

Planning and Transport Committee

24.09.2020

Agenda Item 6e

Planning application UTT/20/2105/OP | Outline planning permission with all matters reserved except for access for the erection of up to 12 dwellings with associated landscaping, parking and support infrastructure. | Land To The North Of De Vigier Avenue Saffron Walden Essex

Introduction

This planning application is a new application; the previous application (UTT/18/2297/OP) having been refused by UDC and lost at appeal (Appeal Ref: APP/C1570/W/20/3246546).

There are two areas of contention with this application:

- 1) Whether the application adequately provides mitigation for loss of calcareous grassland and lizard habitat; and
- 2) Whether the application should be considered as part of the wider Ridgeons (13/2423/OP and 16/2701/DFO) development for the purposes of affordable housing provision.

The other area of local contention – whether the site should be developed at all – is likely to be afforded little weight given the lack of land supply in Uttlesford, the location which is ready to be ‘plugged in’ to the adjacent Ridgeons development, and the small scale of 12 houses, which has a proportionally insignificant impact on the highways network.¹

Lost appeal

In the appeal, the Inspector considered the loss of calcareous grassland as the Main Issue and the provision of the affordable housing as Other Matters.

On the calcareous grassland :

“12. However, of particular importance is the presence of calcareous grassland and a medium population of Common Lizard on the appeal site. The appeal scheme would require the translocation of around 500m² of calcareous grassland and the capture and translocation of the population of Common Lizard to ‘adjacent receptor sites’. These sites are proposed to be within the neighbouring ‘Ridgeons’ site. Whilst the evidence indicates that the proposed translocation to these

¹ We note that this is in itself a contentious issue, and know very well that multiple small sites create a large impact on an area when their impacts are combined. The Government wants to push small sites, and planning guidance only allows planners to consider the immediate impact of the development at hand; there is no mechanism for considering ‘the bigger picture’. Therefore, government policy overrides this local understanding.

receptor sites could be acceptable, I am not satisfied that agreement with the owner of the Ridgeons' site has been, or would necessarily be, secured."

The Inspector then goes on to outline the contractual reasons why the 'adjacent receptor sites' would be impossible to provide with certainly, and therefore dismisses the appeal.

On the affordable housing:

As an introductory note –

Since the site in question is below the size trigger for affordable housing, and below the number trigger for affordable housing, in itself it would not be liable to meet the policy requirement of 40% affordable housing.

However if the site was always part of 'grand plan' whereby the Ridgeons site would be developed and then the currently considered piece of land would subsequently be developed in conjunction with one another, then treating them as separate entities would be considered as an artificial sub-division of the site and for the purposes of the provision of affordable housing the application site must provide 40% affordable housing.

UDC maintained the view that the sites had been artificially sub-divided, in effect that there had always been a 'grand plan' on the part of the developer to develop them both.

The developer maintained the view that the sites were unconnected.

The Inspector decided that they were unconnected and therefore that the provision of affordable housing would not be required for this site.

"23. However, on the evidence before me relating to historic and current ownership of the two sites, and in the absence of any specific policy requirement for determining instances whereby artificial sub-division of a site is alleged, I am satisfied that the proposal is not 'an appropriate' site for the purposes of ULP Policy H9 and does not therefore trigger an affordable housing contribution. Consequently, this matter attracts no further weight in my conclusions."

Current application

The current application seeks to overcome the reason for refusal by demonstrating that it has a perfectly good agreement in place with the Ridgeons site to translocate the grassland and the lizards from the application site to a location within the Ridgeons site.

It appears that the suggested location for the receptor site is however a location which was already a receptor site once in respect of the Ridgeons development. If it is accepted that the receptor site within the Ridgeons development was what made the Ridgeons development acceptable in planning terms then this receptor site has already performed its role.

It would not be acceptable to then translocate more grassland and lizards onto it. One cannot translocate two lots of grassland and lizards to one site – that would be double counting. Therefore, the application should be refused as it does not in fact mitigate against loss to biodiversity.

OR if the translocation site on the Ridgeons development was always planned to be a part of the translocation plans for the current application site, and that taking the two sites together, the Ridgeons development had always planned enough locations for the translocations within it *and* from the application site into it, then it could be argued that the sites were linked from the outset for the purposes of development. If they were linked from the outset for the purposes of development, then the current division is in name only and factually artificial. If they have been artificially subdivided and are now being reunited for the purposes of moving natural habitat, as was planned from the start, then they must also be reunited for the purposes of housing and therefore the current site must provide 40% affordable housing.

The developer cannot have it both ways.

Recommendation:

To object on grounds of loss of biodiversity because the applicant is double counting the translocation sites, contrary to National Planning Policy Framework Paragraph 175 and ULP Policy GEN7.

Or, if the translocation sites can be demonstrated to be separate/not double counted/adequate in terms of square meters, to object on grounds of artificial subdivision of site and non-provision of affordable housing contrary to ULP Policy H9.