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## Costs Decision

Hearing held on 6 August 2013

Site visit made on 6 August 2013

**by Simon Hand MA**

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

**Decision date: 15 August 2013**

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### **Costs application in relation to Appeal C: APP/Q1445/X/13/2197527 Land at 115 Carden Hill, Brighton, BN1 8DA**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Brighton and Hove City Council for a full award of costs against Gabriel & Marina Gutierrez.
  - The hearing was in connection with an appeal for a certificate of lawful use or development is sought is porous hard surface within the curtilage of the dwelling house coloured pink on submitted drawings.
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### **Decision**

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

### **Reasons**

2. Having explained the situation regarding the ground (c) appeal in relation to appeals A & B at the Hearing, it was accepted that the Lawful Development Certificate appeal had no chance of success. I agree with the Council that given the comments on the previous decision *APP/Q1445/X/12/2169949* dated 27 November 2012, this should have been obvious. It was, therefore, unreasonable to pursue the appeal and the Council have incurred unnecessary expense as a result. A full award of costs for dealing with Appeal C is justified.

### **Costs Order**

3. 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 Gabriel & Marina Gutierrez shall pay to Brighton and Hove City Council, the costs of the appeal proceedings described in the heading of this decision.
4. The applicant is now invited to submit to Gabriel & Marina Gutierrez, 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 Hand*

Inspector

