



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2025

Appeal Ref: APP/D1590/X/24/3352063

43 Warrior Square North, Southend-on-Sea SS1 2JN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Rhys Hales against the decision of Southend-on-Sea Borough Council.
- The application ref 24/00564/CLP, dated 4 April 2024, was refused by notice dated 24 May 2024.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
- The use for which an LDC is sought is change of use from 2 flats (C3) into a 6 bedroom HMO (C4).

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed use which is found to be lawful.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 43 Warrior Square North is an end-terraced building that is sub-divided into two flats. The Appellant is seeking to change the use of the building to a 6 bedroom House in Multiple Occupation (HMO). Class L of Part 1 of Schedule 2 of the GPDO relates to 'small HMOs to dwellinghouses and vice versa'. The Council maintains that the proposed use would not be development permitted under the provisions of Class L because, taken from the reason for refusal of the application, "...there is no provision or other facility to convert two dwellinghouses to one Class C4 HMO".
4. Class L states that permitted development includes "Development consisting of the change of use of a building...(b) from a use falling within Class C3 (dwellinghouses)...to a use falling within Class C4 (houses in multiple occupation)..." (emphasis added). The Council claims, in their appeal statement, that "Class L provides permitted development rights for the change of use of a single dwellinghouse to a small HMO..." (their emphasis). This is incorrect. As underlined above Class L provides permitted development rights for the change of use of a building, not the change of use of a single dwellinghouse.
5. 43 Warrior Square North is a building. Its use falls within Class C3 (dwellinghouses); in this case the use is two flats, or dwellinghouses. So the change of use of the building, irrespective of its current sub-division, to a Class C4 HMO is

development permitted under the provisions of Class L of Part 1 of Schedule 2 of the GPDO. The proposed change of use of the building to an HMO would be lawful.

6. For the reasons given above, and on all evidence now available, the Council's refusal to grant an LDC for change of use from 2 flats (C3) into a 6 bedroom HMO (C4) at 43 Warrior Square North, Southend-on-Sea was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 4 April 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed change of use is development permitted under Class L of Part 1 of Schedule 2 of the GPDO

Signed

John Braithwaite

Inspector

Date: 28 November 2025

Reference: APP/D1590/X/24/3352063

First Schedule

Change of use from 2 flats (C3) into a 6 bedroom HMO (C4).

Second Schedule

Land at 43 Warrior Square North, Southend-on-Sea SS1 2JN

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 28 November 2025

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

Land at: 43 Warrior Square North, Southend-on-Sea SS1 2JN

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Scale: Not to Scale

