

Costs Decision

Site visit made on 29 September 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 19 October 2026

Costs application in relation to Appeal Ref: APP/D1590/C/24/3350701 76 Park Road, Westcliff-on-Sea SS0 7PQ

- 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 Mr Mark Higgins (H4 Property Limited) for a full award of costs against Southend-On-Sea City Council.
 - The appeal was against an enforcement notice alleging change of use from a Use Class C4 HMO to seven (7no) self-contained flats.
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Decision

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

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. For enforcement action, local planning authorities must carry out adequate prior investigation. They are at risk of an award of costs if it is concluded that an appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place, or ensured that it was accurate.
4. As I have set out in my Appeal Decision, the Council issued a defective enforcement notice which I have quashed.
5. The most significant error in the notice was the incorrect allegation. Very limited explanation has been given. It seems to me that the error was realised during the appeal process when the Council properly considered the planning history of the site and, more specifically, when it looked with sufficient rigour at the planning permission granted under reference SOS/91/0026. I can see no good reason why it could not have done so before issuing the notice, to ensure that it was accurate.
6. It seems to me that the lack of sufficient diligence on the part of the Council has resulted in the notice being quashed on appeal. The appellant has been put to the unnecessary expense of appealing against it, and unnecessarily had to engage in that process with the incorrect allegation and requirements.
7. I therefore find that a full award of costs is justified.

Costs Order

8. 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 Southend-On-Sea City Council shall pay to Mr Mark Higgins (H4 Property Limited), the costs of the appeal proceedings described in the heading of this Decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Southend-On-Sea City Council, to which a copy of this Decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Walker

INSPECTOR