
Costs Decision

Site visit made on 4 August 2025

by **L Clark BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 December 2025

Costs application in relation to Appeal Ref: APP/X1355/W/25/3365143

**Land to the South of 28 Station Road, West Rainton, Houghton le Spring, Durham
DH4 6SF**

Grid References Easting: 431874, Northing: 546201

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Woodside Commercial Developments Ltd. for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for erection of 20 affordable dwellings.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant's cost application is based on the claims that the Council, specifically its Planning Committee, acted unreasonably in preventing development which should have been permitted by failing to take into account their marketing evidence.
4. Minutes from the Planning Committee confirm that Council Members understood the proposed development and acknowledged the benefits. Council Members are not bound to accept the advice or recommendations given by its Planning Officers and, similarly, it is not uncommon for the Planning Committee to come to a differing view when applying their own judgement. This itself does not indicate unreasonable behaviour.
5. There is no dispute that there is a range of local facilities and amenities within 800m walking distance of the centre of the appeal site and, together with the pedestrian and bus links, the site and the previously approved housing to the west would be sustainable.
6. I note that there was a significant level of objection to the planning application which signalled that there was a need for the community hub and, specifically, the retail element. However, whilst the merits of the proposed development are a matter of judgment, it was unreasonable for Members of the Committee to disregard the evidence before them, given the length of time the site has been marketed, without any reasonable interest and without any evidence to the contrary. Moreover, had the Planning Committee considered the evidence within the planning application appropriately, then the applicant would not have required a further Retail Demand Update from Savills (dated 4 July 2025). In this regard, the

Council's unreasonable behaviour has led the applicant to incur unnecessary expense.

7. The Minutes provide a clear reason for refusal which was replicated on the Decision Notice. Having had the application refused, the applicant exercised his right of appeal. In this regard, I find that the Council has not acted unreasonably.
8. Furthermore, the Council indicated in its Committee Report that a legal agreement (s106) was required to make the proposed development acceptable in planning terms. Any fees associated with the s106 Agreement therefore fall outside the scope of cost regime.
9. I have no evidence to demonstrate that the applicant has re-applied for planning permission and therefore have nothing substantive to demonstrate that they have incurred any additional costs.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Retail Demand Update from Savills dated 4 July 2025, and a partial award of costs is therefore warranted.

Cost Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Durham County Council shall pay to Woodside Commercial Developments Ltd the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Cost Office if not agreed.
12. The applicant is now invited to submit to Durham County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

L Clark

INSPECTOR