. Confirmation of the full methodology for the tree works must be submitted to and be approved by the Local Planning Authority, prior to the commencement of those works.
Reason: To safeguard the health and visual appearance of the remaining trees and to ensure the works are carried out in a safe and controlled manner to avoid ground disturbance to the SSSI. Contact BSI Buying Standards Customer Services on 020 8996 9001 or via their website at www.bsi-global.com. For AFAG guides contact HSE on 01787 881165 or via their website at www.hsebooks.co.uk.
- 3 14 new Large leafed lime trees (*Tilia platyphyllos*) must be planted in a row, 2 - 2.5 metres from the wall that forms the southern boundary and at equal planting distances, so one tree is planted in the gap between each existing Lime tree, with a final one on the eastern end of the line. The trees must be container grown nursery standards of 10-12cm in girth. They must be planted by the end of December 2010. A scaled plan must be submitted to and be approved by the Local Planning Authority showing the exact positions of the new trees prior to the commencement of phase 1 tree removal. The trees must be planted in accordance with good horticultural practice and maintained to ensure healthy and strong establishment. If the replacement trees should die, are found dying or become diseased within 5 years of being planted, they must be replaced again, conforming to the details of this condition. Please contact the Tree Section on 01628 796134 to inform us of when you have planted the trees so that we may visit and inspect.
Reason: To ensure the continuation of the tree cover in the locality.