

TOWN AND COUNTRY PLANNING ACT 1990

The Tree Preservation Order DFTPO263 – Gamage Court, Lower Ley Lane, Minsterworth

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 DFTPO263, Gamage Court, Lower Ley Lane, Minsterworth.

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 30th day of January 2023

A handwritten signature in black ink, appearing to read "Clive", written over a horizontal line.

Authorised Signatory

CONFIRMATION OF ORDER

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

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

.....

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

REVOCATION 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
-	-	-

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

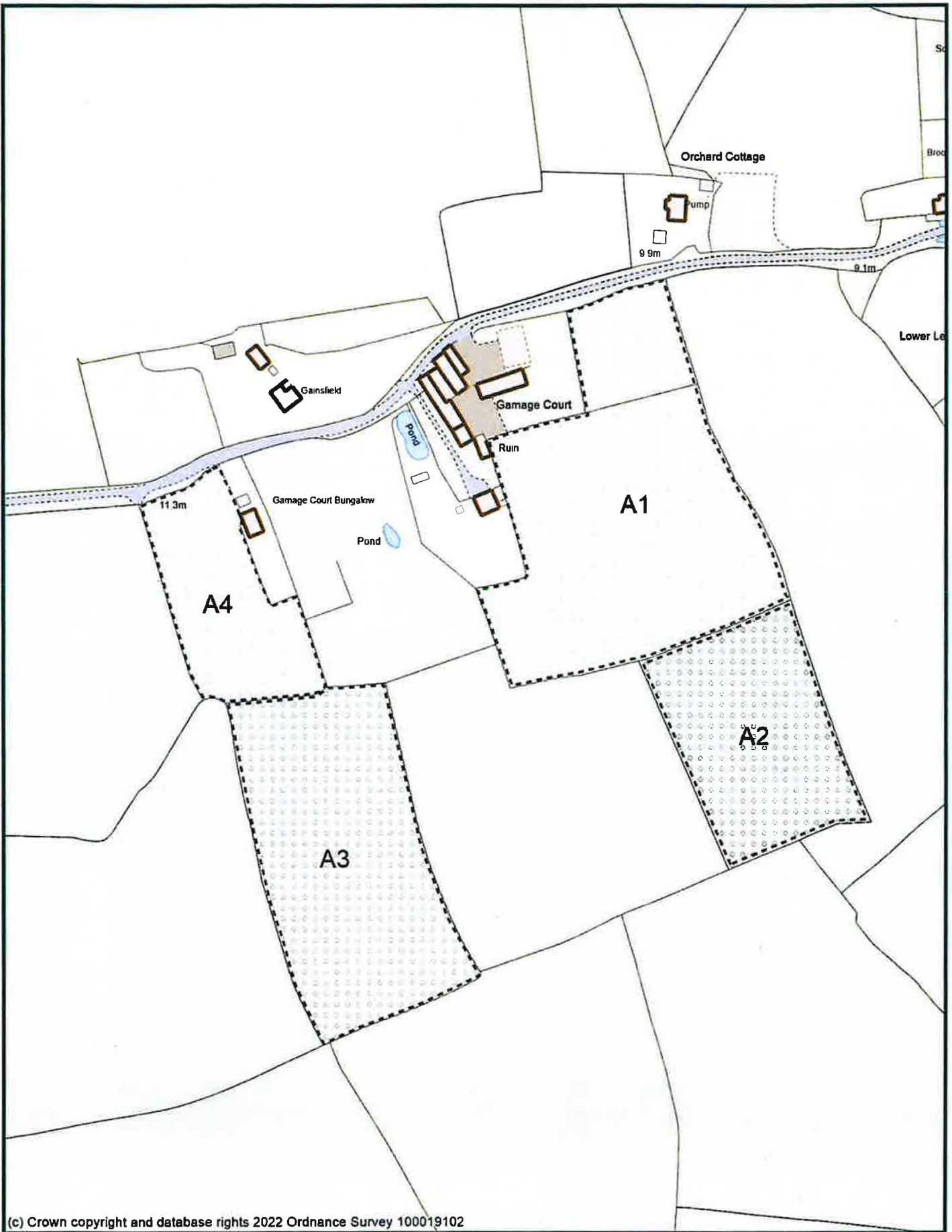
Reference on Map	Description	Situation
A1	Apple, Pear and Plum	SO 748159 (374897, 215979)
A2	Apple, Pear and Plum	SO 749158 (374738, 215860)
A3	Apple, Pear and Plum	SO 747157 (374738, 215794)
A4	Apple, Pear and Plum	SO 746159 (374680, 215930)

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

Reference on map	Description (including number of trees in the group)	Situation
-	-	-

Woodlands
(within a continuous black line on the map)

Reference on map	Description	Situation
-	-	-



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**Tree Preservation Order
DFTPO 263
Gamage Court, Lower Ley Lane, Minsterworth**

Scale: 1:2500

30 January 2023



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IMPORTANT – THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

The Town and Country Planning Act 1990

The Town and Country Planning (Tree Preservation) (England) Regulations 2012

DFTPO263 - Gamage Court, Lower Ley Lane, Minsterworth

Notice Under Regulation 5

This is a formal Notice to let you know that on the 30th January 2023 the Forest of Dean District Council (hereafter called 'the Council') made the above Tree Preservation Order.

A copy of the Order is enclosed. In simple terms, it prohibits anyone from carrying out activities such as the cutting down, topping or lopping any of the trees described in Schedule 1 and shown on the map without the Council's consent.

Reasons for Making the Order

The Council has made the Tree Preservation Order for the following reasons:

In the interest of public amenity

Objections

The Council will consider whether the Order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the Order.

If you have any objections or other representations which you wish to make with respect to any of the trees, groups of trees or woodlands specified in Schedule 1 of the accompanying Order, then such representations must be received by the Council no later than 28th February 2023 to the following address:

Forest of Dean District Council
Council Offices
High Street
Coleford
Gloucestershire
GL16 8HG.

Any objections or representations must comply with the requirements of Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which is set out overleaf.

The Council will write to you again further when the decision whether or not to confirm the Order has been made.

Signed.....

Development Manager

REGULATION 6 of the Town and Country Planning (Tree Preservation) Regulations 2012

OBJECTIONS AND REPRESENTATIONS

- (1) Subject to paragraph (2), objections and representations—
- (a) shall be made in writing and—
 - (i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or
 - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
 - (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and
 - (c) in the case of an objection, shall state the reasons for the objection.
- (2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

Report for a Tree Preservation Order

DFTPO263 Gamage Court, Lower Ley Lane, Minsterworth

Introduction

A provisional Tree Preservation Order is recommended for four traditional orchards situated at Gamage Court, Lower Ley Lane, Minsterworth (see Appendix A – B for TPO plan and photographs). The four orchards should be referred to as:

A1 – Apple, Pear and Plum

A2 – Apple, Pear and Plum

A3 – Apple, Pear and Plum

A4 – Apple, Pear and Plum

The orchards are located to the south of Lower Ley Lane; A1 and A2 are adjacent to Gamage Court, A3 and A4 are adjacent to the neighbouring Gamage Court Bungalow. A request has been received from a member of the public to consider placing a TPO on these orchards, due to their status as traditional orchards with associated historical, cultural and wildlife value, and as a result recent activity by the present landowners that they consider has the potential to threaten their long-term survival and integrity.

Desk Based Assessment

Three of the four orchards (A1, A3 and A4) as shown on the proposed TPO map (Appendix A), have been designated as Key Wildlife Sites by Gloucestershire Wildlife Trust, due to a wide variety of habitats being available for birds, invertebrates and mammals. The Noble Chafer Beetle, a UK Biodiversity Action Plan species of national importance, has previously been recorded as present in orchard A1. The trees in orchard A2, were planted in 2009, on the site of a former orchard. Traditional orchards are classed as a Priority Habitat under the UK Biodiversity Action Plan.

An Ordnance Survey map dated 1877 (see Appendix C), shows these areas as orchards, suggesting a continuity of at least 150 years.

Walmore Common is situated approximately 350 metres to the south which is designated as a RAMSAR site and a SSSI. This is accessible to the public. Another section of Walmore Common that is also designated as a SSSI is situated approximately 400 metres to the west.

There are no public footpaths in close proximity, but Lower Ley Lane adjoins the northern boundaries of the orchards.

Site Based Assessment

The orchards consist of a variety of locally distinctive fruit trees, many of which are mature, with the exception of those in orchard A2, which were planted approximately

13 years ago. The site is not publically accessible, however the orchards can be seen from public viewpoints along Lower Ley Lane (primarily orchards A1 and A4), and from the south on Walmore Common, where orchard A3 is the most visually prominent, due to the rest being obscured by the local landform. Orchard A2 is still relatively young so has the potential to make a visual contribution when mature. The orchards identified above are considered to be of visual and cultural importance, as collectively they form a defining feature of the landscape character of the area.

Consultation Responses

No consultations have been made concerning the making of the provisional TPO.

Discussion

Visibility: There are no public rights of way on the land in question, but the orchards can be seen from the north along Lower Ley Lane, and from south and south-west on Walmore Common, which is publically accessible land (see photographs in Appendix B). Despite the site not being accessible to the public, the orchards are an intrinsic part of the local landscape.

Individual Impact: The three mature orchards are significant in terms of their landscape, wildlife and historic value, with the fourth, more recent orchard having the potential to make a long-term contribution.

Wider Impact: These orchards are an important part of the local landscape character, dating back at least 145 years (see 1877 map in Appendix C). They are remnants of a wider local landscape feature that have been gradually lost through gradual clearance since the middle of the twentieth century.

Expediency: Recent activity by the present landowners in close proximity to these orchards, includes the cutting down of numerous field boundary hedges to the south and west, and the felling of approximately 2 acres of neglected orchard and scrub approximately 200 metres to the south. As a result of this recent activity, it is considered expedient to place a TPO on the remaining four orchards to ensure that the long-term continuity of these locally important landscape features is not lost.

There are exemptions within the Town and Country Planning (Tree Preservation) (England) Regulations 2012, for works to trees which are cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade and for pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit. However, these orchards have been managed on a non-commercial basis in recent decades, primarily to conserve them as a priority habitat, prior to a recent change in ownership. Non-commercial fruit trees have been included in TPO regulations since 1999, in recognition of their amenity value and longevity. The Local Planning Authority's consent will however be required for carrying out other prohibited activities to fruit trees protected by an order and not cultivated on a commercial basis. It is hoped that by placing a TPO on these orchards, this will ensure they continue to be managed as part of a non-commercial operation in the future, in order to preserve their status as a priority habitat.

Conclusion of Discussion:

Three of the four orchards (Orchards 1, 3 and 4; as numbered on the aerial image in Appendix B), are visible from public viewpoints. The other orchard (Orchard 2), is the youngest of the four, having been replanted in 2009, and while not visible from public viewpoints at present, has the potential to contribute to visual amenity in the future.

In addition to their visual amenity, all four orchards are remnants of a traditional landscape feature that are classed as a priority habitat. Traditional orchards were designated as a UK Priority Habitat in 2007 for their high biodiversity value, and this should also be considered as it strengthens the amenity value of the sites proposed for protection under a TPO. The presence of the Noble Chafer beetle, a UK Biodiversity Action Plan species of national importance, has been recorded at this site. Orchards 1, 3 and 4 have been designated as Key Wildlife Sites by the Gloucestershire Wildlife Trust. It is claimed that they all contain locally distinctive fruit varieties of apple, pear and plum.

All four orchards appear on an Ordnance Survey map dating from 1877 (see Appendix C), and as a result are considered to form an important part of the historic landscape associated with this area. It is considered that these orchards merit protection, both in terms of their amenity value, their long-term continuity as part of a locally distinctive landscape feature, and as an important wildlife habitat. The presence of locally distinctive fruit varieties, also adds to their value in a local and cultural context.

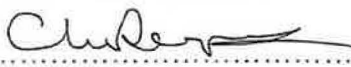
In light of recent activity in proximity to these orchards, it is considered that they currently possess insufficient protection to prevent inappropriate management, or even full removal. Therefore, it is considered that the serving of a Tree Preservation Order on these orchards would ensure a level of control over the long term management and preservation of these important landscape features.

Alternatives to placing a Tree Preservation Order

Do nothing.

Recommendation

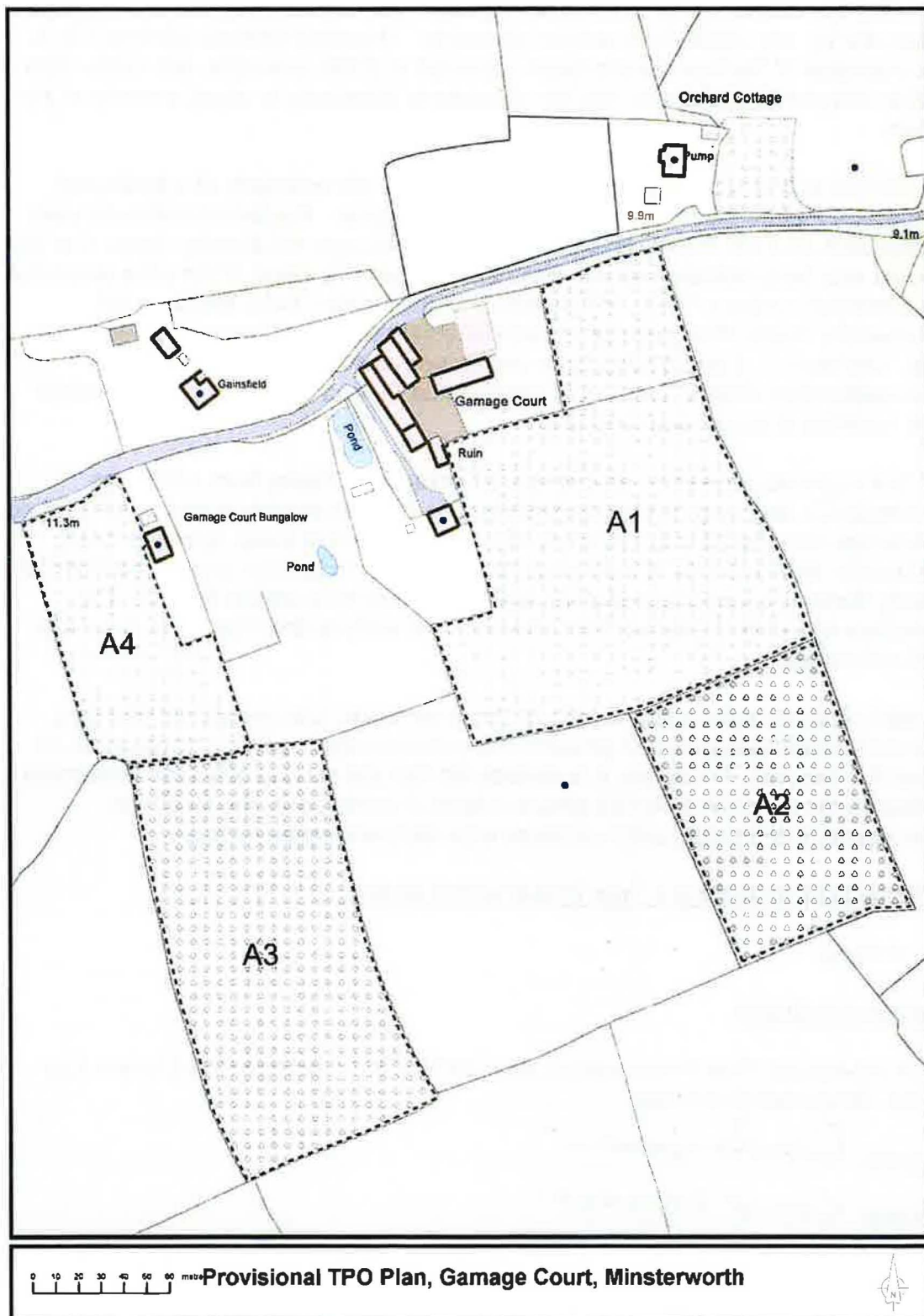
That provisional Tree Preservation Order DFTPO263 Gamage Court, Lower Ley Lane, Minsterworth is made.

Signed: 

Printed: CLIVE REYNOLD

Agree / ~~Disagree~~*: Date: 30th Jan 2023.

Appendix A – Provisional TPO Plan



Appendix B – Photographs



Aerial Image showing the four orchards south of Lower Ley Lane



Orchard A1 as seen from Lower Ley Lane

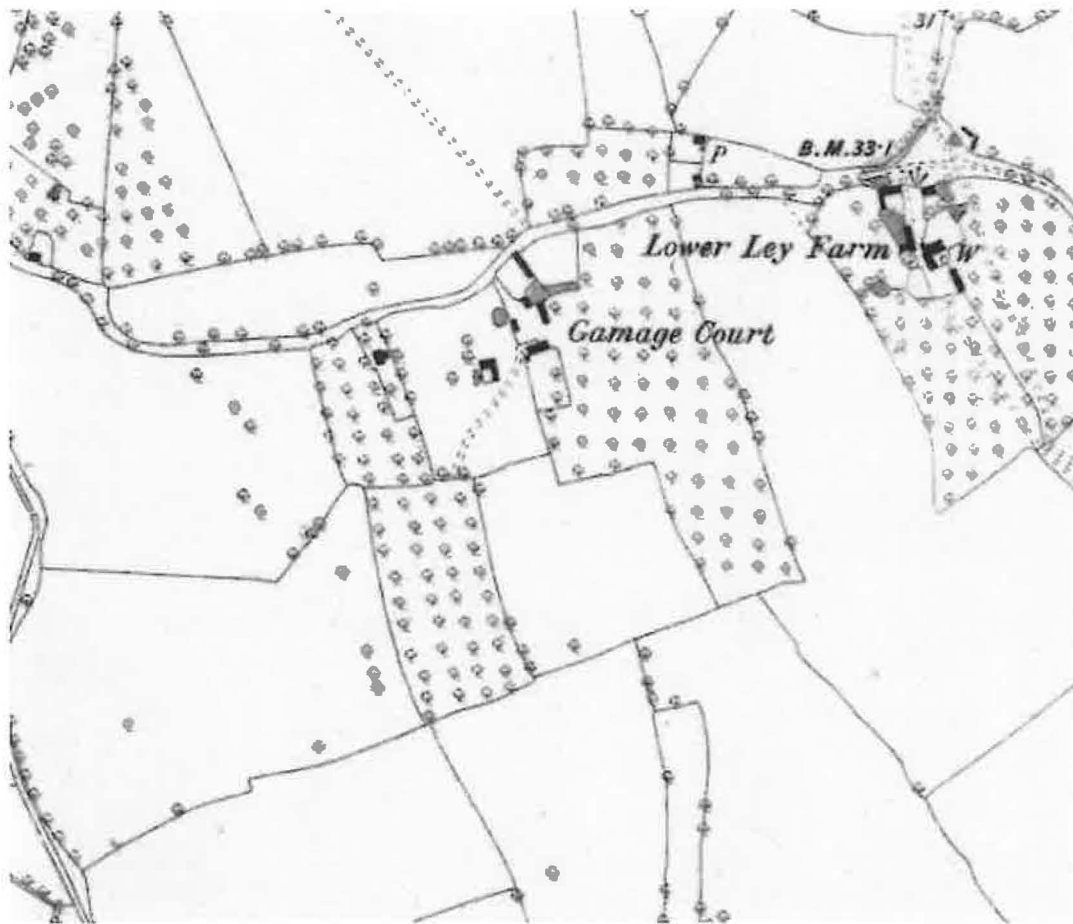


Orchard A4 as seen from Lower Ley Lane



Orchard A3 visible on the horizon looking north from Walmore Common

Appendix C – Historical Map



1877 Ordnance Survey Map showing the orchards surrounding Gamage Court as being the same as their present extent.