

# Crawley Borough Council

## Report to Planning Committee

27 August 2024

### Crawley Borough Council Tree Preservation Order – Trees to Front of 47 Blackwater Lane - 04/2024

Report of the Head of Economy and Planning – *PES/476*

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#### 1. Purpose

- 1.1 This report presents the “Trees To Front of 47 Blackwater Lane - 04/2024” Tree Preservation Order (TPO). The Committee is requested to consider the objection and determine whether to confirm the Tree Preservation Order with or without modification for continued protection, or not to confirm the Tree Preservation Order.

#### 2. Recommendation

- 2.1 It is recommended that the Committee **CONFIRMS** the “Trees to the Front of 47 Blackwater Lane - 04/2024” Tree Preservation Order without modification.

#### 3. Reasons for the Recommendation

- 3.1 The trees are considered to have good landscape amenity value in the surrounding area. The trees are prominent in the locality and have significant amenity value. The trees provide an important visual screen between (future) properties. The trees are clearly visible from the public highway.

#### 4. Background

- 4.1 The trees the subject of this TPO comprise a group of 3 English oak trees located to the front of 47 Blackwater Lane, on the left hand side of the driveway. The trees, along with the other mature trees along Blackwater Lane, provide a pleasant sylvan character to the road giving one the impression of a quiet semi-rural area despite being located in the centre of a large town. This unique townscape character is recognised with this section of Blackwater Lane being designated as an Area of Special Local Character. The trees along Blackwater Lane are typically mature and visually prominent and combined with the hedges and landscaping provide a natural structural element complements the more recent urban form in the area.
- 4.2 A TPO status enquiry was received in relation to these trees on 13 March 2024, the enquirer stated that they wished to fell the trees. A desktop review determined that the trees were of notable significance to the amenity and character of the area and a site visit was undertaken a few days later. This confirmed that the trees do make a contribution to the local area in terms of their cohesive strength with the other trees already protected along the length of Blackwater Lane.
- 4.3 The provisional Tree Preservation Order was made on 5 April 2024 and remains provisionally in force for a period of six months until 5 October 2024. If the order is confirmed, the protection becomes permanent, if the order is not confirmed it ceases to have effect.

## 5. Notification/Consultation/Representation

5.1 A Council must, as soon as practicable after making a TPO and before it is confirmed, serve a copy of the order and a prescribed notice on persons interested in the land affected by the TPO. The Council therefore served a copy of the provisional TPO and notice on all the owners/occupiers of the land and other interested parties as set out below.

### Owners and occupiers of the land:

- The Owner/Occupier, 36 Dorset Lake Avenue, Poole, BH14 8JD
- The Owner/Occupier, 47 Blackwater Lane, Pound Hill, Crawley, West Sussex, RH107RN
- The Owner/Occupier, Annexe At 47 Blackwater Lane, Pound Hill, Crawley, West Sussex, RH107RL

### Owners and occupiers of adjoining land affected by the TPO:

- West Sussex County Council, County Hall, West Street, Chichester, PO19 1RG
- The Owner/Occupier, 39 Blackwater Lane, Pound Hill, Crawley, RH107RN
- The Owner/Occupier, 40 Blackwater Lane, Pound Hill, Crawley, RH107RN
- The Owner/Occupier, 40a Blackwater Lane, Pound Hill, Crawley, RH107RN
- The Owner/Occupier, 49 Blackwater Lane, Pound Hill, Crawley, RH107RN

5.2 The Council is required to consider any objections or representations made within 28 days of the date of the order. The notification period for objections ended on 10 May 2024. Confirmation of the order is required within six months of the date upon which the order was provisionally made.

5.3 One representation has been received from the resident of 49 Blackwater Lane. A copy of the letter is provided with this report at **Appendix A**.

5.4 A summary of the comments made are set out below.

### Planning

- The trees at 47 Blackwater Lane have been in situ for many years without a TPO and not be cut down or harmed. The planners only became aware of their existence because of a recent planning application at No.47.
- The property at No.47 is a care facility. It has a need for additional parking facilities. The area identified by the TPO would be ideal. The trees would need to go but it could be designed to allow for new replacement trees to be planted. Area is already the designated fire assembly area for the occupants.

### Amenity

- The TPO serves no purpose. The trees all along Blackwater Lane are old, diseased and drop dead branches onto the highway all the time. Why not work with the community to clear out the disease and dead and provide for the introduction of new trees which will help maintain Blackwater Lane's appeal?

### Impact On Property

- The trees in the provisional TPO at No.47, coupled with the trees in the TPO at No.49 Blackwater Lane are close to the edge of the shared driveway and the roots on each side are lifting and damaging the driveway.

### Other

- TPO is a bureaucratic doctrine which is outdated and not applied consistently across all developments.

## **6. Amenity Value/Assessment**

- 6.1 The TPO was served in response to a TPO status enquiry in which the enquirer, the owner of the property, stated that they wish to fell the trees in order to increase car parking. Following this the trees were found not to be protected. A desktop review followed by a site visit found the trees to be of significant visual amenity and a TPO was served to protect them from being felled.
- 6.2 During the visual assessment the trees were considered to be in good general condition with no obvious signs of disease or major structural defects. Trees commonly drop twigs and small branches, this is a normal part of the tree's life cycle and to be expected, major deadwood or dangerous/dysfunctional branches are the responsibility of the tree owner, any works to protected trees that are required for safety can be undertaken following the granting of planning consent or following acceptance of a '5 day notice' under Section 14 (1) (c) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 for emergency works.
- 6.3 The imposition of a TPO does not preclude work from being undertaken provided an application for works is submitted with adequate justification and evidence to support the level of works being applied for. Any works to extend the parking area or fire assembly point should consider the retention of the trees where possible and their further health and wellbeing considered as part of any revised layout/design.
- 6.4 With regard to the alleged damage to the driveway, should an application be received by the Council for remedial works to the trees to allow effective repairs to the driveway, the details would be considered and a decision made as to an appropriate level of works, this can be discussed with the Planning Tree Officer as part of the application process.
- 6.5 The right to serve Tree Preservation Orders to give legal protection to trees is contained within the Town and Country Planning Act and follows a prescribed process which could seem to be bureaucratic. However, this is the only mechanism to safeguard these trees and in doing so the Council is exercising its powers to legally protect visually important trees.

## **7. Implications**

### *Human Rights Act 1998*

- 7.1 The referral of this matter to the Planning Committee is in accordance with Article 6 of the Human Rights Act 1998, the right to a fair hearing, which is an absolute right. Those persons who made representations in objection to the TPO are entitled to attend the Planning Committee meeting and to make any further verbal representations at the meeting. The Planning Committee must give full consideration to any such representations.
- 7.2 Article 8 and Article 1 of the First Protocol – the right to respect for private/family life and the protection of property – also needs to be considered. These are qualified rights and can only be interfered with in accordance with the law and if necessary to control the use of property in accordance with the law and if necessary to control the use of property in accordance with the general interest. The recommended continued protection of these trees by confirming the TPO is considered to be in the general interest of the community and is considered to be both proportionate and justified.

### *Planning legislation*

- 7.3 The law relevant to the protection of trees is set out in Part VIII of the Town and Country Planning Act 1990 as amended and the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

## **8. Background Papers**

- 8.1 The Crawley Borough Council Tree Preservation Order Trees To Front of 47 Blackwater Lane - 04/2024 Urban Design Supplementary Planning Document 2016 (pages 50 and 51)

Contact Officer: Russell Spurrell  
Direct Line: 01293 438033  
Email: [russell.spurrell@crawley.gov.uk](mailto:russell.spurrell@crawley.gov.uk)

**SCHEDULE**  
**SPECIFICATION OF TREES**

**Trees Specified Individually**  
**(encircled in black on the map)**

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
NONE		

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

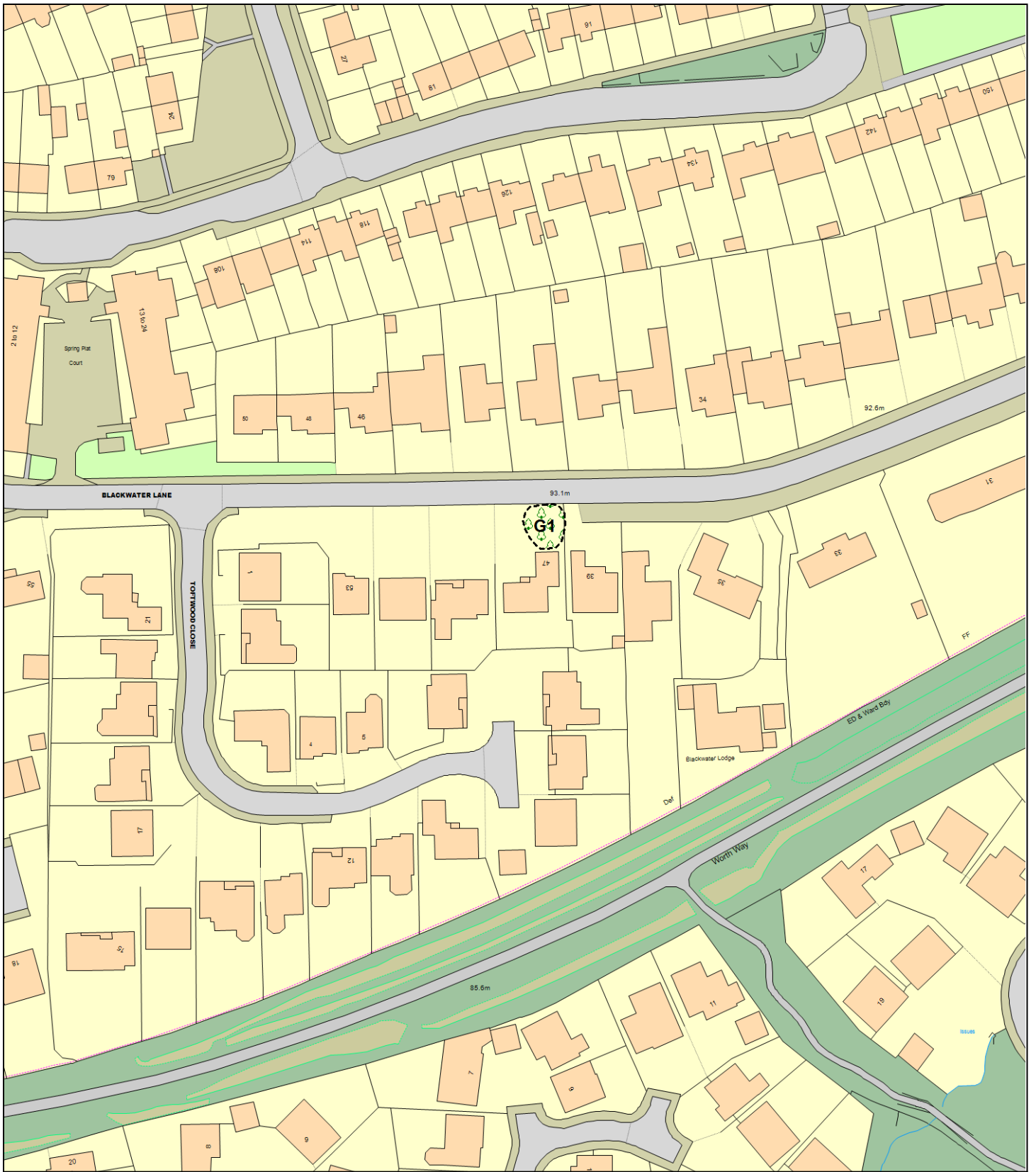
<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
G1	English Oak (3)	Grid Ref: TQ-29550-36496

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

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
NONE		

**Reference to an Area**  
**(within a dotted black line on the map)**

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
NONE		



**Tree Preservation Order No 04/2024  
Trees To Front Of 47 Blackwater Lane**

**Clem Smith  
Head of Economy and Planning Services**



*The scale shown is approximate and should not be used for accurate measurement.*

Scale 1:1250

Date 05/08/2024

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