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## Costs Decision

Site visit made on 29 September 2021

**by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 November 2021**

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### **Costs application in relation to Appeal Ref: APP/W3520/W/21/3266951 Land off Post Mill Lane, Fressingfield, Easting-625628 Northing-277396**

- 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 C.E. Davidson Ltd for a full award of costs against Mid Suffolk District Council.
  - The appeal was 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 a new residential development of up to 18 homes and associated new roads, infrastructure and open space.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The Planning Practice Guidance 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 basis of the appellant's application for costs falls in to two distinct areas where they feel there has been unreasonable behaviour on the part of Mid Suffolk District Council:
  - 1) In deferring the application without sound need or reason.
  - 2) In the application resulting in unnecessary expenditure in seeking an appeal to determine the application
4. From the material submitted for the purpose of the appeal it appears that the deferral of the application referred to by the applicant was put in place by the council to enable the council committee members, as the decision makers on the application, to have the benefit of legal opinion from Counsel. This deferred a decision from the committee meeting of 25 November 2020 to their meeting on 31 March 2021. At this meeting, with the benefit of Counsel opinion, the Members of the committee Council decision was to refuse planning permission, or in the event that the appeal has begun, agree putative reasons for refusal for the reasons given.
5. The appellant made an appeal application on 14 January 2021 against the failure of the Council to issue a notice of their decision within the prescribed

period on an application for outline planning permission. The Council did not, therefore, issue a decision notice.

6. Although the deferral may have delayed a decision by Members, they agreed that they needed the benefit of Counsel opinion to make a fully informed decision. As such I do not find that this decision and resulting delay amounts to unreasonable behaviour on the part of the council, as I find that that such a delay has no bearing on the appeal process itself.
7. Similarly, the appellants claim for unnecessary expenditure in seeking an appeal does not directly relate to the behaviour of the parties during the appeal process, but relates to the appellants own decision to mount an appeal. Therefore, the costs that the appellant is referring to, do not fall to be considered under the appeals costs regime, as set out in the PPG
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Victor Callister*

INSPECTOR