

Item No 01

17/01568/TPO

**Arlington House
Arlington
Bibury
Cirencester
Gloucestershire
GL7 5NL**

T.1 - Sycamore tree - fell at Arlington House Arlington Bibury Cirencester Gloucestershire GL7 5NL

Works to trees with a TPO : 17/01568/TPO	
Applicant:	Mr Jason Holt
Agent:	
Case Officer:	Mark Berry
Ward Member(s):	Councillor Ray Theodoulou
Committee Date:	12th July 2017
RECOMMENDATION:	REFUSE

Main Issues:

- a) Visual impact of the felling of the protected tree on views from public places.

Reasons for Referral:

This application has been referred to the Planning and Licensing Committee for determination at the request of the Ward Member for further consideration on the grounds:

"The conflict of opinion between the CDC advisors and those of the applicant. As far as I know there is no local opposition to the application to fell. The expert advice on either side is largely technical and the Committee is asked to decide where the balance of reasonableness lies"

1. Site Description:

N/A

2. Relevant Planning History:

N/A

3. Planning Policies:

N/A

4. Observations of Consultees:

Building Control

The comments of CDC Building Control are incorporated into the Officer's assessment.

5. View of Town/Parish Council:

The Parish Council is reluctant to lose any significant trees in the village, but in this instance it believes the applicant's desire to fell this tree is a legitimate one

6. Other Representations:

Two representations from local residents, summarised as:

Agree in principal to tree preservation, but individual cases must be considered on their own merits from a risk point of view. This particular tree overhangs a very busy road which is the main thoroughfare through Bibury and a high number of pedestrian visitors also use the road.

There is a very high possibility that should the tree fall (and it has been confirmed that the tree is at imminent risk of collapse) it would fall over the road, with grave danger to the public and also to nearby properties. As well as these risks the removal of the tree and repairs will bring considerable inconvenience to villagers and visitors alike.

Wholeheartedly support this application. We live across the road from this tree and from our home site we run a holiday cottage business. The clear risk of the tree and/or the adjoining wall toppling without notice into and across the main road (B4425) is of grave concern. The risk to us and our home is too obvious to need stating. But there is a wider concern regarding the tourist industry, which is important to Bibury and which could be severely compromised in the event of the likely disaster. The tree is an eyesore as well as a risk to pedestrians and vehicles alike.

7. Applicant's Supporting Information:

Ref A Unwin Arboricultural report dated 14th July 2014
 Ref D DSA Engineer report dated 24th October 2014
 Ref G DSA Engineer report dated 27th October 2015
 Ref H Forbes-Laird report dated 26th August 2016
 Ref J DSA Engineer report dated 30th September 2016
 Ref K DSA Engineer report dated 6th April 2017

8. Officer's Assessment:

Tree Preservation Order 14/00012/IND affects the tree. The Order was made on 14th July 2014 and confirmed on 20th November 2014 after having been considered by the Council's Appeals Committee on 11th November 2014. The Order was made in response to Notice 14/02566/TCONR made under section 211 of the Town and Country Planning Act to "pollard or cut the tree back". No objection was raised on 29th September 2016 to application 16/04036/DD to reduce the tree by one third, and this work was subsequently carried out.

The tree is a mature, healthy sycamore. It is located within Bibury Conservation Area and is in a prominent location adjacent to the highway. It is considered to have significant public visual amenity value, giving maturity and character to the street scene

The tree grows in the garden of Arlington House, close to a stone wall adjacent to the highway. The wall is on the boundary of the property and is owned by the applicant. There is a narrow strip of highway bank, approximately 1.5m in width, between the base of the wall and the highway.

The crown of the tree was recently reduced in height and spread under application reference 16/04036/DD. The crown reduction works were considered reasonable given the age and condition of the tree, the proximity of the house, road, wall and garden. The tree can be expected to grow new leafy shoots and branches quickly from the reduction and there are already new shoots formed in the crown. There is no evidence to suggest that the tree is diseased or decayed and any squirrel damaged branches were removed when the crown was reduced in height.

The current application is to fell the tree.

The applicant has submitted three reports from a structural Engineer, two of which predate the crown reduction of the tree.

The first report, dated 24th October 2014, recommends removal of the tree to allow periodic rebuilding of the wall in a traditional manner and to avoid the possibility of a sudden collapse. The report indicates there is evidence that the wall has been repaired or rebuilt in the past near to the tree and at other points. The report indicates a typical life expectancy for a drystone wall of 40 years.

The second report, dated 27th October 2015, provides calculations based on the size of the tree and rooting conditions in order to assess the stability of the tree. The report recommends removal of the tree because of insufficient anchorage to prevent toppling.

The third report, dated 6th April 2017, identifies bulging in the wall in the vicinity of the tree that was not apparent in earlier inspections and considers the probability of failure of the wall to be high. The report recommends removal of the tree to reduce pressure on the wall and to allow the wall to be rebuilt.

The applicant has submitted two reports from different Tree Consultants. The reports predate the crown reduction works. The first report, dated 14th July 2014, recommended light crown reduction works, less than the work that was subsequently carried out. The second report, dated 26th August 2016, detected movement in the wall and ground close to the tree by means of an App on a mobile phone and considered that to be abnormal. The second report recommended an approximate minimum crown reduction by one third to stabilise the tree but stated that the only practical solution to the problems of windthrow and wall collapse risk is removal of the tree.

The Officer's appraisal of the Engineer's reports and tree consultants' reports are as follows:

The Engineer's calculations on tree stability assume a very limited rooting volume of soil for the tree (only a quarter quadrant of 6m radius and 1m depth) and this is not considered to be an accurate representation of the actual likely root spread of the tree which will significantly exceed this.

The height of the ground level within the garden is lower than the height of the wall. Part of the wall is therefore freestanding above the level of the ground at the base of the tree. This has not been assessed or referred to in any of the submitted reports. The risk posed by the wall could be reduced if the wall were to be reduced in height.

No evidence has been presented to show that the wall is a functional retaining structure rather than a boundary feature. The wall is of less construction depth adjacent to the tree compared to further to the west, suggesting previous repairs have been carried out in order to retain the tree and allow for growth. It may be possible to rebuild the wall again in this manner and achieve a typical life expectancy for a drystone wall or to have an alternative design to reinforce the wall, or rebuild it in such a way as to retain the tree and allow for further growth of the tree. No details or estimated costs of possible alternative ways of keeping the tree and the wall have been submitted.

The wall was inspected by a Senior CDC Building Control Surveyor on 26th April 2017 and again on 14th June 2017 accompanied by another Building Control Surveyor. The Officers did not consider the wall to be in such a condition that would require a formal Dangerous Structure Notice to be served to the land owner under Section 77 of the Building Act 1984 or that it was appropriate to take emergency action to take down the wall under Section 78 of the Act. The dry stone wall does require maintenance, with a likely outcome that sections of the boundary wall will require to be taken down and reconstructed.

The tree has grown in this position for many years and its roots can be expected to have developed to withstand the forces exerted on it. The recent reduction in the height of the tree will have reduced its windsail significantly. The evidence of movement in the ground detected by the App on the mobile phone device is not considered to be conclusive. Officers are not aware of any published evidence in scientific literature to indicate that this is an appropriate or effective method

of determining tree stability. Officers have visited the site on at least three occasions and have not seen indication of cracking or heaving in the ground near to the base of the tree that would be typically indicative of instability of the roots. There is no evidence that the wall is having any significant stabilising effect on the tree.

The loss of the tree would harm the character and appearance of the location. A replacement tree would take many years to achieve the same visual amenity provided by the existing tree. Should Members decide to grant permission, the planting of a suitable replacement tree could be secured by condition.

9. Other Issues:

The wall is curtilage listed and as such Listed Building Consent would be needed for changes in the structure. This does not mean that consent for appropriate justified works would not be granted. No permission is required for temporarily reducing the height of the wall or for repairing it.

The Council may in some circumstances be liable to pay compensation for loss or damage that has been caused or incurred in consequence of the refusal of any consent. No compensation is payable for:

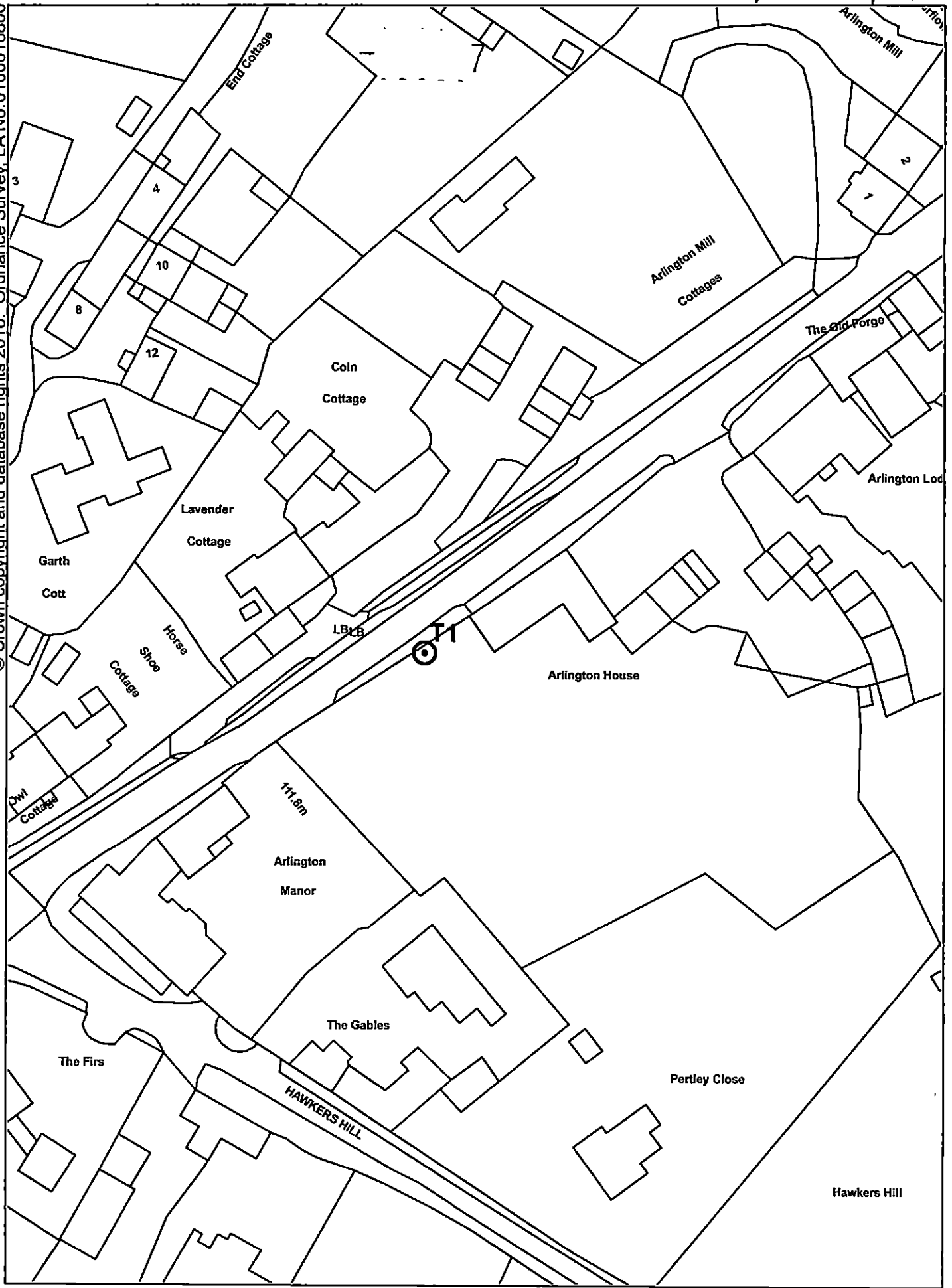
- (a) loss of development value or other diminution in the value of the land;
- (b) loss or damage that, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) loss or damage reasonably foreseeable by that person and attributable to that person's failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
- (d) costs incurred in appealing to the Secretary of State against the refusal of any consent required under these Regulations or the grant of any such consent subject to conditions.

10. Conclusion:

The application is recommended for refusal

11. Reason for Refusal:

The sycamore tree is a mature and healthy tree that is prominent in the street scene and its removal would harm the character and appearance of the local landscape. The applicant has not provided appropriate evidence to justify the removal of the tree. The tree appears to be structurally stable and has stood for many years in this location and has recently been heavily reduced in height and spread. Insufficient evidence has been presented to show that the removal of the tree is necessary to prevent the wall collapsing and to allow it to be rebuilt



COTSWOLD
DISTRICT COUNCIL

Arlington House Arlington Bibury

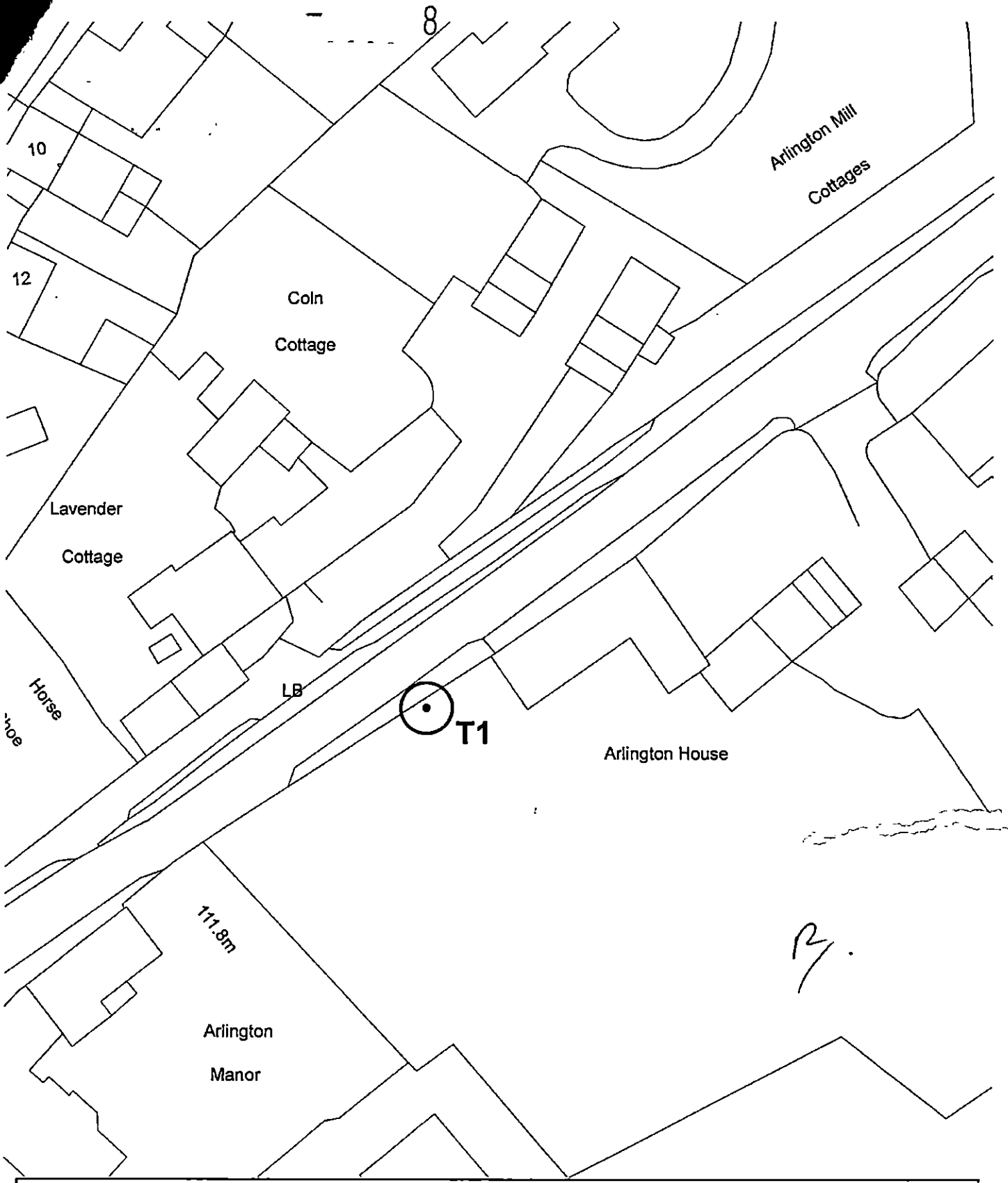
Organisation: Cotswold District Council

Department:

Date: 29/06/2017

Scale: 1:750





COTSWOLD DISTRICT COUNCIL

Tree Preservation Order on land at Arlington House,
Bibury, Gloucestershire.

Scale: 1:500

Plan No: TPO 14/00012

Date: 25 June 2014

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