Planning Committee: 21 June 2016 **Item Number:** 10

Application No: W 16 / 0646

Registration Date: 08/04/16
Town/Parish Council: Kenilworth **Expiry Date:** 03/06/16
Case Officer: Emma Spandley
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Land adjacent to 10 Southfield Drive, Kenilworth, CV8 2FR
Erection of a detached dwelling on land adjacent to 10 Southfield Drive (resubmission of applications refs: W/15/0044 & W/16/0023) FOR Mr & Mrs Gudgeon

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This application is being presented to Planning Committee due to an objection from the Town Council having been received.

RECOMMENDATION

Planning Committee are recommended to grant planning permission, subject to conditions.

DETAILS OF THE DEVELOPMENT

The application proposes to erect a two storey detached house within the rear garden of No.10 Southfield Drive. The house will be accessed from Southfield Drive via the existing access to No.10 Southfield Drive. The driveway will then follow around the side boundary of the front garden of No.8 Southfield Drive.

The property will be a two storey detached 'L' shaped dwelling with a one and half storey element containing a garage adjacent to the shared boundary with No.8 Southfield Drive.

THE SITE AND ITS LOCATION

The application site is within the rear garden of No.10 Southfield Drive, which is located at the head of the cul de sac, which serves modern dwellings. Directly to the north of No.10 was a very large plot for No.7, which has subsequently been sub-divided to accommodate No.9, which occupies a backland position and is accessed via an access drive running along the common boundary with No.10. No.10 sits on relatively level ground, however, at the narrower south-eastern end the land slopes towards the common boundaries with the rear gardens of the dwellings located within Windmill Close, which is approximately 10 metres below ground level at the head of Southfield Drive.

At the top of the steep slope within the application site are a protected Oak tree and a protected Beech tree. The Tree Preservation Order extends to the southwest to encompass the many other large trees along the steep bank within the proposed rear garden of the application property.

PLANNING HISTORY

W/88/0150 - Erection of a detached bungalow and double garage - refused. Subsequently dismissed on appeal 31.1.89.

W/15/0044 - Erection of a detached dwelling on land adjacent to 10 Southfield Drive - refused. Subsequently dismissed on appeal.

W/16/0023 - Erection of a detached dwelling on land adjacent to 10 Southfield Drive - refused.

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)

The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029 Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR1 - Access and Choice (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- NE4 - Landscape (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR2 - Traffic Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Distance Separation (Supplementary Planning Guidance)

- The 45 Degree Guideline (Supplementary Planning Guidance)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council: Object. The Town Council consider that they could see no reason to change their previous objection, which was -

They considered it to be a back garden development which does not harmonise with the established character of the locality nor respect the surrounding buildings. Members felt the house was very poorly positioned on the plot, being extremely close to both neighbouring properties and providing limited car parking. They considered this to be a contrived solution to issues created by the proximity of protected trees. Members also noted historical storm drainage issues in this area.

WCC Ecology: No objection

WCC Highways: No objection

WCC Landscape: Comment that Southfield Drive consists of detached houses in a spacious, landscaped layout. The proposed dwelling is not in keeping with this character, being at most, only 1m from both adjacent dwellings between it sits.

Public Response: 3 objections have been received, on the following grounds: Impact on highway safety and parking, principle of development, the impact on the character of the area, design and overlooking and loss of privacy. 2 letters of support have also been received raising the need for additional houses and the development having no impact on the neighbour directly behind the development.

ASSESSMENT

The main issues relevant to the consideration of this application are as follows:

- The principle of a new dwelling in this location;
- The impact on the character and appearance of the area;
- The impact on the living conditions of the occupiers of neighbouring properties and whether the proposed development will provide adequate living conditions for future occupiers;
- The impact on protected trees;
- Parking and highway safety;
- Energy efficiency/ CO^2;
- Ecology

Principle

Policy UAP1 of the Warwick District Local Plan 1996-2011 (WDLP) states residential development will be permitted on previously developed land within

the confines of the urban areas subject to other policies. The definition for previously developed land in the policy excludes garden land.

Therefore the proposal would be contrary to Policy UAP1. However, the National Planning Policy Framework (NPPF) 2012 states at para. 49 that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites against their housing requirement.

Whilst significant steps have been made towards meeting a five year housing land supply an analysis of all current information indicates that the District Council are not able to demonstrate a five year supply of deliverable housing sites. As from 31/03/16 the number of years supply has been calculated at 4.69 years.

Accordingly Policy UAP1 is to be considered out-of-date and in these circumstances the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development (para 14). That means granting planning permission unless either:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- specific policies in the NPPF indicate development should be restricted.

The scheme will contribute towards helping the Council meet its five year requirement and granting planning permission for this site would increase the supply housing. This carries some weight in the assessment of this application.

Therefore, it needs to be considered whether, in the absence of a five year supply of housing, any adverse impacts of the proposed development, having particular regard to the effect upon the character and appearance of the area and the impact on the protected trees would significantly and demonstrably outweigh the benefits of the scheme.

The Draft New Local Plan 2011-2029 (DNLP) was submitted to the Planning Inspectorate on 30th January 2015. Policy H1 of the DNLP states that new housing will be directed to the urban areas, as these are the most sustainable locations. Kenilworth is cited as being an urban area. Section 2 of Policy H1 goes further and states that housing development on garden land, in urban and rural areas, will not be permitted unless the development reinforces, or harmonises with, the established character of the street and/or locality and respects surrounding buildings in terms of scale, height, form and massing. This Policy has received a number of objections and support, however, the comments received are centred around the allocation of sites, growth villages, the amount of housing etc not about the general thrust of the policy, therefore Policy H1 can be afforded some weight.

Therefore, the principle of the dwelling within the rear garden of No.10 is acceptable in principle as long as it reinforces and harmonises with the established character of Southfield Drive.

Impact on the character and appearance of the area

As mentioned above the application site is located within the rear garden of No.10 Southfield Drive, which has an irregular shaped plot and extends southwards towards the properties within Windmill Close, which are sited at a lower level. The proposed dwelling will be set on a similar alignment with No.8; with No.10 being 90 degrees facing west. It is therefore considered that the siting of the dwelling is technically not backland development like No.7 as it has a frontage onto the road. The sub division of No.10 will result in No.10 having a smaller garden, however, this would not be explicit within the street scene.

The house, as amended, will assimilate within the street scene. The existing properties have been altered and extended over the years by the occupiers and therefore there is not a strong uniform character within the streetscene.

Taking the above into account, it is considered that the proposal will integrate and harmonise with the established character of the street and respect the surrounding buildings in terms of scale, height, form and massing and therefore the proposed dwelling is considered to be in accordance with Policy DP1 of the WDLP and Policies BE1 & H1 of the DNLP.

The impact on neighbouring's living conditions and whether the proposed development will provide adequate living conditions for future occupiers

One of the reasons for refusal for the previous application ref: W/16/0023 centred around the impact of the new house on the living conditions of the occupiers of the existing property at No.10 Southfield Drive. The existing dwelling has a bay window to the ground floor, the 45 degree line from which is breached by the proposed dwelling. However, the breach takes place at a point over 10 metres away which is considered to make the harm in terms of loss of light and outlook negligible.

Along the shared boundary with No.8 is a single storey garage and some dense shrub and tree planting. Due to the siting of the proposed house, the private amenity space adjacent to the rear elevation of No.8 will not be overlooked. Notwithstanding the above, No.6 is on the same alignment as No.8 which benefits from rear windows which look out into the rear garden of No.8.

It is therefore considered that due to the existing vegetation and the siting of the proposed house, it will not cause demonstrable harm to the occupiers of No.8 through loss of privacy or overlooking. Furthermore, the proposed house, as amended, will not breach any 45 degree sightlines.

The objections received in relation to the removal of the hedge are concerned with increased overlooking to the neighbouring properties to the east, located within Convent Close. Whilst these are noted, the hedge is not protected and can therefore be removed at any time, without the requirement for planning permission. Notwithstanding the above, No. 22 Convent Close is located 22 metres from the shared side / rear boundary with the application site. The proposed house is set 11 metres from this same boundary into the plot and therefore there is a 33 metre separation distance between the side habitable room windows of the proposed house and the rear habitable room windows of

No.22 Convent Close well in excess of the Distance Separation SPG which requires a minimum of 22 metres between habitable room windows. Therefore the proposed house will not cause material harm to the living conditions of No.22 Convent Close and complies with the aforementioned policies.

No.23 Convent Close is located directly behind the existing property, No.10 Southfield Drive and is set off the shared rear boundary by 17 metres. No.23 Convent Close are therefore already overlooked into their rear garden by the existing property at No.10 Southfield Drive. The proposed house is set 30 degrees to the south east of the house approximately 40 metres away. Based on the separation distances mentioned above and the siting of the proposed house, it will not have a material impact on the occupiers of No.23 Convent Close by increased overlooking and loss of privacy.

No.21 Convent Close is located 15 metres southeast along the garden of No.10 Southfield Drive and therefore directly looks onto the garden area of the proposed house. The proposed house does not have direct views to No.21 Convent Close. It is therefore considered that the proposed house will not cause material harm to the outlook and privacy of No.21 Convent Close.

Turning to the living conditions of the future occupiers of the proposed dwelling, the proposed dwelling will be sited to the north of a TPO Oak tree and will be set 15.6 metres from the centre of the trunk, whereas the previous application proposal positioned the house just 10 metres away from the Oak tree.

The Inspector who considered the previous appeal stated that the Beech and Oak trees' canopies would be extremely close to and tower above the living room and master bedroom on the ground and first floors. Furthermore, he dismissed the appeal on the impact of the trees on grounds of lack of sunlight and daylight to two main rooms and the decking to the outside. Shadow maps were provided with the previous application which demonstrated that during mid-summer the Oak tree would cast a strong shadow across the south east side of the house, the decking and much of the garden at 09.00 and midday but would move off the house by 15:00. The Inspector concluded that the shadow maps indicated that the Oak would significntly limit the amount of useable amenity space for the proposed house. The only part of the garden that would have been free from shading during the summer was to the north east of the proposed house, which was irregular in shape, not well related to the dwelling's main living space and much smaller than the total area of garden and in comparison to most other houses in the area.

The current proposal has moved the house further back from the Oak tree by 5 metres, thereby increasing the useable amenity space for the dwelling. The footprint of the proposed house has also been reduced slightly and the depth of the existing hedge along the shared boundary with the properties within Convent Close has also been reduced to increase the useable garden space to 50m². This area is not under the canopies of the TPO trees on site, not in shade and the layout of the house provides a better relationship with the garden area.

On balance, it is considered, these measures overcome the previous reason for refusal relating to amenity space and living conditions and the current proposal complies with Policy DP2 of the WDLP and Policy BE3 of the DNLP.

The impact on trees

The Inspector in dismissing the previous appeal stated that the large line of mature trees which runs roughly west to north-east through the rear gardens of the houses in Southfield Drive, which terminates in the TPO Beech and Oak tree at the application address were a significant and attractive landscape feature, prominent in views from numerous properties and several public places and makes a strong positive contribution to the character and appearance of the area.

The Inspector in dismissing the previous appeal considered that the development would affect the protected trees and the adverse impact on the living conditions of the future occupiers of the proposed dwelling would result in increased pressure for the removal of the protected trees.

Relevant to this, the main amendments to the current application are that the proposed house will be located outside the root protection zone entirely as the house has been moved a further 5 metres away from the TPO Oak tree. Therefore the Oak tree will be located approximately 16 metres away (to the centre of the trunk). The position of the house is 6 metres out of the root protection zone. While the tree will still result in considerable overshadowing to the southern part of the garden which slopes down, has dense shrub undergrowth planting and a number of trees, there will still be adequate useable amenity space away from the tree which will provide adequate living conditions for future occupiers.

On balance, it is considered that the application is in accordance with Policy DP3 of the WDLP which states that development will only be permitted which protects important natural features and positively contributes to the character and quality of its natural environment.

Parking and highway safety

The objections received from No.8 are noted, however, the Highway Authority, in their response to the previous application stated that the proposals are unlikely to significantly increase vehicular movements at the access. The Highway Authority acknowledged that due to the design and layout of the road vehicular speeds are likely to be very low and visibility good as the proposed site is located in a no through road. The Highway Authority therefore do not object to the proposed application.

Energy efficiency/ CO^2

The Design and Access Statement states that the new house will be built as a sustainable modern house. However, no SAP calculations have been submitted which demonstrate how the proposed house complies with Policy DP13 in respect of reducing carbon footprint or providing 10% renewables. However, this can be secured by condition.

Ecology

County Ecology have raised no objection subject to protected species notes.

Other matters

The comments received in respect of the sewer and the removal of the hedge are noted, however, these are not material planning considerations and cannot be taken into account as part of this application.

Summary/Conclusion

The principle, design, siting and impact on neighbouring properties of the proposed house are considered acceptable.

The reduction in the floor area of the property, along with its resiting and redesign has increased the useable amenity space to the north east and it is considered that the previous reasons for refusal have been overcome and the proposed house will provide adequate living conditions for the occupiers of the proposed dwelling and will not result in material harm to the living conditions of the occupiers of the existing dwelling. Therefore, the proposal is in accordance with Policies DP1, DP2, DP3 of the WDLP and Policies BE1, BE3, NE2 & NE4 of the DNLP.

CONDITIONS

1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing no. 5112/02 Rev E; 5112/03 Rev E & 5112/04 Rev E, and specification contained therein, submitted on 8th APRIL 2016. **REASON**: For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

3 No development or other operations (including demolition, site clearance or other preparatory works) shall commence unless the tree protection measures identified in the approved application documentation tilted ' Arboricultural Implication Study by Higginson Associates, submitted 8th April 2016 on have been put into place in full accordance with the approved details and thereafter shall remain in place during any such construction work unless otherwise agreed in writing by the local planning authority. In addition no excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any protected tree(s); no equipment, machinery or structure shall be

attached to or supported by a protected tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area or any other works carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and that no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s). **REASON:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011.

4 The development shall be carried out only in full accordance with sample details of the facing and roofing materials which shall have been submitted to and approved in writing by the local planning authority. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011.

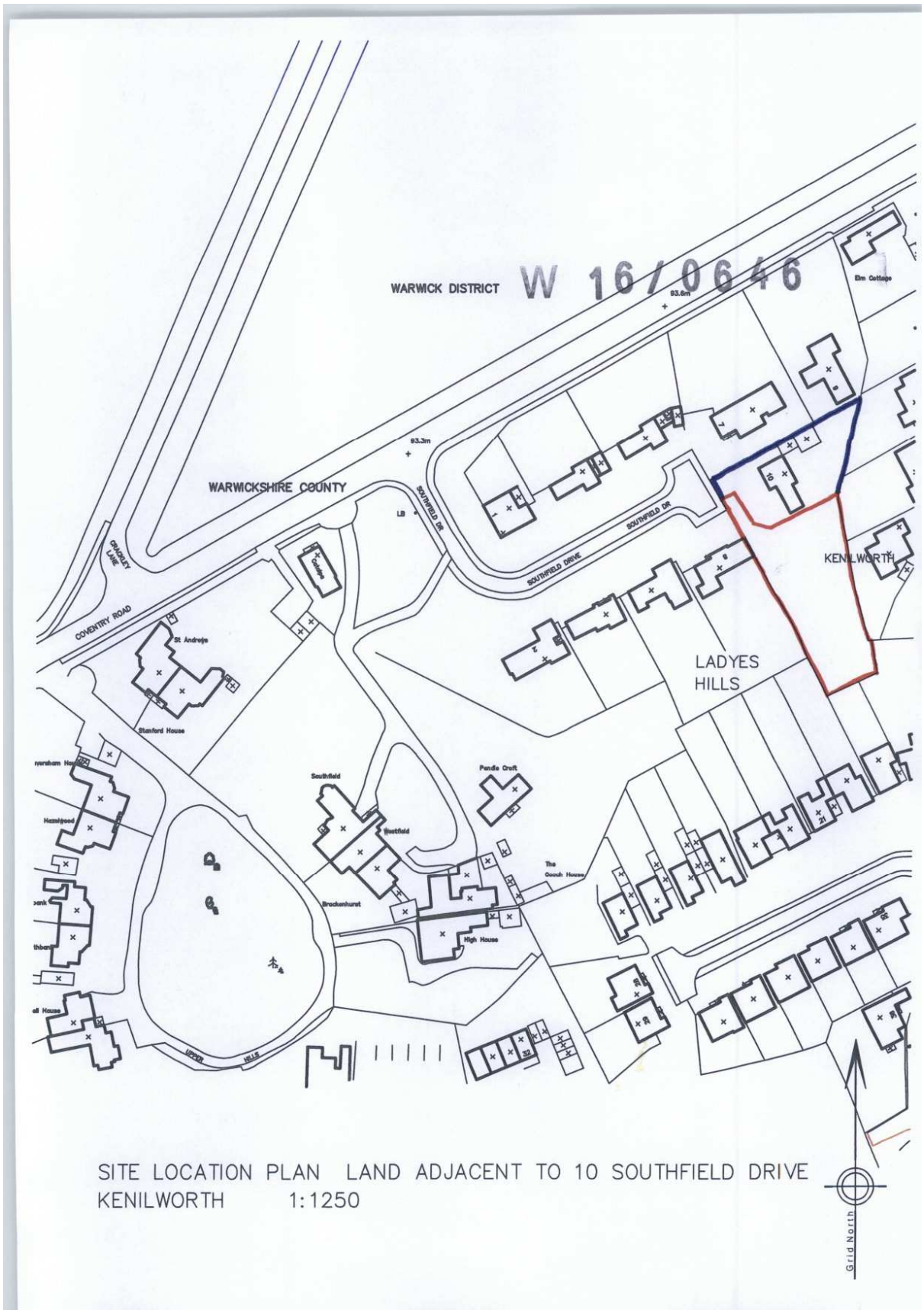
5 The development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO^2 emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **REASON**: To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.

6 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in

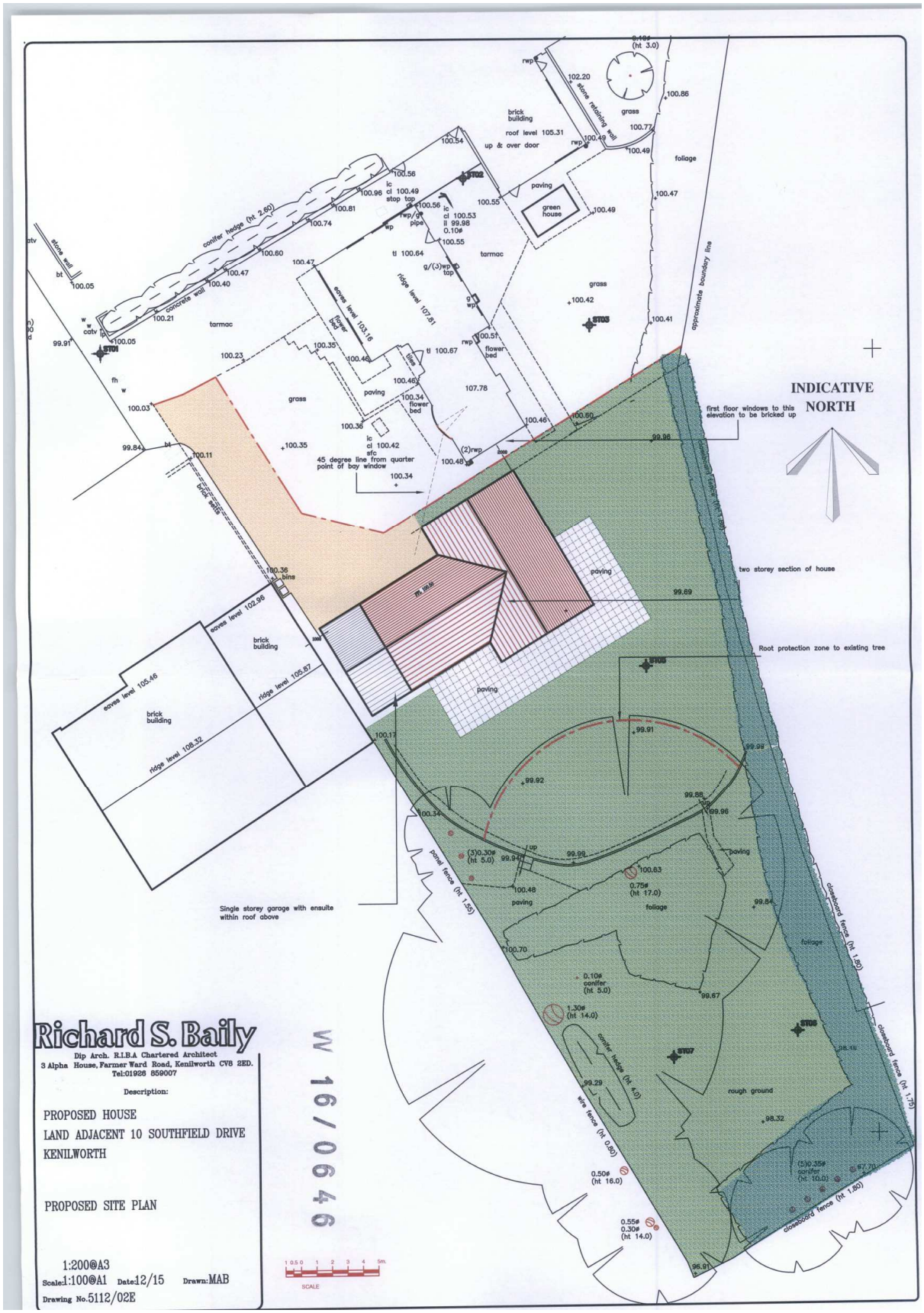
the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of similar size and species, unless the local planning authority gives written consent to any variation. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DP1, DP2 and DP3 of the Warwick District Local Plan 1996-2011.

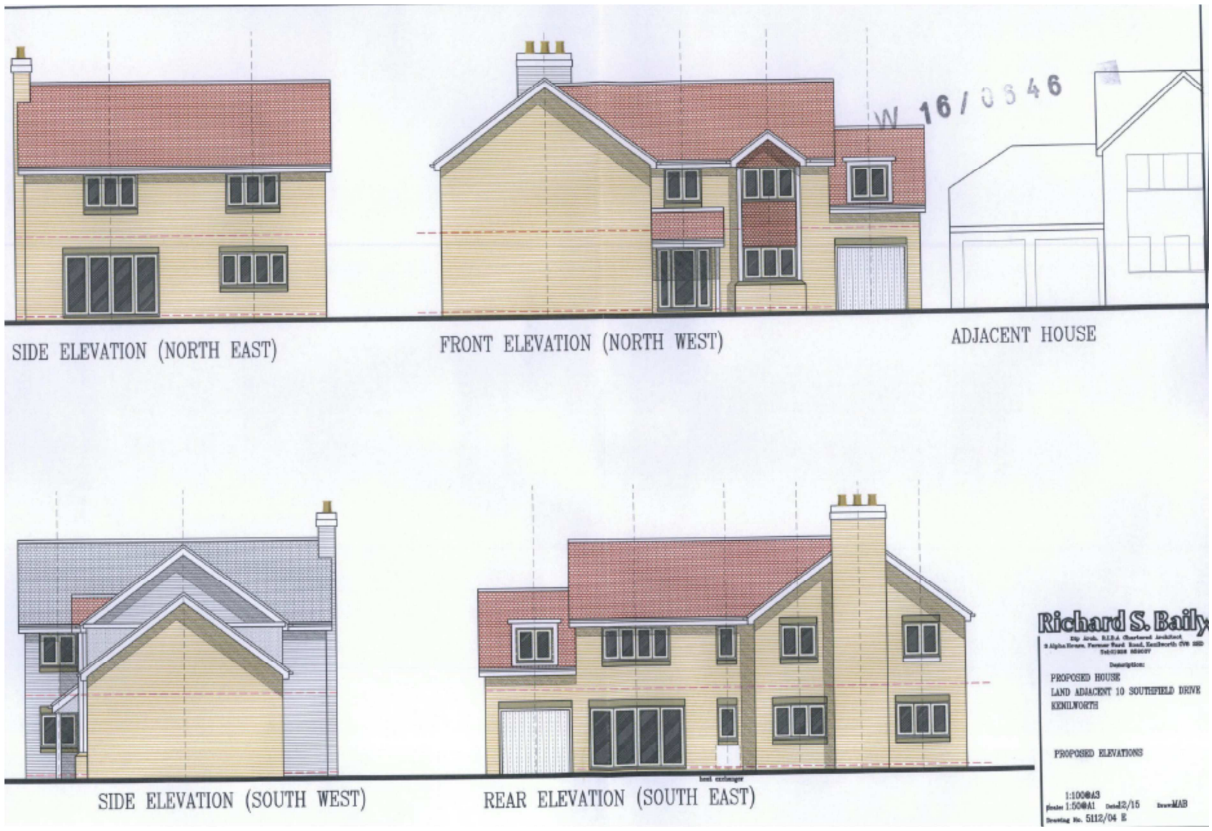
7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no development shall take place under Classes A, B & E within the curtilage of the dwellinghouse hereby permitted. **REASON:** That having regard to the design, layout and general nature of the proposed development it is important to ensure that no further development is carried out which would detract from the appearance of the area; affect the TPO trees and the amenity of the occupiers of the proposed house. Therefore, no additional development is to be carried out without the permission of the local planning authority in accordance with Policies DP1, DP2 & DP3 of the Warwick District Local Plan 1996-2011.

8 If an air source heat pump is chosen as the method to comply with the requirement for renewable energy, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB (A) measured as LAeq (5 minutes). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.



SITE LOCATION PLAN LAND ADJACENT TO 10 SOUTHFIELD DRIVE
KENILWORTH 1:1250


INDICATIVE NORTH
first floor windows to this elevation to be bricked up
two storey section of house
Root protection zone to existing tree
approximate boundary line
45 degree line from quarter point of bay window
Single storey garage with ensuite within roof above
conifer hedge (ht 2.60)
stone wall
concrete wall
tarmac
grass
paving
foliage
rough ground
brick building
roof level 105.31
up & over door
stone retaining wall
green house
flower bed
ridge level 107.81
eaves level 103.16
eaves level 102.96
eaves level 105.46
ridge level 105.87
ridge level 109.32
brick walls
bins
panel fence (ht 1.55)
wire fence (ht 0.80)
conifer hedge (ht 4.0)
closeboard fence (ht 1.80)
closeboard fence (ht 1.75)
Richard S. Baily
Dip Arch. R.I.B.A Chartered Architect
3 Alpha House, Farmer Ward Road, Kenilworth CV8 2ED.
Tel:01926 859007
Description:
PROPOSED HOUSE
LAND ADJACENT 10 SOUTHFIELD DRIVE
KENILWORTH
PROPOSED SITE PLAN
W 16/0646
1:200@A3
Scale:1:100@A1 Date:12/15 Drawn:MAB
Drawing No.5112/02E
SCALE


W 16/0346
SIDE ELEVATION (NORTH EAST)
FRONT ELEVATION (NORTH WEST)
ADJACENT HOUSE
SIDE ELEVATION (SOUTH WEST)
REAR ELEVATION (SOUTH EAST)
Richard S. Baily
PROPOSED HOUSE
LAND ADJACENT 10 SOUTHFIELD DRIVE
KENILWORTH
PROPOSED ELEVATIONS
1:100@A3
1:50@A1
12/15
MAB
5112/04 E