



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 05 December 2025

Appeal Ref: APP/D1590/X/24/3353237

76 Park Road, Westcliff-on-Sea, Essex SS0 7PQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (1990 Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by H4 Property Limited against the decision of Southend-on-Sea Borough Council.
 - The application ref 24/01158/CLE, dated 19 July 2024, was refused by notice dated 13 September 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 use of dwellinghouse as 7 no. self-contained residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.
3. The description of the use for which an LDC is sought is taken from the Council's Decision Notice, rather than from the application form. It is an accurate description.

Reasons

4. The Council issued Enforcement Notice 20/00135/UCOU_B/EN01 on 8 August 2024, which relates to the appeal property. The notice alleges the 'change of use from a Use Class C4 HMO to seven (7no) self-contained flats'. The notice would have come into effect on 5 September 2024 had an appeal not been submitted against it. Whilst that appeal is pending the notice remains in force. Section 191(2)(b) of the 1990 Act, in effect, declares that an LDC for an existing use cannot be granted if an enforcement notice is in force that requires the cessation of the use.
5. The LDC sought is for an existing use and the aforementioned Enforcement Notice requires the cessation of the use. In these circumstances an LDC cannot be granted.
6. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use of dwellinghouse as 7 no. self-contained residential units at 76 Park Road, Westcliff-on-Sea, Essex was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector