

Costs Appeal on Behalf of Mr Matthews

Land Adjacent to The Bungalow, High Street, Kingsley

Erection of a Dwelling – High Street, Kingsley

Project	Land Adjacent to The Bungalow
Client	Mr Matthews
Reference	1864
Project Team	Jon Imber
Version	1.0

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1 Introduction

- 1.1 JMI Planning is a Midlands based town planning consultancy. Its directors are chartered town planners with over 30 years' combined experience in both the public and private sector.
- 1.2 The author of this statement, Jon Imber, has worked as both a development control and forward planning officer in local government, and more recently as a senior planning consultant in the private sector. He has extensive knowledge of the planning system and experience of the appeals process. He is a member of the Royal Town Planning Institute.
- 1.3 This statement has been prepared on behalf of the appellant Mr Matthews. It should be read in conjunction with the accompanying appeal statement.

2 Background to the Costs Appeal

- 2.1 Paragraph: 028 (Reference ID: 16-028-20140306) of the NPPG states *“All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs”*.
- 2.2 Paragraph: 050 (Reference ID: 16-047-20140306) of the NPPG lists examples of behaviour may give rise to a procedural award of costs against a local planning authority. This includes *“preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations”*.

3 The Appellant's Costs Claim

- 3.1 Outline planning permission was granted to erect a dwelling on the site in May 2015 (LPA reference SMD/2014/0270). Reserved matters were subsequently approved in July 2018 (LPA reference SMD/2018/0060).
- 3.2 The outline planning permission expired in July 2020, during the Covid 19 pandemic. The applicant was unable to implement the scheme on time, and it fell just outside of the automatic extensions enabled by the Business and Planning Act 2020.
- 3.3 The appellant was therefore advised to resubmit the scheme, seeking detailed planning permission. An application for a detached dwelling identical to that approved in 2018 was submitted in August 2021. The Council's Planning Committee resolved to refuse the application, against the recommendation of the Planning Manager, in September 2022.
- 3.4 The committee refused the scheme on three grounds. Firstly, despite the scheme being identical to that approved in 2018, and despite there being no material change in the spirit of local or national planning policies or the circumstances at the appeal site in the intervening four years, it determined that the proposals would be harmful to the character of the area and the amenities enjoyed by neighbouring residents. This inconsistency and complete disregard for the planning history of the site is considered to constitute unreasonable behaviour.
- 3.5 The committee also resolved to refuse the scheme on the grounds of impact upon a nearby listed building, despite the Council's specialist Conservation Officer advising that the proposals would not result in harm to its setting.

- 3.6 Thirdly, the committee ignored the advice of the Highway Authority in concluding that the proposals would prejudice the safe and efficient use of the highway network, without offering any evidence or technical expertise to corroborate its stance.
- 3.7 As is clear from the recent approval of an identical scheme at the site, and the recommendation of the planning officer, conservation officer and Highway Authority there are no planning policy conflicts or technical matters acting as a barrier to consent being granted in this instance. In disregarding these material considerations the Council's Planning Committee has acted unreasonable and delayed development that should clearly be permitted.
- 3.8 The appellant's application for a full award of costs is therefore entirely justified.