

APPEAL BY

PERSIMMON HOMES SEVERN VALLEY (“THE APPELLANT”)

**AGAINST THE NON-DETERMINATION BY NORTH SOMERSET
COUNCIL
 (“THE COUNCIL”)**

**OF AN APPLICATION FOR PLANNING PERMISSION FOR A
PROPOSED DEVELOPMENT AT RECTORY FARM (NORTH),
YATTON, NORTH SOMERSET (“THE APPEAL SITE”)**

APPELLANT’S APPLICATION FOR COSTS

Scope of the application for costs

1. The Appellant seeks a partial award of costs in relation to:
 - a. The first putative reason for refusal (“**RFR1**”), relating to the spatial strategy and alleged conflict with Policies CS14 and CS32.
 - b. The fourth putative reason for refusal (“**RFR4**”), relating to the site’s safeguarding as a primary school), up until the Council’s withdrawal of RFR4 on 16th August 2024.

RFR1: spatial strategy

2. The Council’s statement case and planning proof of evidence in relation to RFR1 was inconsistent with, and failed to grapple with, the succession of appeal decisions (Moor Road CD I9, Rectory Farm South CD I11, Backwell CDI12) all of which rejected essentially the same objection in terms which are not reasonably distinguishable from the present case.
3. The Council was unable to point to any relevant change of circumstances or change in policy since those decisions.

4. Mr Smith conceded in cross-examination that conflict with the spatial strategy would not be a basis for refusal in the event that the flood risk related reasons for refusal are not upheld.
5. The Inspector is invited to conclude that RFR1 was substantively unreasonable.
6. This caused the Appellant to incur unnecessary cost, namely (i) preparation of written planning evidence in relation to RFR1, (ii) preparation of oral planning evidence in relation to RFR1, (iii) preparation of cross-examination in relation to RFR1, (iv) drafting of opening and closing submissions on RFR1, and (v) inquiry time dealing with RFR1.
7. The Appellant should be awarded its costs in relation to this.

RFR4: primary school safeguarding

8. The Council abandoned RFR4 on 16th August 2024 (Ventham proof para 2.2.3 & appendix 2), just 11 days before proofs of evidence were to be exchanged and several weeks into the lifetime of the appeal.
9. No change of circumstances has been offered by the Council to justify why it was reasonable to impose RFR4 and thereafter maintain it up until a few days before the exchange of proofs, at which point the Council belatedly accepted that it had no merit.
10. The Inspector is invited to conclude that the imposition, and thereafter maintenance until 16th August, of RFR4 was substantively unreasonable.
11. This caused the Appellant to incur unnecessary cost, since by 16th August, it has already commissioned the proof of evidence of Mr Ben Hunter (Ventham Apx 12) which was virtually complete as of that date (subject to very limited minor editing). Indeed, Mr Hunter met with the Council on 16th August to discuss his evidence, only to be notified later that day of their withdrawal in pursuing RFR4.

12. The Appellant therefore should be awarded its costs in relation to RFR4 up until 16th August 2024.

CHARLES BANNER K.C.

**Keating Chambers
15 Essex Street
London WC2R 3AA**

17th October 2024