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## Costs Decision

Site visit made on 20 December 2016

by **P N Jarratt BA DipTP MRTPI**

**Decision date: 11 January 2017**

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### **Costs application in relation to Appeal Ref: APP/Q1445/C/16/3152807 Ground floor flats 1 and 2, 22 Brunswick Street East, Hove, BN3 1AU**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Ms Justina Grigiate for a full award of costs against Brighton and Hove City Council.
  - The appeal was against an enforcement notice alleging a change of use of two garages to two self-contained dwellings and the installation of new garage doors.
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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 appellant considers that her own evidence regarding tenancy agreements is unambiguous and that the Council has acted unreasonably in 'not doing their homework'. In respect of the garage doors, the appellant states that if the evidence (of when the doors were installed) is not accepted, their replacement with timber garage style doors with 6 windows above is offered.
  4. Although the appellant has made a full costs claim, it is evident from the claim that the inclusion in the allegation of the replacement of the garage doors is not considered to represent unreasonable behaviour leading to unnecessary expense. The offer of replacing the garage doors is through a ground (a) appeal but as the appropriate fee for a deemed planning application has not been paid, such an offer is of little value. I note also that the appellant made a part retrospective application for the conversion of the ground floor garages to form two self-contained units with associated alterations and that this was refused in April 2016.
  5. The Council has not responded to the costs application.
  6. Notwithstanding this, the notice indicates that the Council considered it expedient to take enforcement action because the two studio flats provided an unsatisfactory standard of accommodation and because the design of the doors failed to respect the historic mews character of the street to the detriment of the appearance of the Brunswick Town Conservation Area. The Council has a duty to pay special attention to the desirability of preserving or enhancing the
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character or appearance of conservation areas and it is not unreasonable for the Council to respond to this duty through enforcement action. Although the appellant considers that the evidence regarding tenancy agreements to be unambiguous, the Council had sufficient contradictory evidence regarding the facts. The failure of the appellant to submit further evidence which it had been indicated would be made available through the appeal process, has done nothing to indicate that the Council has been unreasonable in taking enforcement action.

7. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Guidance, has not been demonstrated.
8. The application for an award of costs is refused.

*P N Jarratt*

Inspector