Allerdale Borough Council
Planning Department

Appeal Decisions

Appeal Reference: APP/G0908/A/12/2173405
Planning Reference: 2/2011/0802

Proposed Development: Resubmission of application 2/2010/0647 for proposals to relocate existing tennis courts and car park to provide improved sports facilities and outline consent for the construction of 24 new dwellings including new vehicular access onto Lorton road

Appeal Site: Lorton road Cockermouth Cumbria
Applicant: Rockford Holdings Ltd
Type of Appeal: Written representations

Date of Committee: 27th January 2012

Officers’ Recommendation: Recommend refusal
Development Panel Decision: Refused on grounds of no provision local affordable residential dwellinghouses contrary to policy H19 of the joint structure plan and insufficient evidence to demonstrate the future maintenance of the children’s play area areas of open space and the surface water drainage facilities

Inspector’s Decision: Appeal dismissed

Appeal decision details
The application site was the subject of a former application for the relocation of the tennis courts and car park together with the construction of 29 dwellinghouses including 10 affordable units.
The former application was refused both in terms of the principle of the development (being sited outside the designated settlement limits) and the physical details of the submitted outline housing scheme which included the reserved matters of access, layout scale and design. A subsequent appeal was dismissed but solely on design grounds.
The inspector made reference to the planning history of the site and the fact that the former grounds of refusal and indeed the grounds for the dismissal of the former appeal did not refer to the provision of local affordable housing.
The Inspector considered the case before him was materially different with all the proposed 24 units in the resubmission constituting private market dwellings i.e. no affordable units.
The Inspector attached weight to policy H19 of the Joint Structure plan which requires the provision of local affordable dwellinghouses on sites of 10 units or more which he
considered accords with the aims of the National Planning Policy Framework in the delivery of sustainable inclusive and mixed communities.  
The inspector accepted there was sufficient survey evidence that there was a proven need for local affordable housing.

The Inspector assessed both the appellants and the council’s viability assessments (which represented the appellant’s grounds for excluding local affordable housing provision on the resubmission).  
This assessment considered that the appellant’s spreadsheet lacked transparency and information to support their figures.

The council’s alternative assessment demonstrated 2 separate options that some affordable housing could be provided without harming the viability of the project (with 2 and 5 units being demonstrated in each respective scenario.)

The Inspector in analysing the comparative evidence in the absence of evidence attaches little weigh to the appellants claim of costs for: the disposal of spoil form the site, the added costs relating to the relocation of the tennis courts, the associated costs revenue from the land purchases for any upgrade the sport facilities, and providing a standard of affordable housing would not need to meet the code for sustainable code 3.

The Inspector concludes the details lack transparency and insufficient evidence had not been provided to demonstrate that local affordable housing could not be provided as part of the development.

The inspector also referred to the subject of the maintenance of the children’s play area, unadopted areas of open space and the surface water drainage facilities including any attenuation measures.  
It was accepted by both the appellant and the council that there was the necessity for an obligation to address these issues, especially as some aspects involve land transfers.  
The inspector agreed that a planning obligation was necessary to make the development acceptable in planning terms.  
The appellant had submitted 2 separate unilateral undertakings to seek to resolve these issues. However the inspector identified several legal flaws with both documents which resulted in them failing to secure the obligation objectives and therefore inadequate provision had been made for these facilities.

The inspector also commented that he also concurred with the former appeal decision that the principle of the development, albeit outside the settlement was acceptable which would assist in reducing the councils housing shortfall. He was also of the view that the amended design of the resubmission had overcome and addressed the design grounds of refusal on the original application. Although acknowledging the scheme had the potential to affect the amenity of neighbouring properties he considered this could be adequately mitigated against through planning conditions.  
The Inspector considered the scheme retained a satisfactory level of off street parking provision for the proposed modified sport facilities

**Conclusion**

The Inspector concluded that that some matters were in favour of the development, on balance the scheme would be outweighed by the lack of affordable housing and the lack
of details to secure the long term maintenance of the open space, children’s play space and surface water drainage and therefore did not represent sustainable development.

**Officer comments on the appeal decision.**

The refusal decision reinforces the important requirement for the provision of local affordable dwellinghouses on housing estate development proposals unless clear and transparent viability evidence can demonstrate that this cannot be achieved. (Especially in areas of high housing demand)

Officers will ensure that any such viability assessment is independently scrutinised in detail to qualify any scheme omitting local affordable housing provision.