

## **TOWN AND COUNTRY PLANNING ACT 1990**

The Tree Preservation Order DFTPO249 – Rose Cottage, Aylburton

The Forest of Dean District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

### **1. Citation**

This Order may be cited as The Tree Preservation Order DFTPO249, Rose Cottage, Aylburton

### **Interpretation**

- 1.1. In this Order “the authority” means the Forest of Dean District Council.
- 1.2. In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

### **2. Effect**

- 2.1. Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- 2.2. Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

### **3. Application to trees to be planted pursuant to a condition**

In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 19 day of August 2019

The Common Seal of the FOREST OF DEAN DISTRICT COUNCIL was hereunto

Affixed in the presence of

*P.M. Williams*



2187

**CONFIRMATION OF ORDER**

This Order was confirmed by the FOREST OF DEAN DISTRICT COUNCIL without modification on the 11 day of December 2019

OR

This Order was confirmed by the FOREST OF DEAN DISTRICT COUNCIL, subject to the modifications indicated by broken black line on the map, on the day of

Signed on behalf of the FOREST OF DEAN DISTRICT COUNCIL

*P. M. Williams*  
.....

Authorised by the Council to sign in that behalf

**DECISION NOT TO CONFIRM ORDER**

A decision not to confirm this Order was taken by the FOREST OF DEAN DISTRICT COUNCIL on the day

Signed on behalf of the FOREST OF DEAN DISTRICT COUNCIL

.....

Authorised by the Council to sign in that behalf

**VARIATION OF ORDER**

This Order was varied by the FOREST OF DEAN DISTRICT COUNCIL on the day of by a variation order under reference number a copy of which is attached

Signed on behalf of the FOREST OF DEAN DISTRICT COUNCIL

.....

Authorised by the Council to sign in that behalf

**REVOCAION OF ORDER**

This Order was revoked by the FOREST OF DEAN DISTRICT COUNCIL on the day of

Signed on behalf of the FOREST OF DEAN DISTRICT COUNCIL

.....

Authorised by the Council to sign in that behalf

SCHEDULE 1  
SPECIFICATION OF TREES

**Trees specified individually**  
(Encircled in black on the map)

Reference on Map	Description	Situation
T1	Willow	SO619019 (361907, 201991)

**Trees specified by reference to an area**  
(within a dotted black line on the map)

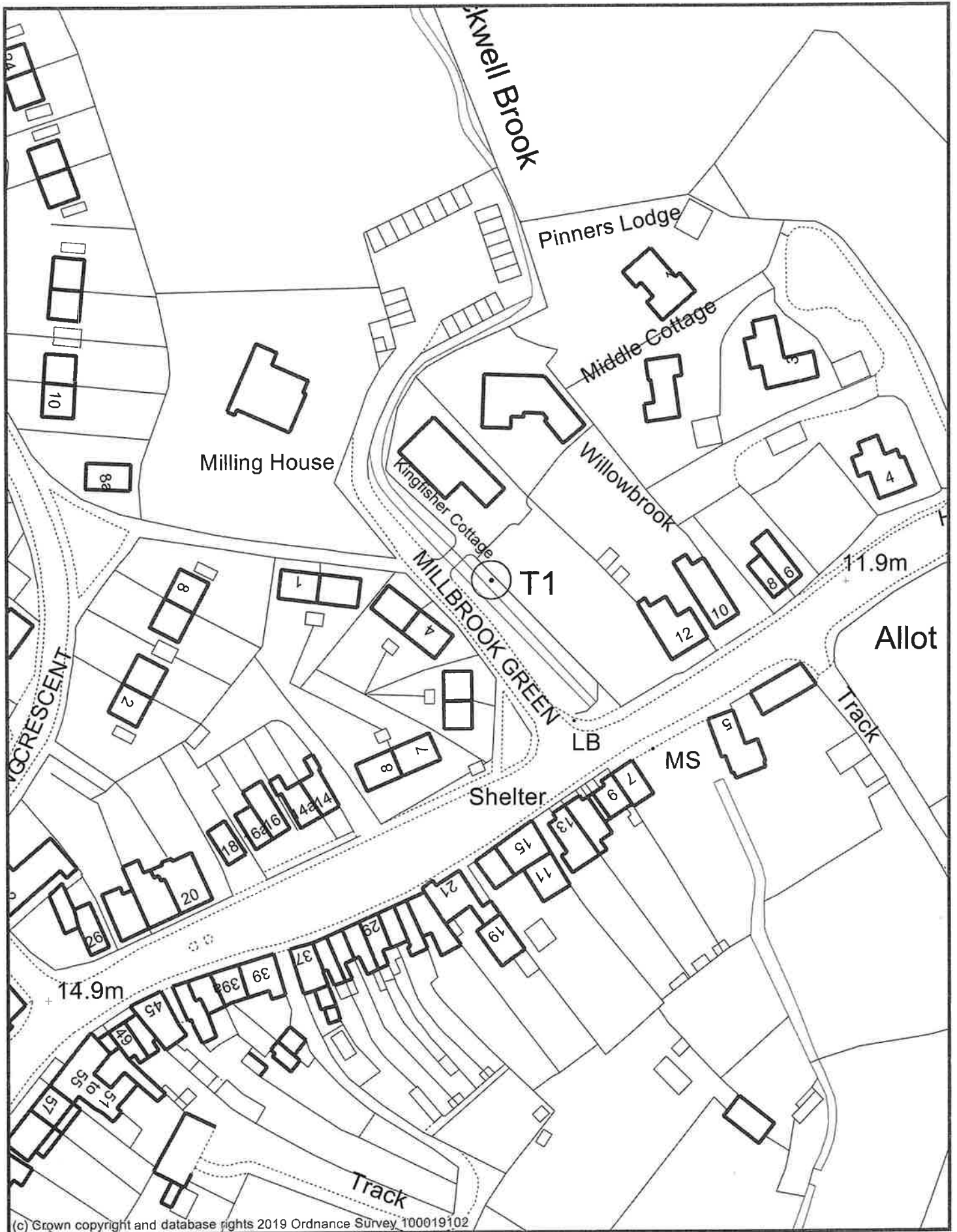
Reference on Map	Description	Situation
-	-	-

**Groups of trees**  
(within a broken line on the map)

Reference on map	Description (including number)	Situation
-	-	-

**Woodlands**  
(within a continuous black line on the map)

Reference on map	Description	Situation
-	-	-



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**Tree Preservation Order  
DFTPO249  
Rose Cottage, Aylburton**

Scale: 1:1000



# **Report for a Tree Preservation Order**

## **DFTPO249 Rose Cottage, Aylburton**

### **Introduction**

A Tree Preservation Order is recommended for 1 individual tree at Rose Cottage, Aylburton (see Appendix A – B for TPO plan and photographs). The tree should be referred to as:

T1 – Willow

A Section 211 Notice has been submitted to the Council for the removal of the Willow tree (P1110/19/TCA).

### **Desk Based Assessment**

The tree is situated within Aylburton conservation area, adjacent to Stockwell Brook off Millbrook Green. A Section 211 Notice has been submitted to remove the tree for safety reasons. The notice was not supported by a tree inspection report or evidence regarding the tree's condition.

Further representations were made by the applicant to express concern regarding the size of the tree, being too big for its location and the age and species of the tree which could be or become dangerous. Further to queries from the Council, consideration was given to alternative management however the applicant considers that this would result in either a huge amount of unwanted growth and regular maintenance or a significant reduction removing the character and benefits of the tree which could otherwise be replaced by a new specimen tree. The applicant therefore proposes full removal. No professional evidence of the condition of the tree has been provided.

### **Site Based Assessment**

The Willow tree is situated on the bank of Stockwell Brook near to an access bridge. The tree is characteristic of a weeping willow tree and overhangs the brook and adjacent road. There is a shed on the garden side of the tree.

### **Consultation Responses**

Aylburton Parish Council made the following representations in relation to the Section 211 Notice:

- The Parish Council is very much in favour of keeping trees where there is no evidence that they will endanger people or property. The tree enhances the area both visually and ecologically so it has value. The Council has heard from a nearby neighbour who very much values the tree.
- However, the Council also appreciates that Willows not being the most stable of trees may be a factor in the proposed removal; however, it would be reassuring if the

stability of the tree could be assessed and evidence via a visit from a FoDDC officer, to avoid a stable and healthy tree being removed and perhaps to recommend a replacement nearby

The Council particularly appreciates the reasons for removal of the branch that appears to overhang the shed and wall of the property as it can see why this is a concern to the resident

## **Discussion**

**Visibility:** The tree is prominent from Millbrook Green and visible from High Street.

**Individual Impact:** The tree is a large weeping willow, characteristic of a water-side tree. Much of the crown is disposed to the west over the brook and adjacent road.

**Wider Impact:** The tree contributes to the character and appearance of Aylburton conservation area. The brook is a feature of the village and the willow tree contributes to its character and setting.

**Visible infrastructure constraints:** The tree is near to a highway.

There are provisions within the regulations which would enable works in relation to trees affecting the highway to be undertaken. The Highway Authority (Gloucestershire County Council) could 'oblige' the owners of the trees to cut them back from obstructing the highway. The council's consent is not required for carrying out work on trees and woodlands subject to a tree preservation order if that work is in compliance with any obligation imposed by or under an Act of Parliament. In such situations we would recommend those undertaking the works to notify the District Council 5 days in advance of carrying out the works, wherever possible.

An application for tree works could also be made to the authority at any time for tree management works.

The crown of the tree is in close proximity to an overhead line.

There are provisions within the regulations which would enable works in relation to trees affecting power lines and communications lines to be undertaken, to include certain work carried out by, or at the request of statutory undertakers. Exemptions apply where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary in the interests of the safe operation of the undertaking, in connection with the inspection, repair, renewal of cables or other apparatus or to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995.

As above, an application for tree works could also be made to the authority at any time for tree management works.

**Expediency:** Notification has been given of the intention to remove this tree, in a Section 211 Notice.

The Council has two options when considering a Section 211 Notice: to allow the work to go ahead, or, to make a Tree Preservation Order. The tree proposed to be felled is considered to be an important feature of Aylburton conservation area. There are a variety of management options for the tree and insufficient justification has been provided for its felling. Therefore a TPO is considered expedient.

**Conclusion of Discussion:** One willow tree at Rose cottage, Aylburton is considered to be of high public amenity value and is considered to merit protection.

**Alternatives to placing a Tree Preservation Order**

Do nothing. The tree may be felled after six weeks from the date of validation of the S211 Notice.

**Recommendation**

That provisional Tree Preservation Order DFTPO249 Rose Cottage, Aylburton is made.

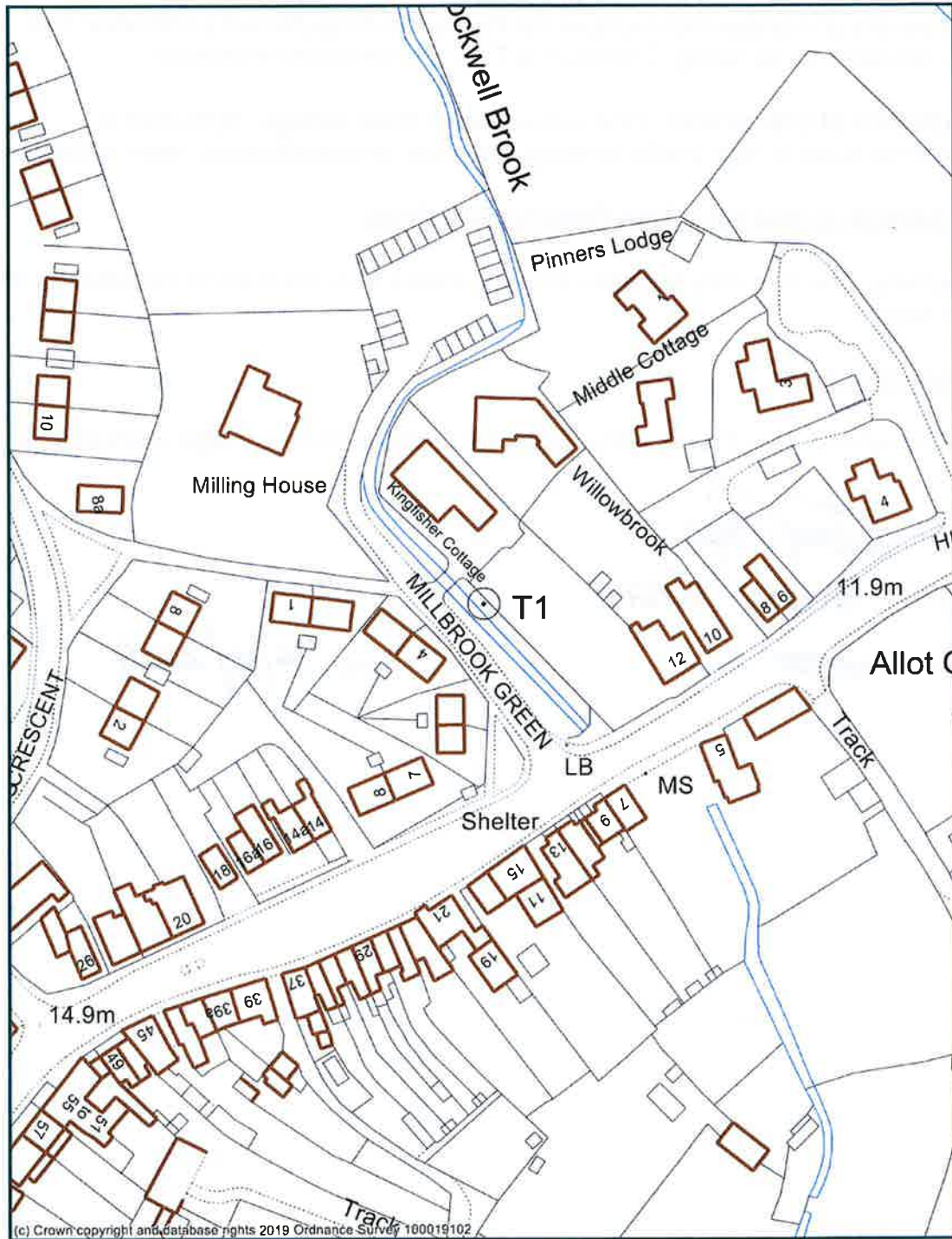
Signed: *Anthony J Pope* .....

Printed: ANTONY J POPE .....

Agreed / ~~Disagree~~ ..... Date: 16/8/2019 .....



Appendix A – TPO Plan



**Tree Preservation Order  
DFTPO249  
Rose Cottage, Aylburton**

Scale: 1:1000





Appendix B – Photographs





