

TOWN AND COUNTRY PLANNING ACT 1990

The Tree Preservation Order DFTPO239 – Botloes Green

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 DFTPO239, Botloes Green

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 05 day of June 2018

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

Affixed in the presence of

P.M. Winward



2092

CONFIRMATION OF ORDER

This Order was confirmed by the FOREST OF DEAN DISTRICT COUNCIL without modification on the 20 day of November 2018

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

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	Black Poplar	Land East of Eastnor House

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	Situation
-	-	-

Woodlands
(within a continuous black line on the map)

Reference on map	Description	Situation
-	-	-



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**Tree Preservation Order
DFTPO239
Botloes Green**

Scale: 1:2000



Report for a Tree Preservation Order

DFTPO239 Botloes Green

Introduction

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

T1- Black Poplar

Planning application P0369/18/FUL is pending consideration for the erection of two detached dwellings with associated garages, parking and works at Eastnor House, Botloes Green, Newent. This application is likely to require construction works in proximity to the tree (See Appendix C for the current proposal plan).

A request for a Tree Preservation Order has been submitted to the Council.

Desk Based Assessment

The tree is located on a parcel of land adjacent to highways in Botloes Green. P0369/18/FUL includes a proposed access in close proximity and a new garage to the west. No tree survey has been submitted with the application at this time.

There is a public right of way (PROW) approximately 12m to the north of the tree.

The tree is on the ancient tree inventory, listed as a veteran Black Poplar.

Site Based Assessment

This is a significant veteran tree, in a prominent location within Botloes Green, as viewed from public highways and the start/end of a PROW.

There is an existing access in close proximity to the tree. It appears as though the proposed development seeks to alter and improve an access in this location.

The tree is situated on land adjacent to a public highway.

Consultation Responses

A TPO has been requested by a member of the public. The subject of the request is summarised below:

- We feel the Black Poplar tree in Botloes Green is under threat from the proposed development P0369/18/FUL
- In 1999 the residents of Botloes Green tried to get a TPO on the tree because of its historical significance and the significant amount of wildlife it houses, which include bats and owls
- Whilst it was agreed that the tree had huge 'historical, amenity and wildlife value', FODDC felt it would not be appropriate to place a TPO on the tree

because the land was owned and managed by Gloucestershire County Council. It is understood the County Council was advised to cordon off the base of the tree to protect its roots from damage, but this did not happen

- The plan for the proposed development for two four bed houses does not mention the Poplar and included the land that belongs to the County Council on which the tree sits
- The residents of Botloes Green are very concerned by this and would be grateful for advice on gaining a TPO and going forward, protecting local green spaces which also have historic significance for this tiny hamlet
- We have been advised in the past that heavy vehicles and increased traffic passing over the tree roots may damage roots by asphyxiation due to soil compaction. The plans for the housing look as though the driveway next to the tree which enters the site and is currently unmade up would likely be tarmacked over

Entries in the Gloucestershire Sites and Monument Records and previous representation from Friends of the Earth relating to a previous enforcement notice and impacts of a skip hire business on the tree and its protection was submitted with the request.

Support has also been expressed by other members of the public to the request and concerns raised regarding impacts on the tree through the planning application.

The land the tree is situated on is managed by Gloucestershire County Council (GCC). GCC Highways Department was consulted on the TPO request and the comments received from GCC Highways Department are summarised below:

- A male Black Poplar with the only native tree of this type being the sub species *Betulifolia* (*Populus nigra* *Betulifolia*) which due to concerted efforts is no longer endangered
- This specimen has previously had upper limbs lopped with rot in the cuts clearly visible. A fruiting body of the decay fungus *Ganoderma* sp of at least five years old was attached to the lower main stem
- Moribund containing internal decay which could be left for ecological benefit letting it gradually die
- The tree is not of high hazard but does require regular monitoring. As for potential excavation nearby, root damage would likely be caused, accepting that it is already dying not an issue
- Of the opinion that the tree is too far gone for inclusion in a TPO – a condition of any development could be to remove all branches leaving the main stem and planting a replacement tree on the same green

In response to a further email to clarify the position of GCC in the making of a TPO, it was clarified that there would be no objection to the making of a provisional order.

The Gloucestershire County Council Archaeologist was consulted in relation to the history of the tree and the relevant sites and monument records. No further information on the tree could be provided.

Discussion

Visibility: The tree is prominent from public highways and the end of a PROW.

Individual Impact: This is a veteran Black Poplar tree and is registered on the Ancient Tree Inventory. It has been previously pollarded which is a common characteristic of veteran trees. The veteran nature of this tree gives a special, gnarly and aged appearance, with a huge stem diameter. Situated adjacent to the highway running through Botloes Green, the tree is a dominant landscape feature. Features of the tree also provide wildlife habitats.

Whilst a Ganoderma fruiting body (estimated at least five years old) has been identified on the tree, and GCC has identified that the tree is in essence dying, fungal fruiting bodies and an ageing and decaying appearance are characteristics of veteran trees and part of their important contribution as landscape features and habitats. The tree has been identified as not being of a high hazard.

Wider Impact: As a veteran, the tree offers high landscape, cultural and ecological value. It has historic interest and is noted in a Gloucestershire Sites and Monuments Record.

Native Black Poplar trees are one of Britain's rarest native trees.

Visible infrastructure constraints: Overhead cables are present near to the tree and pass partially through the crown. Certain exemptions apply in the tree preservation regulations for works to protected trees by or at the request of statutory undertakers in relation to the interests of safe operation of the undertaking and in connection with the inspection, repair or renewal of apparatus, which includes overhead wires. Anything proposed to the tree when protected, over and above works carried out under an exemption must be the subject of an application for works to a protected tree.

The tree is in close proximity to two highways to the east and south, and a property access to the west. GCC Highways Department have been consulted on the proposal to make a provisional TPO on the tree and have not raised concerns regarding health and safety or obstructions in relation to highways after inspecting the tree. The crown of the tree overhangs an access to adjacent property, which is proposed to be improved and altered under planning application P0369/18/FUL. In the event of consent of this application, if any facilitation pruning is required, necessary permissions should be sought in the case that the tree is protected by a TPO.

Expediency: Application P0369/18/FUL for two new dwellings with associated garage, parking and works is pending consideration. The proposals involve works to an access in close proximity to the veteran Black Poplar tree and threaten adverse impacts on the tree's roots and rooting environment. Further damage may be caused by construction vehicles and other proposed development and construction works within the tree's root protection area and crown spread. No tree survey has been carried out on the tree in relation to the application at this time. The tree may also become under increased management pressure if the application is consented.

In 1999 a decision was made by the authority not to TPO the tree further to a request, due to it being situated on highway land. A current threat to the tree is however present and GCC have been consulted on the proposed TPO, resolving no objections.

A TPO is considered expedient. The TPO will help to highlight the importance of the tree and prevent harmful and other works which impact the tree without the consent of the authority.

Conclusion of Discussion: One individual Black Poplar tree is considered to be of significant public amenity value and merits protection.

Alternatives to placing a Tree Preservation Order

Do nothing. The Council's permission will not be required prior to works to or the removal of tree. A felling license would be required for the removal of over 5m³ of timber in any calendar quarter. The tree is situated on land managed by GCC.

Further details could be requested or conditioned in relation to application P0369/18/FUL if the authority is minded to consent the scheme, in order to try to reduce adverse impacts on the tree in the short term.

Recommendation

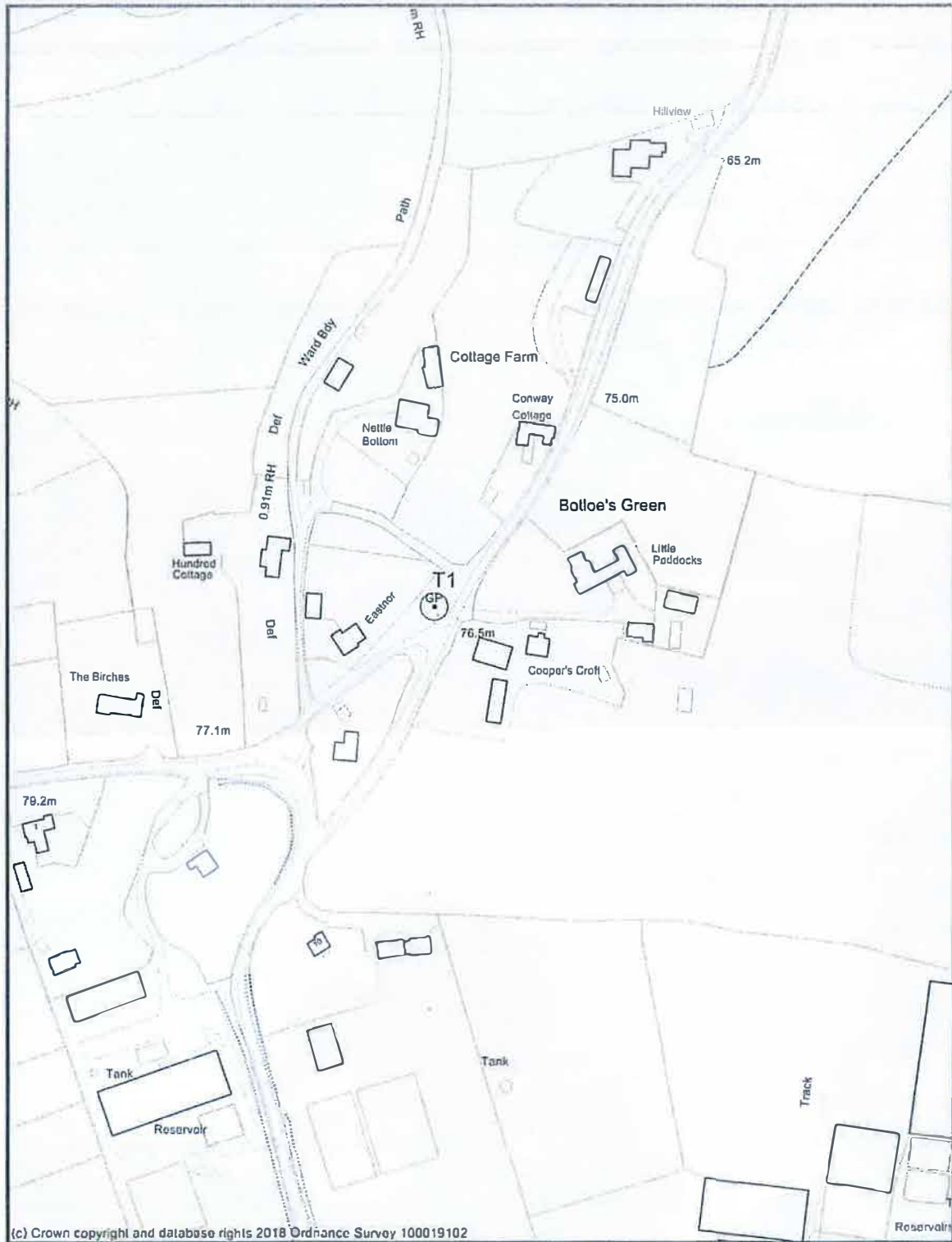
That provisional Tree Preservation Order DFTPO239 Botloes Green is made.

Signed: 

Printed: CLIVE REMOULS

Agreed / Disagree* Date: 25/5/15

Appendix A – TPO Plan



**Tree Preservation Order
DFTPO239
Botloe's Green**

Scale: 1:2000



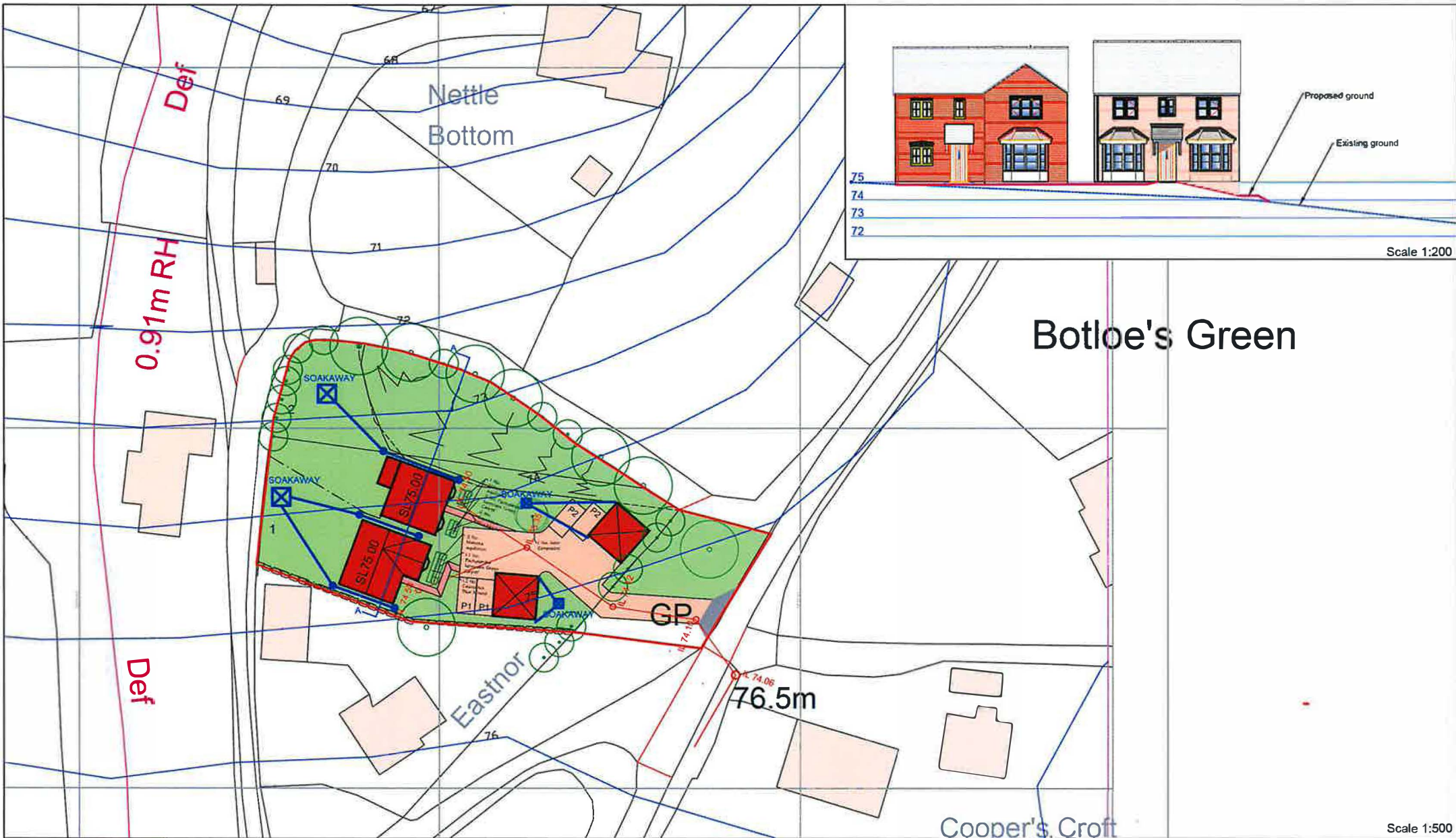
Appendix B – Photographs







Appendix C – P0369/18/FUL Planning Layout - Overleaf



Scale 1:200

Scale 1:500

A. Section A-A added to drawing to illustrate level change. bc. 22.03.18



BKD		Drawn	BC
Drawing Ref.		Rev.	A
PLANNING LAYOUT			
Date	Scale	Drawn	BC
DEC 17	1:500		
Job Ref / Dwg. No.		Rev.	A
017065-100-1			

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