

Appeal 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

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 appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr R Baird of Woodside Commercial Developments Limited against the decision of Durham County Council.
- The application Ref is DM/24/02156/FPA.
- The development proposed is erection of 20 affordable dwellings.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 20 affordable dwellings on land to the south of 28 Station Road, West Rainton, Houghton le Spring, Durham DH4 6SF in accordance with the terms of the application, Ref DM/24/02156/FPA, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Ronnie Baird of Woodside Commercial Developments Ltd against Durham County Council. This application is subject of a separate Decision.

Preliminary Matters

3. The application form contains only a postcode and a grid reference; however, the postcode differs from that on the decision notice and appeal form. I have therefore taken the address in the banner heading above from the appeal form as this reflects, in the main, the address used on the decision notice. I have also added the grid reference from the application form for completeness, as this locates the site as shown on the submitted drawings.
4. The description of development in the banner heading above is taken from the decision notice, as this is a more accurate reflection of the development for which permission is sought than that given on the application form. I have, however, deleted references to '(amended description 28/11/2024)' as this does not relate to an act of development.
5. A 'further Retail Demand Update', dated 4 July 2025, was submitted alongside the appellant's final comments. The appellant contends that this provides clarification and does not constitute new information. I am satisfied that accepting the additional Retail Demand Update would not cause procedural unfairness resulting in prejudice to interested parties by depriving those who should have been consulted on the change the opportunity to comment.

6. During the appeal, a certified and duly executed legal agreement was submitted under section 106 of the Town and Country Planning Act 1990 (s106 agreement). The purpose of the s106 agreement is to secure affordable housing, contributions of £58,608 towards open space, £88,385 towards Primary Education, £72,936 towards Secondary Education and £16,796 towards SEND education. I am satisfied that there would be no procedural unfairness to anyone involved in the appeal, including those consulted on the original application, if I were to accept this. I have therefore determined the appeal having regard to the s106 agreement and shall return to this later in the decision.

Background and Main Issue

7. Outline planning permission¹ was granted in 2015 for the appeal site and its immediate surroundings for a residential development of 150 dwellings and a small-scale community hub, which included Use Classes A1, A2, A3, A4, A5 and Class D1 (the community hub). In 2016, a reserved matters application² was approved for 150 dwellings. A subsequent reserved matters application³ was approved in 2019 for the community hub. In June 2023, an application to vary the s106 agreement⁴ was approved which sought to amend the triggers in relation to the delivery of the community hub.
8. The Town & Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the Regulations) came into force on 1 September 2020. The Regulations revoked Classes A and D in their entirety and created a new Class E Use Class (Commercial, Business and Service) within which the previous Classes A1, A2, A3 and D1 were incorporated, and Use Classes A4 and A5 were moved into Sui Generis.
9. The appeal site, which forms part of the wider extant planning approval, measures approximately 0.62 hectares. The proposed development seeks permission for 20 residential dwellings comprising 12 bungalows and 8 houses, all of which would be 100% affordable on land that was previously shown to accommodate the community hub.
10. The main issue is whether or not there have been adequate measures to demonstrate the need for the community hub and, if so, whether there would be harm arising from not providing it.

Reasons

11. The appellant has undertaken a number of retail appraisals with regard to demand for the commercial hub since 2016 in support of their planning application⁵, including Retail Demand Updates in the form of letters⁶ and a further Update dated 4 July 2025, which accompanies their appeal. The retail updates collectively conclude that since 2016 the site has been actively marketed for commercial use. This was on the basis that, within the postcode for predicted footfall, there would be approximately 150 additional new homes, that the marketing particulars were distributed to over 400 agents and over 200 retailers, and that marketing boards were erected on the A690 at the corner of the site, at the junction of Station Road

¹ Ref 8/CMA/4/112

² Ref DM/16/01806/RM

³ Ref DM/18/02573/RM

⁴ Ref DM/23/00231/S106A

⁵ West Rainton Proposed Retail Scheme, dated 2023 and Retail Market Demand Assessment, dated June 2024 (Savills)

⁶ Retail Demand Update, dated 27 November 2024 (Savills), 24 January 2025 (Savills) and 2 April 2025 (Savills)

and Lambton View, and that the appeal site was listed on at least three online commercial property websites.

12. The evidence indicates that despite the extant planning permission for 150 additional households, the site has proven to be too small and not sufficiently visible to attract any interest from anchor retail stores. It further states that without sufficient footfall and regular repeat visits, and given its location away from the A690, there was limited demand for the smaller units within the community hub.
13. The appellant's Retail Demand Update dated 27 November 2024 states that it was asked to re-engage with the main national retailers to establish demand for a larger format store, given the junction improvements to the A690. Despite the highway improvements, there was no uptake with retailers rejecting the site for, amongst other things, the size of the site being insufficient to meet their standard store format and the limited household catchment and, in the case of Tesco, the proximity of another of its stores in Houghton-le-Spring.
14. The Savills Retail Demand Update dated 24 January 2025 states that the Newcastle branch, together with the specialist retail team in Leeds, engaged with additional branded retailers active in the convenience store market. The evidence indicates that the level of engagement was poor, with only one potential operator expressing an interest in a reduced-size unit. I note from this marketing exercise that Savills professional opinion to its client (the appellant) was that it was unable to support such a decision, given its potential impact on the viability of the scheme.
15. In the appellant's Retail Demand Update dated April 2025, contact was made with Sainsbury's in March 2025 following advice from a local Councillor that there may be interest in the appeal site. Savills state that they went to some lengths to persuade them (Sainsbury's), however, it did not meet their trading requirements and therefore was not a site of interest.
16. The appellant's Retail Demand Update dated 4 July 2025 does not dispute the early marketing (2016) quoted rent 'from £18.00 per sq. ft'. However, Savills contend that this is not an unusual practice and, in their professional opinion, interested parties usually come forward with an offer based on what they believe they can afford. Moreover, the 2023 marketing campaign omitted any such rental figure. I have nothing substantive before me to demonstrate that the rental figure cited in the 2016 was excessively high or that it deterred prospective operators.
17. I am aware that despite an independent search by a local Councillor on behalf of the West Rainton and Leamside Parish Council, the one retailer who had expressed an interest failed to follow up. Even if a local entrepreneur who owns a number of small shops may have shown interest and contact details were shared with the appellant, I have nothing before me to demonstrate that this interest would constitute an anchor store. Furthermore, even if a retailer had been 'found', this does not demonstrate a need for the community hub overall. I therefore give this little weight in my assessment.
18. The appellant's evidence⁷ provides the locations where two marketing boards were erected by the former agents (CPNE) in August 2016. The Retail Demand Update⁸ includes Google Street View imagery showing a marketing board on the

⁷ Retail June 2024 Retail Market Demand Assessment

⁸ Dated 27 November 2024

corner of Lambton View and Station Road, with images dated 2017, 2021 and 2022. Whilst I have nothing to demonstrate that the board on the A690 has been there for a similar period, I am mindful that a local Councillor has attested that the sign had been visible from the A690. Even if that sign had been lying on the floor for approximately four years prior to the junction improvement, the site had nevertheless remained actively marketed.

19. I have not been directed to any adopted policy which states how long a site should be marketed. The evidence before me demonstrates that the site has been marketed as a community hub since 2016 (approximately 9 years), with no genuine interest in an anchor store.
20. I have taken into account the residents suggestions that they would work with companies to attract an 'Express' style shop; however, given CPNE and Savills have been unable to attract an anchor tenant and, without any evidence, I give this suggestion limited weight. Furthermore, the Council have not provided any evidence to satisfactorily demonstrate genuine interest in an anchor store despite its statements by its Committee. The evidence before me demonstrates that over an approximately 9-year period of marketing, no retailer has come forward and there is no reasonable prospect of one coming forward in the near future.
21. There is no dispute that the appeal site is not located within a town centre or a primary shopping area as identified in the County Durham Plan (CDP). In its refusal, the Council refers to, amongst other matters, CDP Policy 9 which relates to retail hierarchy and town centre development. CDP Policy 9 seeks, amongst other things, to resist the loss of essential shops and services in all locations outside of those identified in the County's retail hierarchy. There is no dispute that the community hub has not yet been constructed and, as such, there would be no actual physical loss of an essential shop or services. CDP Policy 9 is therefore not applicable to this main issue. However, its perceived loss to the local community is a material consideration.
22. The council also contend that without the community hub, occupiers of the previously approved housing development immediately west of the appeal site would be dependent on their private vehicles for their day-to-day needs, leading to an unsustainable development.
23. I note that the proposed community hub played a significant role in the original assessment⁹, and that it would have addressed the current lack of a concentrated retail provision. I therefore acknowledge that existing residents may be disappointed if the community hub and the facilities it could offer are not built. However, the evidence before me indicates that West Rainton does have a range of local facilities and amenities within 800m actual walking distance of the centre of the site. I saw that there were bus stops adjacent to the appeal site on Lambton View which offered direct and reasonably regular access to Durham city and Sunderland. Plans submitted alongside the appeal show that there would be pavements within the proposed development linking the proposed dwellings with those previously approved to the west. There would also be a direct pedestrian link through the development connecting the residential element to the west of Station Road with existing services and facilities in West Rainton. It is highly likely that

⁹ 8/CMA/4/112

these pavements would be lit and provide safe modes for those with mobility issues or disabilities as well as walking or cycling.

24. CDP Policy 21 provides clarity on what the CDP seeks with respect to sustainability. This policy builds on CDP Policy 6 f) with regard to good access to relevant services and facilities.
25. I note the Council originally considered the community hub would be beneficial to help ensure the housing granted by the outline planning permission would be sustainable. The Council contend that this application was considered under adopted policies at that time, within the City of Durham Local Plan (2004), and that had the original outline application been considered now, a community hub would not have been deemed necessary. I am mindful that the Council gave weight to the change in policy in its planning balance. Furthermore, I have nothing substantive before me to demonstrate that the appeal site is an unsustainable form of development.
26. I acknowledge that the provision of the community hub would go towards meeting the requirements of paragraph 96 of the National Planning Policy Framework (the Framework) in providing a mixed-use development which promotes, amongst other matters, opportunities for people to meet. I have nothing before me to demonstrate that the current facilities and services could not facilitate the daily needs of the future occupants of the proposed development, or those occupants from the previously approved development, or that the failure to provide the community hub would result in those occupants being dependent on private vehicles for their day-to-day needs. Furthermore, the North East & North Cumbria Integrated Care Board who were consulted on the proposed development raised no objections.
27. I am mindful that the triggers in relation to the delivery of the commercial development have been varied¹⁰. Whilst neither party has provided me with the specific details, the application was approved. If I were minded to dismiss the appeal, there is nothing to prevent the appellant from seeking further variations to delay its delivery.
28. The Council acknowledged in its Committee Report that without any real prospect of the community hub coming forward it was likely that the site, being in private ownership, would remain undeveloped. This, together with the length of time which the site has been marketed, weighs in favour of the proposal.
29. For the reasons given above, and without any substantive evidence to the contrary, I am satisfied that the appellant's endeavours to market the site have been robust and provide sufficient justification to demonstrate that there is no realistic prospect of a retailer coming forward. The proposed development, therefore, complies with CDP Policies 6 and 21. The appeal scheme also accords with the requirements of Part 2 of the Framework.
30. The Council contend that the proposal would be contrary to Paragraph 88 of the Framework. This relates to 'supporting a prosperous rural economy'. However, I have nothing before me to demonstrate that the appeal site is within a rural location. This paragraph is therefore not applicable to the appeal before me.

¹⁰ DM/23/00231/S106A

31. The Council also considers that the proposal would be contrary to Paragraph 98 of the Framework. This relates to social, recreational and cultural facilities and services the community needs. Given that the proposed development relates to housing, it fails to fall into any of these categories. Paragraph 98 is therefore not applicable to the appeal before me.

Other Matters

32. I acknowledge the frustrations of Committee members and residents that there is no mechanism to enforce the community hub, despite the principle being established. However, for the reasons given above, I am satisfied that the appellant has taken all necessary steps to market the site.
33. Objections have been raised by interested parties. In the main, these focus on matters already considered, including highway safety, disruption during construction and the need for additional houses. Subject to appropriately worded conditions, I am satisfied that matters relating to parking and construction management would ensure the proposal does not cause harm in respect to, amongst other things, living conditions and highway safety.
34. I note that the local Councillor has concerns with regard to the validation of the appellant's evidence. However, Savills are a recognised specialist in their field and the evidence before me lends weight to my conclusion that the proposal is acceptable.
35. The Committee may see developers seeking to amend schemes to omit sections that facilitated the original approval; however, even if this were the case, I have made my assessment based on the evidence and site-specific circumstances before me, which must focus on the planning merits of the appeal proposal.
36. Furthermore, the matter of whether the community hub was viable in advance of planning permission being granted for the outline is not determinative to my assessment of this appeal.
37. The Council do not dispute that there is a shortfall of affordable homes across County Durham, or that affordable housing is a valuable asset to the housing stock. The Framework emphasises the importance of the delivery of housing. The provision of 20 new affordable homes would contribute to meeting an undisputed local need.
38. Notwithstanding the contradictions in the Council's evidence with regard to their housing land supply, I am satisfied that it can demonstrate its figures exceed the County's 5-year housing land supply requirement. Accordingly, Paragraph 11(d) of the NPPF is not engaged.

Planning Obligation

39. The s106 agreement would secure 100% affordable housing on the site. This would exceed the requirement of Policy 15 of the CDP. It would also provide the following financial contributions: £58,608 towards open space within the Electoral Division; £88,385 towards additional teaching accommodation at West Rainton Primary School and/or Pitlington Primary School and/or Belmont Cheverley Park; £72,936 towards additional teaching accommodation at Belmont School; and £16,796 towards the provisions of SEND education in County Durham.

40. Having regard to the above, and based on the evidence before me, I am satisfied that all of the provisions set out in the agreement are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale to the development. They therefore meet the tests as set out within paragraph 58 of the Framework and CIL Regulations 122. I am also satisfied with the form, drafting and content of the agreement, and I have therefore attached weight to the provisions contained therein in this decision.

Conditions

41. The Council has suggested several conditions, some of which I have amended for the sake of clarity and precision. I have also had regard to the Framework and the Planning Practice Guidance. In some instances, I have made minor changes to wording to improve precision and enforceability.
42. A plan's condition is necessary in the interest of planning certainty (2). To ensure the development delivers the off-site biodiversity net gain, it is necessary to ensure the implementation of the Biodiversity Gain Plan (3). Given the amount of on-site provision, it is also necessary to impose a condition requiring details of a Landscape Ecological Management Plan (LEMP) to be submitted and notice to be given when the LEMP has been implemented and on-site habitat created (4 and 5). I also consider it necessary, in the interests of the environment, to impose a condition requiring details to be submitted of bat and bird boxes, hedgehog corridors, soil management and root protection measures with respect to the adjacent hedgerow (6, 7, 8 and 15).
43. To provide satisfactory living conditions for future occupiers, it is necessary to impose conditions seeking further details to be submitted and approved relating to drainage, streetlights, pavement/footway link, broadband and accessibility (9,10,19 and 20). It is also necessary to ensure that the development provides satisfactory refuse, car parking and hard standings and garages are carried out as per the details submitted alongside the planning application (11 and 14).
44. In the interests of protecting the character and appearance of the area, it is necessary to impose conditions to ensure landscaping details are carried out in accordance with approved details and during the first available planting season (16). However, I do not consider it reasonable to attach the Council's suggested element in the same condition with regard to nesting birds and roosting bats, given that these are protected by other legislation.
45. Conditions relating to cycle parking and electric vehicle charging points to be carried out as per details submitted alongside the planning application are required to encourage modes of sustainable transport (12 and 13).
46. To provide satisfactory living conditions for existing nearby occupants, it is necessary to impose conditions to ensure construction is undertaken with the agreed Construction Method Statement, Assessment of Noise Levels and Noise Amelioration Measures, Air Quality Screening Assessment, together with working hours (17 and 18).
47. With regard to the pre-commencement planning conditions listed above, the appellant has been consulted on the wording of these conditions and has provided their written agreement in accordance with the regulations.

Conclusion

48. For the above reasons, and having had regard to all other matters raised, the proposal would comply with the development plan taken as a whole and material considerations do not indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

L Clark

INSPECTOR

Richborough

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

1201 – L 100 B – House Type 1 Proposed Plans
1201 – L 101 A – House Type 1 Proposed Elevations
1201 – L 200 B – House Type 2 Proposed Plans
1201 – L 201 A – House Type 2 Proposed Elevations
1201 – L 300 B – House Type 3 Proposed Plans
1201 – L 301 A – House Type 3 Proposed Elevations

1457 – L 000 – Location Plan
1457 – L 001 B – Proposed Site Plan
1457 – L 003 B – Proposed Soft and Hard Landscaping Plan

2215 D800 Rev 2 – Section 38 Plan

Flood Risk Assessment & Drainage Strategy Version 4 dated 21st March 2025 by RWO

SUDS Maintenance Plan, dated 27th January 2025 by RWO

Surface Water Construction Management Plan, dated 27th January 2025 by RWO

D001 Revision 03 – Engineering Layout

D210 Revision 03 – SUDS Identification Plan

D810 Revision 03 – Surface Water Management Plan

Ecological Appraisal V2, dated 15th January 2024 by OS Ecology

Biodiversity Net Gain Assessment V3, dated January 2025 by OS Ecology

Biodiversity Net Gain Metric V3, dated January 2025 by OS Ecology

D6420/1 – Geoenvironmental Appraisal Revision 0, dated December 2014 by Dunelm

D6420A/01 – Updated Contamination Risk Assessment, dated 31st May 2018 by Dunelm

D6420/02 – Mining Investigation Revision 0, dated 15th April 2015 by Dunelm

D6420/03 – Supplementary Mining Investigation Revision 0, dated January 2016 by Dunelm

D6420/GRA Revision 1 – Gas Risk Assessment, dated 17th August 2016 by Dunelm

Construction Method Statement, dated August 2024

IDP/SR/001 – Assessment of Noise Levels and Noise Amelioration Measures, dated April 2018 by LA Environmental

NJD24-0299-001R – Air Quality Screening Assessment, dated November 2024 by NJD Environmental Associates

DS14.258 revised – Archaeological Evaluation Written Scheme of Investigation, dated 5th September 2014 by Durham University Archaeological Services

3572 – Archaeological Evaluation, dated October 2015 by Durham University Archaeological Services.

- 3) The Biodiversity Gain Plan shall be prepared in accordance with the 'Biodiversity Net Gain Assessment V3, dated January 2025 by OS Ecology.
- 4) No development shall not commence until a Landscape Ecological Management Plan (LEMP) has been prepared in accordance with the approved Biodiversity Gain Plan and has been submitted to, and approved in writing by, the Local Planning Authority. The LEMP shall only detail on-site measures. The LEMP shall include:
 - (a) a non-technical summary;
 - (b) the roles and responsibilities of the people or organisation(s) delivering the LEMP;
 - (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of the development or the first occupation of the development, whichever is the sooner; and
 - (e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the Local Planning Authority.

Notice in writing shall be given to the Local Planning Authority when:

- (a) the LEMP has been implemented; and
 - (b) the on-site habitat creation and enhancement works as set out in the LEMP have been completed.
- 5) Prior to the occupation of the final dwelling on the scheme:
 - (a) the habitat creation and enhancement works set out in the approved LEMP shall be completed; and
 - (b) a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by, the Local Planning Authority.
- 6) Prior to the first dwelling being constructed beyond damp proof course level, details of the location of integrated bat and bird boxes, along with details of the type of box, shall be submitted to, and approved in writing by, the Local Planning Authority. The boxes shall be integrated into the external walls of each of proposed dwellings, in accordance with the mitigation measures recommended in the hereby approved Ecological Appraisal V2, dated 15th January 2025 by OS Ecology.
- 7) All close boarded fence boundary treatments shall contain a 13 x 13cm minimum gap between the fence base and the ground, in accordance with the mitigation measures recommended in the hereby approved Ecological Appraisal V2, dated 15th January 2025 by OS Ecology.
- 8) No development shall commence until a soil resource management strategy has been submitted to, and approved in writing by, the Local Planning Authority. The strategy shall clearly describe the proposed use of all soils on site and demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice. The strategy should detail soil handling, storage and replacement methods to be used

appropriate to the grade of soil and intended after-use. The strategy shall also include details of the proposed soil depths upon replacement and plant and machinery to be used as well as, where appropriate, steps to prevent the spread of any soil-borne plant or animal diseases. If soils are to be removed from site, then details of quantities and a programme for removal shall be submitted. Thereafter, development shall take place in accordance with the approved details.

- 9) No dwelling shall be occupied until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption by the Local Highway Authority shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details.
- 10) Prior to the first occupation of Plots 10 or 11 as identified on the hereby approved drawings, the proposed footpath link from the development to the adopted footpath to the north of the site shall be implemented.
- 11) No dwelling shall be occupied until the refuse storage provision for that dwelling, as detailed on the approved plans, has been implemented. Thereafter, the refuse storage provision shall be retained in accordance with the approved details at all times.
- 12) No dwelling shall be occupied until the cycle parking provision for that dwelling, as detailed on the approved plans, has been implemented and made available for use. Thereafter, the cycle parking shall be retained in accordance with the approved details and shall be made available for the parking of cycles at all times.
- 13) No dwelling shall be occupied until the Electric Vehicle Charging Points for that dwelling, as detailed on the approved plans, has been installed and made available for use. Thereafter, the charging points shall then be retained for use at all times for the lifetime of the development.
- 14) No dwelling shall be occupied until the car parking area for that dwelling, as detailed on the approved plans, has been hard surfaced, sealed and marked out as parking bays in accordance with the approved plans. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.
- 15) No development shall commence including site clearance, preparatory work including any laying of hard standing, site cabins, the storage of materials, plant or machinery brought on site on land adjacent to the eastern boundary of the site, until details of root protection area measures in respect of the adjacent hedgerow to the east of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in strict accordance with the approved root protection area measures.
- 16) All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removal of existing trees and hedges. Any trees or plants which die,

fail to flourish or are removed within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of similar size and species.

- 17) The development shall be constructed in accordance with the mitigation measures in the hereby approved documents:

Construction Method Statement, dated August 2024

IDP/SR/001 – Assessment of Noise Levels and Noise Amelioration Measures, dated April 2018 by LA Environmental

NJD24-0299-001R – Air Quality Screening Assessment, dated November 2024 by NJD Environmental Associates

- 18) No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 07:30 to 18:00 on Monday to Friday and 07:30 to 14:00 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 07:30 to 17:00 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays without express permission from the Local Authority.

Banksmen will be employed to escort deliveries and manage traffic when reversing onto the public highway or other activity which may impact on road safety. All offloading of plant, equipment and materials will be carried out on site and vehicles would turn around before leaving.

- 19) Prior to the construction above damp proof course of the first dwelling, details of the means of broadband connection to the site shall be submitted to, and agreed in writing by, the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed details.
- 20) Prior to the construction above damp proof course level of any of the dwellings hereby approved, a report setting out how at least 66% of the total number of units approved will conform to Buildings Regulations M4(2) standard shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

***** END OF CONDITIONS *****

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.

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