

**Application Ref:** 15/01840/OUT

**Proposal:** Outline planning permission for up to 80 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal open space and children's play area, surface water flood mitigation and attenuation, vehicular access from Uffington Road and associated ancillary works. All matters to be reserved with the exception of the main site access

**Site:** Land To The West Of, Uffington Road, Barnack, Stamford  
**Applicant:** Gladman Developments Ltd

**Case officer:** Miss A McSherry  
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**Recommendation:** To withdraw the archaeology reason for refusal (R6) at Public Inquiry and instead agree to deal with archaeology issues by way of a planning condition provided the appellant (Gladman) is agreeable to the imposition of a condition.

## 1 Planning History

The Planning and Environmental Protection Committee on the 22<sup>nd</sup> March 2016 **refused** Outline planning permission under planning reference 15/01840/OUT for:-

Up to 80 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal open space and children's play area, surface water flood mitigation and attenuation, vehicular access from Uffington Road and associated ancillary works. All matters to be reserved with the exception of the main site access.

It was refused for the following reasons:-

R1 - The application site is located in the countryside, outside of the village envelope of the Limited Growth village of Barnack. The proposal for up to 80 dwellings, with 30% affordable housing provision is therefore contrary to Policy CS1, which restricts development in the countryside to that which is essential to the effective operation of local agriculture, horticulture, forestry, outdoor recreation and access to natural greenspace, transport or utility services. The proposal does not meet the exception test of Policy CS8, as it is not proposing a higher provision of on-site affordable housing to meet a specific and demonstrable local need, in excess of the standard policy requirement.

R2 - There is no need for this development because the City Council on 15th Jan 2016, published its 5 year housing land supply document, which demonstrates that the Council has a 5 year housing land supply. Therefore in accordance with the NPPF, paragraph 49, the policies of the adopted development plan are considered up to date and do not need to be set aside as per the NPPF in instances where a 5 year deliverable supply of housing land cannot be demonstrated. The proposal would therefore be contrary to the NPPF and Development Plan, as it constitutes housing in the open countryside where there is no demonstrable need.

R3 - The proposal to erect up to 80 dwellings on this agricultural field adjacent to but outside of the village envelope of Barnack is considered to be of too large and of an inappropriate size and scale to be acceptably accommodated on the rural edge of the Village. It is considered that the

landscape and visual impact of the proposed development, and its cumulative visual impact with the adjacent 41 dwelling Paynes Field development would have a harmful urbanising effect, inappropriate to character and setting of rural edge of the village. This is contrary to Policy CS20 of the Core Strategy, and Policy B& P 1 of the Peterborough Design and Development in Selected Villages (2011) Supplementary Planning Document.

R4 - The size and scale of the development proposed of up to 80 dwellings is considered too large for this Limited Growth Village and the facilities it contains, therefore the proposed development is not considered to be sustainable. The size and scale of development proposed would not accord with the locational hierarchy for new residential as per Policy CS2, which would direct this size and scale of growth to a Key Service Village or the City of Peterborough, because this would be more sustainable.

R5 - The current application site makes a positive contribution to the landscape and rural setting of the village. Views out to open countryside from the conservation area help contribute to the character of the nucleated village form. A development of up to 80 units, positioned directly adjacent to the 41 dwelling Paynes Field estate, would create a dense form of development that would be out of scale at the village edge location where the historic form would expect to see a lower scale and less dense development. This would result in harm to the character and appearance of the conservation area. Therefore it is considered that the proposal would have a harmful impact on the character and appearance of the of the Barnack Conservation Area and not accord with Section 72(1), of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and is not in accordance with Policy CS17 of the Peterborough Core Strategy DPD (2011), Policy PP17 of the Peterborough Planning Policies DPD (2012) and the National Planning Policy Framework (Heritage considerations). As the harm caused would be less than substantial and in accordance with paragraph 134 of the NPPF this would need to be weighed against the wider public benefits arising from the proposal. It is not considered in this instance that any wider public benefits this housing development could bring would be sufficient to outweigh the harm caused to the Conservation Area.

R6 - The application site is located within an area of high archaeological value where any surviving assets are expected to survive in good condition and could be damaged and destroyed by the proposed development. The application has not been supported with sufficient information to enable an assessment of the need for suitable mitigation, which may include the preservation of archaeological assets in situ, to be made prior to the issue of any planning permission for the development of the site. The application as submitted fails to comply with Policies CS17 of the Core Strategy, Policy PP17 of the Planning Policy DPD and paragraphs 128 and 129 of the NPPF, which seek to ensure protection for archaeological sites from unnecessary damage by development.

A copy of the Committee report for 15/01840/OUT is attached for information.

On 25 July 2016 the Planning Inspectorate confirmed that an appeal had been submitted by the applicant Gladman Developments Limited, reference APP/J0510/16/3153303. This appeal is to be determined by way of a Public Inquiry in January 2017.

## **2 Assessment of the planning issues**

Officers have been working with our external Barrister preparing the Council's legal case to defend its six reasons for refusal for this planning application at Public Inquiry in January 2017.

As the reason for refusal R6 was on the basis that insufficient archaeological investigation had been submitted to enable Officers to determine what suitable mitigation would be required, Officers wrote to Gladman seeking to confirm their position in respect of archaeology, and in particular enquiring whether they proposed to undertake any further assessment either desk-based or on site in respect of the potential for archaeological assets. Gladman have advised that based on previous appeal decisions and the circumstances at Barnack they do not consider that either a

geophysical survey or trial trenching is justified pre-determination and therefore will not be undertaking any further works. They do however consider that archaeological investigation and resulting mitigation could be dealt with by way of a planning condition should the Planning Inspector overturn the Council's decision. As above, Gladman have referenced previous appeal decisions where Inspector's have taken the view that archaeological investigation and mitigation can be dealt with by way of a planning condition.

On the basis of the information provided in the archaeological desk based assessment submitted with the application it is likely that in the event any remains are found on site, these will be of local/regional significance only, not national significance. The National Planning Policy Framework (NPPF) requires the level of detail required to understand the potential impact of the proposal on their significance to be proportionate to the assets importance. Therefore whilst the level of information required to assess the archaeological impacts of the development is subjective, there do not appear to be any rare or exceptional circumstances in this case that would help justify the need for archaeological investigation pre-determination rather than by way of a planning condition.

On the adjacent Paynes Field housing development the archaeological investigation was dealt with by way of a planning condition, and the archaeological pottery finds on this site were able to be recorded and safeguarded by condition. Whilst this application site is much larger in size than Paynes Field and is greenfield rather than brownfield, these issues in isolation might not be sufficient to justify up front archaeological investigation rather than dealing with it by condition.

Therefore the external legal advice from Counsel is that should the Council continue to defend the sixth reason for refusal, rather than deal with it by way of a planning condition, it could be seen to be inconsistent and unreasonable, which could result in Gladman making a successful award for costs. It should be noted that withdrawal of a reason for refusal does also carry the risk of an award of costs however this is assessed as being lower than the risk of continuing to defend a reason with limited grounds to substantiate it.

Officers therefore seek Members consent not to call evidence to defend the sixth reason for refusal and instead deal with archaeological investigation/mitigation by way of a suitably worded planning condition. In the event Gladman is not agreeable to addressing archaeology by way of condition Members are asked to delegate authority to the Head of Planning Services to liaise with Counsel and take the most appropriate course of action in dealing with archaeology.

Officers would need to seek agreement of the exact wording of the condition with Gladman and the Planning Inspectorate, however for information our suggested wording would be:-

No development shall take place/commence until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved in writing by the Local Planning Authority. The Written Scheme of Investigation should, as appropriate, refer to the relevant available desk top material, including the Historic Environment Record, set out the method of evaluation (trial trenching, geophysics or other method) and the monitoring/recording of all ground work. All archaeological assessment work shall be carried out in accordance with the approved Written Scheme of Investigation including any post development requirements.

Reason: In order to mitigate the impact of the scheme on the historic environment in accordance with policy CS17 of the adopted Core Strategy, policy PP17 of the adopted Planning Policies DPD and paragraph 132 of the National Planning Policy Framework.

### **3 Conclusions**

Therefore Officers consider that the archaeological site investigation and any associated mitigation be dealt with by way of a suitably worded planning condition, and as such Officers would not defend the archaeological reason for refusal R6 in their case at the Public Inquiry.

#### **4 Recommendation**

The Head of Planning Services recommends that reason for refusal R6 of application 15/01840/OUT (see below), should be withdrawn and instead the archaeological investigation and mitigation be dealt with by way of a suitably worded planning condition. In the event Gladman is not agreeable to addressing archaeology by way of condition delegated authority be given to the Head of Planning to liaise with Counsel and take the most appropriate course of action in dealing with archaeology.