



Costs Decision

Inquiry opened on 24 September 2024

Site visit made on 24 September 2024

by **David Prentis BA BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th April 2025

Costs Application D in relation to Appeal Ref: APP/D0121/W/24/3343144 Land at Rectory Farm (North), Chescombe Road, Yatton BS49 4BZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Persimmon Homes Severn Valley for a partial award of costs against North Somerset Council.
 - The inquiry was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for outline planning permission for the development of up to 190no. homes (including 50% affordable homes) to include flats and semi-detached, detached and terraced houses with a maximum height of 3 storeys at an average density of no more than 20 dwellings per net acre, up to 500 sqm Class E floorspace, allotments, car parking, earthworks to facilitate sustainable drainage systems, orchards, open space comprising circa 70% of the gross area including children's play with a minimum of 1no. LEAP and 2no. LAPS, bio-diversity net gain of a minimum of 20% in habitat units and 40% in hedgerow units, and all other ancillary infrastructure and enabling works with means of access from Shiners Elms for consideration. All other matters (means of access from Chescombe Road, internal access, layout, appearance and landscaping) reserved for subsequent approval.
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Decision

1. The application for a partial 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 application was made in writing.¹ Costs Application D is made on the basis that Costs Application C was so lacking in merit that it was unreasonable to make it. Within Costs Application C there was an application for a full award and an application for a partial award. In my decision on Costs Application C, I have allowed the application for a partial award. It follows that this element of the application was not, in my view, unreasonable.
4. To my mind the application for a full award of costs was misconceived for two reasons. First, it was predicated on an assertion that an appeal decision at Lynchmead Farm was for a similar proposal that had the same bundle of benefits. There was no evidence in support of that assertion. It had not been articulated at the Inquiry or put to the witnesses.

¹ ID70 – the Council confirmed that it had no further comments to make on 7 March 2025 (ID72)

5. Second, the application for costs criticised the appellant's approach to the sequential test. However, the application was silent on the fact that the appellant's case was (in the alternative) that planning permission should be granted even if the sequential test was not passed. The Council did not argue, either in the application for costs or elsewhere, that a failure of the sequential test was not capable of being outweighed by other material considerations. It follows that the application for costs did not even begin to demonstrate that this was an unreasonable appeal to make.
6. The Council ought to have realised, acting reasonably, that there was no prospect of this element of the application succeeding. I conclude that making this part of Costs Application C amounted to unreasonable behaviour. The appellant would have been put to some expense in responding to the other part of Application C in any event. However, the costs response was longer than it need have been. This resulted in unnecessary expense in the appeal process.

Costs Order

7. 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 North Somerset Council shall pay to Persimmon Homes Severn Valley the costs of the appeal proceedings described in the heading of this decision limited to the costs incurred in responding to the part of Costs Application C which sought a full award of costs, such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to North Somerset Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Prentis

Inspector