

**6f 3/13/0204/FP – Erection of 2 no. 4 bedroom detached dwellings with detached garages, associated parking and landscaping at Brickendon Grange Golf Club, Brickendon, Hertford, SG13 8PD for Brickendon Grange Ltd.**

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**Date of Receipt:** 12.02.2013

**Type:** Full – Minor

**Parish:** BRICKENDON LIBERTY

**Ward:** HERTFORD HEATH

**RECOMMENDATION:**

That planning permission be **GRANTED** subject to the following conditions:

1. Three Year Time Limit (1T12)
2. Approved Plans (2E10)
3. Samples of materials (2E12)
4. Withdrawal of P.D. (Class A, B, C and E) (2E23)
5. Refuse disposal facilities (2E24)
6. Contaminated land survey and remediation (2E33)
7. Sustainable Drainage (2E43)
8. Approved accesses only (3V04)
9. Hard surfacing (3V21)
10. Construction parking and storage (3V22)
11. Wheel washing facilities (2V25)
12. Tree hedge retention and protection (4P05)
13. Tree/natural feature protection: fencing (4P07)
14. Landscape design proposals (4P12) (b,c,e,h,i,j,k,and l)
15. Landscape works implementation (4P13)
16. Lighting details (2E27)
17. The development hereby permitted shall be carried out in full

### 3/13/0204/FP

accordance with the details, recommendations and mitigation measures of the Great Crested Newt Survey dated 25<sup>th</sup> May 2011. This includes the need to obtain a European Protected Species Licence from Natural England before ground/site clearance takes place.

Reason: To protect the habitats of great crested newts which are protected species under the Wildlife and Countryside Act 1981, and in accordance with Policy ENV16 of the East Herts local Plan Second Review April 2007.

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#### Directives:

1. Other Legislation (01 OL)
2. Street Naming and Numbering (19SN)
3. Public Rights of Way (18FD)
4. Protected species (36PS) (bats, badgers, breeding birds)

#### Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Hertfordshire County Structure Plan, Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007 and in particular policies OSV2, GBC1, ENV1, ENV2, ENV11, ENV16, BH6, TR2, TR7, TR20, HSG3, HSG7) and the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012. The balance of the considerations having regard to those policies is that permission should be granted.

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#### **1.0 Background:**

- 1.1 The application site is shown on the attached OS extract, and comprises a parcel of land under the ownership of Brickendon Grange Golf Club. It is within the Brickendon Conservation Area. The site is located to the north east corner of the golf club grounds, to the immediate south of an extensive village green (Brickendon Green), and

adjacent to the east of a pair of semi-detached dwellings - No's 33 and 34 Brickendon Green. The site principally lies within the residential garden of No.34, which is within the golf club's ownership, and extends further east and southwards beyond a conifer hedgeline and into untended scrubland which includes three ponds. A feature of the site is an existing high brick garden wall that runs along its north boundary adjacent to the village green. The land is relatively flat.

- 1.2 The application seeks planning permission for two 4-bed market houses with detached double garages on land to the east of No.34 Brickendon Green. The dwellings would be constructed from brick and would have steeply pitched clay tile roofs, gables, chimneys, porches and painted timber joinery. They are oriented such that Plot 1 would face squarely towards the village green with Plot 2 turned at right angles with its front elevation to face plot 1. Access requires the demolition of existing sheds to the northwest corner of the site. The existing vehicular access to No.34 Brickendon Green would be utilised and extended with a gravel surface and turning area to allow vehicle entry to the plots. Each plot is proposed to be landscaped and would be bounded by a post and rail fence and mixed hedge planting.
- 1.3 This application follows a pre application enquiry in 2009 and a subsequent planning application in 2012 for 2no 4 bedroom market houses (to reflect those proposed here) and 2no 2 bedroom affordable houses to be built on a separate plot to the west of No.33 Brickendon Grange – (3/12/0275/FP). The application was refused for the following reasons:
  1. *The proposed affordable housing by virtue of its proximity to neighbouring buildings and commercial uses would result in a cramped form of development offering a poor standard of accommodation to future occupiers, contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007 and the considerations of the National Planning Policy Framework.*
  2. *The application lacks sufficient information to show that the proposed vehicle accesses can be implemented, and therefore the Local Planning Authority is not satisfied that the proposed development and in particular the affordable housing could be delivered in accordance with the submitted plans, contrary to policy HSG3 and OSV2 of the East Herts Local Plan Second Review April 2007 and the considerations of the National Planning Policy Framework.*
- 1.4 The current application has omitted the affordable dwellings from the

proposal. The market dwellings reflect what was previously proposed. In addition, all means of access across the village green have been either omitted or amended so that they do not encroach onto the village green, which is protected by virtue of the Commons Acts of 1876 and 2006.

## **2.0 Site History:**

2.1 The 2012 application, Ref 3/12/0275/FP was the most recent planning application on the site and was refused on 16<sup>th</sup> April 2012. Prior to this, an application was approved with conditions on 27<sup>th</sup> August 1997 for extensions and alterations for clubhouse facilities at the golf course.

## **3.0 Consultation Responses:**

3.1 The Council's Conservation Officer has recommended that planning permission be granted. The village green is the focus of the Brickendon Conservation Area. The (south) side of the green is historically associated with the Brickendon Grange estate and is separated from the green by a boundary wall and a thick belt of trees and vegetation. Due to the screening the development will not have a strong impact on the green. However, if the wall were removed the impact would be mitigated by good quality design, materials and finishes. Little or no impact on the Conservation Area.

3.2 County Highways have recommended that planning permission be granted subject to conditions relating to agreement of hard surfacing materials, the details of construction vehicle spaces and access arrangements and wheel washing facilities. Access to the site is from an appropriate junction with the public highway. Sufficient space is available on site for parking and turning and the level of traffic generation will not be significant. Recommend an informative to advise that the construction of the development should not interfere with any public rights of way.

3.3 The Council's Landscape Officer has recommended that planning permission be granted subject to conditions. No adverse impact is expected on important or significant trees. A single species garden hedge is recommended rather than a mixed species hedge for the garden boundaries.

3.4 Environmental Health has commented that any permission given should include conditions relating to soil decontamination and an informative relating to hours of working.

3.5 The Environment Agency raise no objections but advise that the main

### 3/13/0204/FP

flood risk issue at this site is the management of surface water run-off and ensuring that drainage from the development does not increase flood risk either on site or elsewhere.

- 3.6 Herts Biological Records Centre have stated that the application can be approved subject to conditions which require the full mitigation measures outlined in the accompanying Great Crested Newt Survey are carried out and that a licence is obtained from Natural England.
- 3.7 Herts and Middlesex Wildlife Trust support the findings and recommendation set out in the accompanying Great Crested Newt Survey which puts forward an outline mitigation strategy. The outline strategy is suitable and allows the LPA to successfully address the three tests as set out within the legislation. Conditions are also recommended in relation the protection of breeding birds, badgers, lighting and a habitat management plan.
- 3.8 Campaign to Protect Rural England opposes the application for residential development as contrary to the National Planning Policy Framework and the Local Plan. The site cannot be classed as 'infilling' and will create a new built boundary to the southern edge of the village green. The access across the frontage of No's 33 and 34 Brickendon Green will have a deleterious effect on the openness and character of the village green.
- 3.9 No comments have been received from Affinity Water, the Countryside Access Officer, Essex Wildlife Trust, Ramblers Association or the Council's Environmental Services Section.

#### **4.0 Parish Council Representations:**

- 4.1 Brickendon Liberty Parish Council objects to the application. They comment that the development is contrary to Green Belt policy which seeks to prevent the coalescence of settlements and urbanisation of the Green Belt. The proposal cannot reasonably be regarded as infill development. It is neither small in scale nor essential development. The proposed extension of access across the village green would seriously compromise the integrity of the village green and would urbanise the unique village setting. The site for the dwellings should remain open.

#### **5.0 Other Representations:**

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 A letter of objection has been received from the Fanshaws Room Committee. 6 letters of representation have been received from neighbouring occupiers. In addition, a petition signed by 83 residents has been received. The objections raised can be summarised as follows:

- The development is contrary to Green Belt policy;
- The development is sporadic development within the Green Belt;
- The previous judgement by Council Officers that the land is within the village settlement boundary is considered wrong and the development is outside the village settlement;
- The dwellings cannot reasonably be regarded as small;
- The development would encroach within a significant open space and gap to the south side of the village and block views;
- Development represents an addition to isolated dwellings in the countryside;
- Loss of trees/landscape features;
- Would not complement natural surroundings;
- Not 'enabling development;'
- Would damage open character of the Conservation Area;
- Would ruin the visually attractive rural setting;
- Would damage wildlife habitat;
- Would set an undesirable precedent;
- Would compromise the integrity and enjoyment of the village green;
- Increase in traffic would ruin current ambience and cause health and safety issues;
- Pressure on water facilities and existing sewerage;
- Golf club and new dwellings would have no legal access over the village green;
- Would damage and encroach onto the village green;
- A better site would be to the immediate right of the Golf Club entrance;
- Access to these houses should be through the golf club's main entrance;
- Access to the site is not suitable for construction/extra traffic;
- Refuse bins at the entrance to the properties will be unsightly;
- No justification for further housing in Brickendon; and
- The new dwellings will be disturbed by the golf club's driving range.

5.3 To supplement one of the neighbour representations, a joint legal opinion has been submitted which addresses the issue of whether the

development should properly amount to 'limited infill' within the Green Belt. The advice considers this question, acknowledging that the writer has not seen the site or surroundings. The legal opinion indicates that, in the view of Counsel, the officers report did not adequately explain why Officers felt the site lay within the built up part of the village. The advice accepts, however, that this 'does not necessarily mean that the location of the boundary was incorrect', just that the report should have provided more detailed reasons for officers' conclusions in this respect.

5.4 In addition to this assessment, the opinion asserts that, despite a previous decision, there is no duty to decide a similar case in the same way and urges the Council to give limited weight to the previous decision.

## **6.0 Policy:**

6.1 The relevant 'saved' Local Plan policies in this application include the following:

OSV2	Category 2 Villages
GBC1	Appropriate Development in the Green Belt
TR2	Access to New Developments
TR7	Car Parking – Standards
TR20	Development Generating Traffic on Rural Roads
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV11	Protection of Existing Hedgerows and Trees
ENV16	Protected Species
BH6	New Developments in Conservation Areas
HSG3	Affordable Housing
HSG7	Replacement Dwellings and Infill Housing Development

6.2 The National Planning Policy Framework is also a material consideration in the determination of this application.

## **7.0 Considerations:**

7.1 The determining issues in relation to this application are:

- Whether the proposal would form infill development within the built up area of a Category 2 Village and whether it would comply with the detailed criteria listed in Policy OSV2, having regard to:
- Character, appearance and layout and the location within the Conservation Area;

- Neighbour amenity; and
- Landscape and Trees.
- Parking and Access;
- Impact on protected species.

Principle of development

- 7.2 Brickendon Village is designated as a Category 2 Village in the Local Plan, wherein Policy OSV2 allows, within the built up area of the village, for infill housing development subject to compliance with the remaining criteria in the Policy. Whilst Officers have previously adjudged the site to constitute infill development, it is considered that there is an obligation, both by virtue of this being a new planning application, but also due to the level of opposition to the development (including on this point of principle), for Officers to re-evaluate this aspect of the proposal in detail.
- 7.3 It is considered that there are two linked strands in assessing proposals against Policy OSV2; the first being to consider whether the development can reasonably be adjudged to be 'infill development' and, if this is considered the case, the second to be an assessment of whether the proposal complies with the remaining criteria listed as a) to j).
- 7.4 Infill development is defined on p178 of the Local Plan as:
- ' the erection of up to five small dwellings on a site within the built up area of the village, where such development can take place without damage to the character or appearance of the locality. Infill development does not constitute the linking of two separate built up areas within a settlement, separated by a significant gap, or the consolidation of an isolated group of buildings '*
- As there are no boundaries detailed for Category 2 villages to identify a built up area, the question of whether a site is within the settlement is a matter of judgement. This is acknowledged within the legal opinion submitted in objection to the proposal, which states that determination of whether any particular proposal constitutes infill is necessarily a matter of fact and degree in the particular circumstances of each case.
- 7.5 The Officer Report in the 2012 application adjudged the southern edge of the village to lie in line with southern boundaries of No's 1, 31, 33 and 34 Brickendon Green thereby enclosing the new dwellings within what could reasonably be adjudged the village boundary. In addition to



this, by designing the dwellings to utilize the existing access serving No's 33 and 34, it was considered that the development would integrate with the village effectively, rather than operate as a separate and isolated form of development.

- 7.6 The objections raised criticise the previous Officer Report as identifying an entirely arbitrary line along a southern boundary of the village within which the dwellings would be located. However, this is considered to be a reasonable judgement to make, given the absence of any form of identified village boundary. The part of Brickendon village to which the site is located is clustered around the village green which is, in fact, the central and defining feature of this settlement. Dwellings of a similar size and character to those proposed are currently located to all sides of the village green, including immediately adjacent the site – No's 33 and 34 Brickendon Green. By addressing the green in a similar manner and sharing access from it with other dwellings, the development site forms part of an integrated enclave of dwellings that, in Officers view, form part of the built up element of the village. Whilst in rural settlements there will often not be a rigid settlement pattern, it is considered that where a loose development pattern can be seen to exist, as is considered the case with Brickendon's village, the proposed dwellings would undoubtedly adhere to and form part of this pattern.
- 7.7 It should also be noted that the proposed dwellings would not extend beyond the southern boundary line of dwelling No 1 Brickendon Green, nor beyond the southern boundary of the village green as it triangulates and extends to the south. They would also be located considerably further forward, and therefore more markedly within the village, than some of the golf club's maintenance buildings located to the west.
- 7.8 Two further points particular to this development site also support its location within the village settlement where other sites, particularly further to the east, may not be regarded as such. One is the relatively easy access that can be obtained to the site from an existing track without need for its substantial extension. The other is the relatively domestic nature of the site, which principally comprises the side garden of No.34 Brickendon Green and is accordingly already domesticated with a manicured lawn, garden sheds, concrete hardstanding (in places) and a washing line.
- 7.9 The definition of infill development also states that it should not constitute the linking of two separate built up areas within a settlement or the consolidation of an isolated group of buildings. It is considered that the new development would do neither. The site could only reasonably be regarded as part of the settlement of Brickendon village

(as opposed to any other settlement) as there are no other built up areas in the vicinity. As has been previously stated, the new dwellings would integrate with and form part of a loosely connected enclave of dwellings that cluster around the village green, forming a meaningful part of the existing settlement and not isolated from it.

- 7.10 There has also been some objection to the size of the dwellings, having regard to the definition of infill as 'up to five small dwellings'. Firstly, this development is for two dwellings and may reasonably be regarded as having less of an impact on openness than may have been the case with five smaller dwellings. In any case, the concept of whether a dwelling is small or not is, as with the question of infill, a matter of judgement exercised in the particular circumstances of the case. In this instance the dwellings would be 4 bedroom which is at least of comparable size (and in many cases smaller) than other dwellings within the village, including some which also address the village green. It is acknowledged by Officers that given the location of the dwellings on the edge of the settlement, there is a need for the dwellings to remain small and avoid encroachment outside of the village settlement. A condition to remove permitted development rights from the dwellings, including for Class E outbuildings is therefore included within the recommendation.
- 7.11 In light of the above assessment, Officers are satisfied that the dwellings would be located within the built up part of the settlement and would comprise infill development. It requires therefore an assessment against the criteria contained within Policy OSV2.
- 7.12 With regard to criteria a), the key consideration is whether the proposed development would result in the loss of the site as an area of open space or the loss of any part of the village green as a community facility. It should be noted that the village green is not a designated open space or community facility in the Local Plan but it is protected under other legislation. The impact of the previous proposal on the village green formed the basis for refusal reason 2 under the 2012 application. As was detailed in paragraph 1.4 of this report, the current application does not however result in the loss of village green land. Where previously the access to both the affordable and the market units crossed different parts of the green, this would not be the case with this application. Indeed, the only new section of access road required to serve the market dwellings is a curved driveway that utilises land currently within the curtilage of No.34 Brickendon Green. As such, I am satisfied that the proposal meets with the requirements of criteria a).

- 7.13 Criteria b) requires proposals for housing development to meet a local need. The District Housing Needs Survey was published in 2004. At the time of its publication, it identified a private sector need for 1-bed flats and 3 bed houses in Hertford Rural South. This document is considered somewhat out of date now however and the weight ascribed to it should not be substantial. Officers consider that a broad approach should be taken having regard to the general housing shortage and an overall need for housing within both the district and nationally. When considered against the relatively sustainable location of the site within the built up area of the settlement, it is considered that the development of two dwellings would contribute towards meeting housing need, and therefore can be considered as compliant with criteria b). Furthermore, the provision of flats in this location would not, in Officers view, be in keeping with the pattern and density of surrounding development whereas the proposed dwellings are considered to better reflect the context and character of the site.
- 7.14 Criteria c) requires proposals for housing development to make provision for up to 40% affordable housing in accordance with Policy HSG3 and HSG4. Policy HSG3 states that affordable housing will be expected on sites 'proposing 4 or more dwellings, or over 0.12ha. in category 1 and 2 villages'. As the proposal is limited to two dwellings on a single site, there is no requirement on the developer to provide affordable housing in this instance. Criteria c) also requires the development to comply with HSG7 of the Local Plan and I will address this in the following paragraphs.
- 7.15 The dwellings are considered to be well sited in relation to remaining surrounding buildings and will not appear obtrusive or over intensive. The dwellings would sit comfortably within their plots and are provided with an adequate amount of garden area. A gap of over 20m is retained to No.34 Brickendon Green. They would be screened by existing and proposed landscape treatments, including tree planting to the northern boundary with the village green. The historic boundary wall that forms an important landscape feature of the site is retained.
- 7.16 In terms of landscaping, the development would quite considerably improve the condition of the site. The existing garden sheds would be removed and notable trees would be retained. The accompanying Tree Survey has assessed the structural and physiological condition of each tree within the site and a preliminary management plan put forward. A post and rail fence and mixed planting hedgerows are proposed to enclose the garden boundaries of the new dwellings. The Council's Landscape Officer has not objected to the proposal and has stated that the development would have little impact on landscape character.

Indeed, the proposal would retain, where possible, existing low key native planting and, whilst some low quality trees would be removed, there would be no adverse impact on important or significant trees such as the oak to the rear of the dwellings. The Landscape Officer has suggested that the new mixed species boundary hedges should be a more traditional single species such as holly, beech or hornbeam and this can be incorporated into the proposal by condition. Other conditions relating to tree protection and full details of hard and soft landscaping are also recommended.

- 7.17 In terms of the design of the dwellings, regard is had to the site being within the Conservation Area where policy BH6 requires development proposals to be sympathetic to the general character and appearance of the area and policy ENV1 requires a high standard of design. The Conservation Officer is satisfied that the design of the dwellings relates well to the character of the area in terms of their scale, massing, architectural detail and articulation. Furthermore, the dwellings will not be highly visible behind the screening to the northern boundary. The dwellings adhere to the pattern of development in the surroundings, being set within relatively spacious plots and addressing the village green. Surrounding dwellings are of various styles but are predominantly two storey with pitched roofs. Characteristics of the dwellings also evident nearby are the steeply pitched clay tiled roofs, gables, chimneys, porches and painted timber joinery. To ensure that suitable construction materials are selected, a condition to this end can be added to any permission granted.
- 7.18 Given the above factors, Officers are satisfied that the proposal complies with policy HSG7 and criteria c) of Policy OSV2.
- 7.19 Criteria d) and e) of the policy are not relevant to this proposal for infill housing. Criteria f), along with Policy ENV1, require that the development is not significantly detrimental to the amenities of the adjoining area or nearby occupiers. There are no significant amenity issues arising from the development. Whilst some concern has been raised with regard to noise and disturbance amounting from comings and goings, this is not considered to be significant with two dwellings. The dwellings would retain reasonable gaps to neighbouring dwellings and provide an appropriate standard of accommodation for any future occupiers.
- 7.20 Some of the objection letters suggest that the development would encroach within a significant open space and gap to the south side of the village and block views and therefore does not accord with criteria g) and h) of OSV2. Policy BH6 also requires that important views into

and out of the Conservation Area are respected. It is acknowledged that views towards the site are available from a reasonable distance as a result of the dwellings being located adjacent to the village green. However, the proposal supports the retention of the existing planting and the high-level brick boundary wall to the southern edge of the green, which will significantly obscure the dwellings from view. Whilst some of the ridgeline of the dwellings would be visible above the trees, this is not considered, especially when viewed from a reasonable distance, to cause significant intrusion or obstruction of views that are already largely obscured. Similarly, whilst the site is partially open at present, it does not serve as a significant open space or meaningful gap important to the form of the settlement. Accordingly, the proposal is considered to accord with criteria g) and h) of Policy OSV2.

- 7.21 With regard to criteria i) and j) the development does not form an extension to a ribbon of development or an addition to an isolated group of houses but instead is considered to form part of an integrated enclave of similar dwellings that cluster around the green. The proposed dwellings are sensitively designed, having regard to local scale and vernacular and would utilize an existing means of access already serving No's 33 and 34 Brickendon Green. With regard to the impact on the village green, the Conservation Officer has stated that due to the screening, the development will not have a strong impact on the visual amenity of the green. The development secures a good standard of design and can be provided with high quality materials through the use of planning conditions.
- 7.22 In light of the above assessment, the proposal is considered to satisfactorily address the requirements of Policy OSV2 and the other interconnected and related policies of the Local Plan, namely, Policies, BH6, ENV1, ENV2, ENV11, HSG3, HSG7 and LRC1.

#### Parking and Access

- 7.23 Policy TR20 of the Local Plan requires an assessment of the impact on the local environment from development proposals resulting in significant traffic on rural roads. Policy TR7 requires sufficient car parking to be provided in accordance with the Council's standards.
- 7.24 The development is for two dwellings, each with double garages and space within their curtilages for the parking of 2/3 vehicles. County Highways are satisfied with both the level of parking provision and the amount of turning space within the plots. Whilst there has been some objection to the extra traffic using the rural road and the standard of the road to accommodate this, it should be noted that the development is

only for two dwellings and the extra capacity will not place a significant burden on existing services or require a substantial increase in comings and goings along the road itself. County Highways are satisfied that the access to the site is made at an appropriate junction with the public highway. Accordingly, the proposal is considered to accord with relevant policy in this regard.

### Protected Species

- 7.25 The proposed development site includes a wooded area with two ponds. Policy ENV16 of the Local Plan states that development proposals which may have an adverse impact on protected species will only be permitted where harm can be avoided.
- 7.26 There has been some concern raised about the impact on local wildlife and the application is accompanied by a Great Crested Newt (GCN) Survey. The survey did not find any Great Crested Newts within the ponds, but did identify the surrounding environment as being suitable for GCN. As such, mitigation measures were recommended in the form of exclusion fencing, drift fencing, pitfall traps and the relocation of any GCN found to a place of safety.
- 7.27 Herts Biological Records Centre and Herts and Middlesex Wildlife Trust have stated that the application can be approved subject to the entire mitigation strategy being conditioned. It will also be necessary for the applicant to obtain a European Protected Species License from Natural England prior to carrying out any ground clearance. Both these measures have been included as part of an appropriate condition.
- 7.28 As such, Officers are satisfied that the proposal would safeguard the favourable conservation status of the species in their natural range and, by doing so, is acceptable in planning terms in accordance with Policy ENV16 of the Local Plan.

## **8.0 Conclusion:**

- 8.1 Officers consider that development of two dwellings as proposed would comprise infill development within the built up settlement of the category 2 village of Brickendon. Officers have carried out a detailed assessment of the development in line with the specific criteria outlined within Policy OSV2 of the Local Plan and against which infill development is required to comply. Having regard to the criteria and the other material planning considerations, namely, the impact on the Conservation Area, neighbour amenity, parking and access and protected species, the development is considered to comply with local

**3/13/0204/FP**

and national planning policy. It is therefore recommended that planning permission be granted subject to the conditions at the head of this report.