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## Costs Decision

Site visit made on 10 June 2013

**Simon Miles BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 June 2013

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### **Costs Application in relation to Appeal Ref: APP/Q1445/A/13/2190720 Unit 2, Freshfield Industrial Estate, Stevenson Road, Brighton BN2 0DF**

- 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 Hargreaves Management Ltd for a full award of costs against Brighton & Hove City Council.
  - The appeal was made against the grant of planning permission subject to conditions for demolition of two storey wing to front of unit; renewal of external cladding; provision of new entrances, loading doors and glazing to front elevation.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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. In this case the appellant complains that the Council failed to justify the conditions which are the subject of this appeal.
  3. A planning authority is at risk of an award of costs against it if it imposes conditions that are not necessary, precise, enforceable, relevant to planning, relevant to the development permitted or reasonable and thereby does not comply with the tests for conditions set out in national policy. The Council provided reasons for its conditions in its decision notice and, belatedly, set out further information in its written submissions.
  4. However, I set out in the main decision the reasons why I find the conditions to be unnecessary and, in certain cases, unreasonable, having regard to the approach set out in the National Planning Policy Framework. Given my findings, I cannot avoid the conclusion that the Council acted unreasonably by imposing conditions that failed to comply with the relevant tests. This clearly led the appellant to incur unnecessary expense, as there should have been no need for these matters to be the subject of an appeal.
  5. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated. This justifies a full award of costs against the Council.
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**Costs Order**

6. 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 Brighton & Hove City Council shall pay to Hargreaves Management Ltd the costs of the appeal proceedings described in the heading of this decision.
7. The applicant is now invited to submit to Brighton & Hove City 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Simon Miles*

INSPECTOR