



## Appeal Decisions

Site visit made on 20 November 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 9<sup>th</sup> February 2026

**Appeal A Ref: APP/D5120/C/25/3369040**

**Appeal B Ref: APP/D5120/C/25/3369041**

**178 and 178A Park View Road, Welling, Kent DA16 1ST**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
- The appeals are made by 178 Park View Ltd (Appeal A) and by Mr Mohammad Yousuf (Appeal B) against an enforcement notice (EN) issued by the Council of the London Borough of Bexley.
- The EN was issued on 30 May 2025.
- The breach of planning control as alleged in the EN is: The erection of a part three / part four storey building comprising mixed use commercial, Class F1 (place of worship) and x6 self-contained units of accommodation on Land at 178 Park View Road, Welling, Kent DA16 1ST, ("The Land").
- The requirements of the EN are to:  
EITHER
  - i) Cease the use of the Ground floor of the premises for purposes specified within Class F1 of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, and;
  - ii) Construct the development so that it accords with Drawing Numbers PR/492/01D, PR/492/02D and PR/492/03C of condition 2 of planning permission referenced 16/00428/FUL and subsequent approval of details application referenced 16/00428/FUL01, and;
  - iii) Remove all debris, waste, materials, equipment resulting from complying with 5 (i) and 5 (ii) above from the Land.OR
  - iv) Cease the use of the Ground floor of the premises for purposes specified within Class F1 of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, and;
  - v) Demolish the building situated in the location outlined in red on the attached plan, and;
  - vi) Remove all debris, waste, materials, equipment resulting from complying with 5 (iv) and 5 (v) above from the Land
- The periods for compliance with the requirements are:  
Steps i) – Comply within a period of 1 month from effective date, and;  
Steps ii) – Comply within a period of 12 months from effective date, and;  
Steps iii) – Comply within a period of 14 months from effective date.  
OR  
Steps iv) – Comply within a period of 1 month from effective date, and;  
Steps v) – Comply within a period of 12 months from effective date, and;  
Steps vi) – Comply within a period of 14 months from effective date.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2) (b), (f) and (g) of the 1990 Act.

### Decisions (Appeal A & Appeal B)

1. It is directed that the enforcement EN is corrected by:

- The deletion of the wording “*Class F1 (place of worship)*” and substitute it with “*place of worship*” within the description of the alleged breach of planning control in section 3 of the EN; and
- The deletion of the wording “*for purposes specified within Class F1 of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020*” and substitute it with “*as a place of worship*” within requirements i) and iv); and

And varied by:

- the deletion of the wording of requirement ii) and its substitution with the wording “*Modify/alter and construct the development so that it accords with Drawing Numbers PR/492/BP01D, PR/492/02D and PR/492/03C of condition 2 of planning permissions referenced 16/00428/FUL and 20/01755/FUL and the subsequent approval of details applications referenced 16/00428/FUL01 and 20/01755/FUL02: and*”

Subject to the corrections and the variation, the appeals are dismissed, the EN is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

### **Applications for costs**

2. Applications for costs were made by the Council of the London Borough of Bexley against 178 Park View Ltd (Appeal A) and by Mr Mohammad Yousuf (Appeal B). The applications for costs are the subject of a separate decision.

### **Preliminary Matters and Background**

3. As set out above there are two appeals on this site. Mr Mohammad Yusuf is a director of 178 Park View Ltd. They relate to the same site and the same EN. To avoid duplication, I have dealt with them together, except where otherwise indicated.
4. During the appeal process it became apparent that the appellant company 178 Park View Ltd had gone into receivership after the EN was issued and the appeals made. Section 174(1) of the 1990 Act provides that “*A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice...*”. A ‘person’ may be a limited company and the wording of that section of the 1990 Act requires the interest in the land to exist at the time the appeal is made. Therefore, the appeals were validly made, and I have dealt with them on this basis.
5. The grounds of appeal for both Appeal A and Appeal B initially included ground (d). However, the ground (d) appeals were subsequently withdrawn and I have dealt with both Appeal A and Appeal B on that basis.
6. Initially, the procedure proposed to determine the appeals was an Inquiry as it appeared that evidence would need to be heard under oath/affirmation. However, following the withdrawal of the ground (d) appeals by the appellants it was decided that evidence would not need to be given on oath/affirmation. As such, the appropriate procedure was then considered to be written representations.

7. Planning permission was granted in 2016<sup>1</sup> (the 2016 permission) for ‘*demolition of existing buildings and erection of a part two/part three storey building comprising a commercial retail unit with storage and warehousing at ground floor level and 2 x 1 bed and 4 x 2 bed flats above with communal terrace and privacy screen. Provision of 6 parking spaces to rear along with secure cycle and refuse storage*’. There were 11 conditions attached to that planning permission. In 2019 an application to discharge conditions 3 and 5 of the 2016 permission was approved.
8. In 2021 planning permission<sup>2</sup> (the 2021 permission) was granted for ‘*application for a minor material amendment to provide strip foundations to parent permission 16/00428/FUL. The parent permission being for the demolition of existing buildings and erection of a part two/part three storey building comprising a commercial retail unit with storage and warehousing at ground floor level and 2 x 1 bed and 4 x 2 bed flats above with communal terrace and privacy screen. Provision of 6 parking spaces to rear along with secure cycle and refuse storage.*’. That planning permission had 10 conditions associated with it and in 2022 an application to discharge conditions 6, 7 and 8 was approved.

### **The Notice**

9. On an appeal any defect, error, or misdescription in an EN may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
10. The allegation refers to a mixed use and a mixed use is a single mixed use and thus ‘sui generis’ and outside of any use class. Therefore, the EN should not refer to a use class within the description of the alleged breach. As such, I intend to delete the wording “*Class F1 (place of worship)*” and substitute it with “*place of worship*”.
11. Moreover, the requirements should correlate with the description of the alleged breach of planning control. As such, I intend to delete the wording “*for purposes specified within Class F1 of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020*” and substitute it with “*as a place of worship*” within requirements i) and iv).
12. The corrections relate to a minor error that would not cause injustice to either main party.

### **The ground (b) appeals (Appeal A & Appeal B)**

13. To succeed on this ground, the onus is upon the appellants to show on the balance of probabilities, in respect of any breach of planning control which may be constituted by the matters stated in the EN, that those matters have not occurred. The appellants’ statement of case mentions the commercial use of the building and poses a question with regard to the approved plans associated with the 2021 permission. Nevertheless, the appellants’ case under this ground of appeal only relates to part of the mixed use, the place of worship, and they argue that that part of the mixed use had ceased prior to the issuing of the EN. To support their case 3 statutory declarations and a notice to quit, dated 25 January 2025, have been submitted. The Council has submitted an email from the Bexley Islamic Centre

<sup>1</sup> Ref: 16/00428/FUL

<sup>2</sup> Ref: 20/01755/FUL

(BIC) which indicates that BIC temporarily vacated the appeal premises on 17 June 2025.

14. Nevertheless, this ground of appeal as set out in section 174(2)(b) of the 1990 Act is worded in the past tense, and the question is whether the breach had occurred by the date of issue of the EN. It is clear from the submitted evidence, including the notice to quit, that BIC was operating from the appeal premises prior to the issuing of the EN. There is no dispute that the use of part of the appeal premises by BIC was as a place of worship. As such, even if the place of worship use had ceased to operate by the date the EN was issued the breach as described in the EN had occurred by that date. Therefore, the ground (b) appeals fail.

### **The ground (a) appeal and deemed planning application (Appeal A)**

15. The appellants have stated that they do not want the deemed planning application to include the place of worship use as they do not seek planning permission for that part of the mixed use. Section 177(1)(a) of the 1990 Act states that the Secretary of State may *'grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates'*. In this respect I consider that the erection of a part three / part four storey building comprising mixed use commercial and x6 self-contained units of accommodation can be treated as falling within that section of the 1990 Act.

### **Main Issues**

16. The main issues are:

- The effect of the development on the character and appearance of the surrounding area;
- The effect of the development on the living conditions of the existing and future occupiers of Flats 4 and 8 with regards to outlook, sunlight and/or daylight;
- The effect of the development on the living conditions of neighbouring occupiers with regards to privacy;
- Whether the development provides adequate parking facilities for cars and cycles and adequate refuse storage.

### **Reasons**

#### *Character and appearance*

17. The appeal building is part 3 and part 4-storey with the 4-storey part fronting onto Park View Road. The majority of properties on this side of Park View Road appear to have commercial uses at ground floor level with residential use above. Those properties vary in their architectural character, detailing and age. Nevertheless, most are 2 or 3-storeys in height including those adjacent to the appeal building. Furthermore, the appeal building is viewed in this context.

18. The approved plans<sup>3</sup> cited within conditions 2 of both the 2016 and 2021 permissions include elevations and floor layouts. The front elevation shown on those plans is of 3-storeys with the third storey being within a mansard type roof. The tallest part of that roof is shown to be slightly above the ridge line of the adjoining property, 176 Park View Road (No 176). The ground floor as shown included a shopfront with fascia above and a separate door to provide access to the flats.
19. However, the appeal building has been constructed with an additional mezzanine floor above the ground floor. As a result, the tallest part of the mansard type roof is significantly above the ridge lines of No 176 and 180 Park View Road. The design and extent of the mansard type roof with its steep pitch at the front and the flat area at the top emphasise the mass and scale of the building. That mass and scale is clearly apparent when approaching the building from both directions on Park View Road given its height above the roofs of the adjacent properties.
20. There is a large dark coloured banner, with Heartwood Court written on it, that has been placed across the front elevation of the appeal building at the mezzanine floor level. That banner is in addition to a fascia sign above the ground floor openings. The banner in combination with the fascia sign highlights the relatively large expanse of brickwork above those openings. Yet, due to the banner's translucent material the windows, to the mezzanine floor level, are still apparent in views from Park View Road. Those windows are relatively small in size so that even if the banner was removed the proportion of wall to opening at that floor level is much greater than on the neighbouring properties. Therefore, the treatment of this part of the appeal building's façade is not complimentary to the surrounding area.
21. When viewed from Park View Road the appeal building is clearly of 4 storeys with the 4th storey being within the mansard type roof. Whereas even where the properties, near the appeal building and on the same side of the road, have a third storey that third storey is within the roof area. As constructed the overall height, mass and scale of the appeal building means that it appears dominant in this part of Park View Road as it visually overwhelms the adjacent buildings. Moreover, that height, mass and scale when combined with the factors cited above means that the appeal building appears incongruous in views along Park View Road. Therefore, it does not complement nor contribute positively to the character and appearance of the surrounding area.
22. The appellants have indicated that there is scope to enhance the overall form and appearance of the front elevation through the positioning and form of the fenestration signs and canopies. I acknowledge that altering the amount of render and brickwork, removing the mezzanine floor windows, and making alterations to the signage and ground floor openings would improve the legibility of the front elevation. Moreover, I consider that they can be treated as forming part of the matters that form the deemed planning application under section 177(1)(a) of the 1990 Act. This is because they relate to relatively straightforward alterations to part of the building.
23. Nevertheless, those proposals would not overcome the harm described above that arises from the height, mass and scale of the appeal building. The appellant has also suggested that a condition could be imposed with regards to alterations to the

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<sup>3</sup> Drawing Numbers; PR/492/01, 02D and 03C

roof form at and above second floor level. However, there are no proposals before me to indicate how the roof form would be altered. As such, I do not consider that the imposition of planning conditions would mitigate the harm to the character and appearance of the surrounding area.

24. I acknowledge that there are some larger buildings on other parts of Park View Road and on Welling High Street including Tesco's supermarket. However, the supermarket is much closer to/within the town centre of Welling. The town centre has its own distinct character with larger buildings. Moreover, the third storey of 146 Park View Road is set back from the front elevation and that reduces the visual impact of that storey. In any event the examples cited are in the minority and they are not comparable to the development before me.
25. The National Planning Policy Framework (the Framework)<sup>4</sup> is supportive of opportunities to use the airspace above existing and residential commercial premises for new homes including using mansard roofs, this is based on proposals being consistent with the prevailing form of neighbouring properties and the overall street scene. Given my findings above the development is not consistent with the prevailing form of neighbouring properties.
26. Overall, I consider that the development harms the character and appearance of the surrounding area for the reasons given above. As a result, the development conflicts with Policies SP1, SP5 and DP11 of the Bexley Local Plan (BLP) which seek, amongst other things, that all development within the borough is of high-quality design, contributes positively to the local environment and ensures that the height, scale and massing and façade treatment are complimentary to the surrounding area. It also conflicts with paragraph 135 c) of the Framework which states, amongst other things that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment.

#### *Living Conditions – Flats 4 and 8*

27. The kitchen, living and dining areas for Flat 4 are combined in an 'L' shaped room that has one relatively small window within it. From my visit it was evident that the kitchen part of the combined area had reduced levels of sunlight and daylight. This is partially due to its location being furthest away from the window that lights the combined area. Moreover, that window is close to the roof and dormer window of No 176 the adjoining property. As such, daylight and sunlight penetration levels to the fenestration appear to be reduced due to that proximity. No technical evidence has been submitted, but my assessment of the appeal site leads me to conclude that the sunlight and daylight levels to the kitchen area of Flat 4 are highly likely to have made it a dark space that it is difficult to work in without an electric light on.
28. In addition, given the obscure glazing to that window there is very restricted outlook when within the combined kitchen, living and dining area that is highly likely to be experienced as oppressive. I acknowledge that the bedrooms have unrestricted outlook through windows on the front elevation of the building and that the communal areas and the external terrace provide amenity areas that can be utilised by the occupants. Nevertheless, in my judgement, the combined kitchen, living and dining area comprises the space where the occupiers of Flat 4 would spend the majority of their time when they are at home. I am therefore in no doubt that the

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<sup>4</sup> Paragraph 125 e)

obscure glazing results in oppressive living conditions for the occupiers of Flat 4 with regards to outlook. The provision of additional amenity areas does not offset the harm highlighted above.

29. Flat 8 is on the floor directly above Flat 4 and it has a similar floor layout to that flat with the 'L' shaped kitchen, living and dining area. Nevertheless, there are 2 windows lighting that area. Moreover, due to their distance from the adjoining property's roof the sunlight and daylight penetration through those windows is significantly greater than that through Flat 4's window. Yet, the windows in that part of Flat 8 are also obscure glazed therefore there is very restricted outlook within it as well.
30. The appellant has suggested an alternative scheme with a rooflight or sun-pipe being incorporated into the living room of Flat 8 and to provide alternative fenestration arrangements for Flat 4. The rooflight/sun-pipe would increase the natural light available within Flat 8 and could improve the outlook experienced by the occupiers of that flat. However, there are no details provided of the alternative fenestration arrangements in relation to Flat 4. As such, it is unclear how alternative fenestration arrangements could be facilitated and whether they would overcome the harm highlighted above. I acknowledge that the imposition of a planning condition relating to the installation of a rooflight/sun-pipe to Flat 8 could mitigate the harm cited above to the living conditions of the occupiers of that flat. Nevertheless, it is not clear that the harm cited to the living conditions of the occupiers of Flat 4 is capable of being mitigated by the imposition of a planning condition.
31. Taking into account all of the above, the development does not ensure that appropriate levels of daylight, sunlight and outlook are provided for the occupiers of Flat 4. As a result, the development conflicts with BLP Policy DP11 which, amongst other things, states that development proposals for new buildings will be expected to ensure that appropriate levels of outlook, natural daylight and other forms of amenity are provided. It also conflicts with Policy D6 of the London Plan (LP) which, states, amongst other things, that the design of development should provide sufficient daylight and sunlight to new housing that is appropriate for its context. It also conflicts with paragraph 135 f) of the Framework which, states amongst other things, that planning decisions should ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users.

#### *Living conditions – neighbouring occupiers*

32. Flat 7 has 2 windows within its combined living, kitchen and dining area. Those windows are not obscure glazed, they are openable and they are located within the side elevation that adjoins the boundary with No 176. There are oblique views towards the dormer windows within No 176 and the remainder of the terrace. However, if the opening of the windows, in Flat 7, was physically restricted when combined with the distance between those windows and the windows in the neighbouring properties the reduction to privacy enjoyed by those neighbouring occupiers would be negligible. The imposition of a planning condition relating to the restriction of the opening of the windows in that part of Flat 7 would overcome the reduction of privacy enjoyed by the occupiers of neighbouring properties. With the imposition of that planning condition the development would comply with BLP Policy DP11 and paragraph 135 f) of the Framework.

### *Parking and refuse storage*

33. Without the public worship use the use of the building for the mixed use of commercial and six units of accommodation would be similar to that approved by the 2016 and 2021 permissions. Conditions 6 and 7 of the 2021 permission related to vehicle parking, bicycle parking and refuse storage and an application to discharge them was approved in 2022. As a result, I consider that planning conditions would ensure that adequate parking facilities for cars and bikes and adequate refuse storage would be provided. The development would therefore meet BLP Policies DP23 and DP26 and LP Policies D6, T5 and T6 which state, amongst other things, that developments should ensure that proposals for residential development will be expected to provide parking within the lowest applicable maximum London Plan standards and that there is adequate communal storage of waste.

### *Other Matters*

34. The references to other development plan policies have been noted. However, the development plan policies to which I have referred are considered the most relevant to this appeal.

### ***Planning balance and conclusion – the ground (a) appeal***

35. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the development conflicts with BLP Policies SP1, SP5 and DP11 and LP Policy D6. These policies are consistent with the Framework and that conflict has full weight.
36. I have also found that the imposition of planning conditions; could overcome the harm to the living conditions of the occupiers of Flat 8; would overcome the reduction of privacy enjoyed by the occupiers of neighbouring properties; and would ensure that adequate parking facilities for cars and bikes and adequate refuse storage would be provided. In these respects, the development would comply with BLP and LP Policies. Nonetheless, that compliance is a neutral matter in the planning balance.
37. The development has economic and social benefits associated with the provision of the commercial and residential units. However, similar benefits would have been associated with the development approved by the 2016 and 2021 permissions. Moreover, those benefits do not outweigh the conflict with the development plan policies. As such, I find the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan.
38. For the reasons given above I conclude that the appeal on ground (a) and the application for deemed planning permission should fail.

### ***The ground (f) appeals (Appeal A & Appeal B)***

39. This ground of appeal is that that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such

breach. The purposes of an EN are set out in section 173 of the 1990 Act and are to remedy the breach of planning control (173(4)(a)) or to remedy injury to amenity (173(4)(b)). The EN does not specify which purpose it seeks to achieve. The requirements in an EN may, and often will, serve both the purpose of remedying a breach of planning control and the purpose of remedying any injury to amenity.

40. In this case requirements iv), v) and vi) are clearly aimed at remedying the breach by ceasing the unauthorised use, demolishing the building and removing the debris from the land. Yet, those requirements are set out as an either/or alternative to requirements i), ii) and iii). Whilst requirements i) and iii) are identical to iv) and vi) requirement ii) requires the development to be constructed so that it accords with drawings numbers PR/492/01D, PR/492/02D and PR/492/03C of condition 2 of planning permission referenced 16/00428/FUL and subsequent approval of details application referenced 16/00428/FUL01.
41. The Council's evidence indicates that it considers the 2016 and 2021 permissions are no longer extant. Therefore, in those circumstances, requirement ii) seeks to remedy any injury to amenity caused by the development. There is no dispute that requirement ii) could also cite the 2021 permission and the details approved as part of the conditions attached to that permission. Both the number 2 conditions associated with the 2016 and 2021 permissions refer to the same drawing numbers therefore the addition of the 2021 permission reference would ensure clarity. Furthermore, additional details were approved as part of the discharge of the conditions attached to the 2021 permission. In addition, one of the drawing numbers cited within those conditions does not accurately reflect the number of the drawing. Instead of drawing number PR/492/BP01D drawing number PR/492/01D is cited and this is clearly a typographical error.
42. Therefore, I intend to vary requirement ii) by altering the drawing number and adding the references to the 2021 permission. These are minor variations that would not cause injustice to either main party.
43. The appellants state that requirements i) and iv) are excessive as the place of worship use has already ceased. However, those requirements are not excessive as they do no more than remedy any injury to amenity or any breach of planning control associated with the material change of use. The appellants also consider that requirement v) is excessive as they consider that there is no need to completely demolish the building. Nonetheless, the appellants have the choice as to whether to demolish the building or to comply with requirements i), ii) and iii). I acknowledge that due to the wording of requirement ii) it could be interpreted that compliance requires the building to be demolished and then constructed in accordance with the cited drawing numbers. I therefore intend to vary the requirement to make it clear that it requires the development to be altered/modified and constructed to accord with the cited drawing numbers and subsequently approved details. The variation is required to ensure precision and no injustice would be caused to either main party.
44. For the reasons given above, I shall vary the EN, by altering the drawing number, adding the references to the 2021 permission and making it clear that the development is to be altered/modified and constructed within requirement ii), prior to upholding it. The appeal on ground (f) succeeds to that extent.

### **The ground (g) appeals – (Appeal A & Appeal B)**

45. A ground (g) appeal is that any period specified in the EN in accordance with section 173(9) of the 1990 Act falls short of what should reasonably be allowed. The EN specifies compliance periods of 1, 12 and 14 months. The appellants have stated that the compliance time of 12 months for steps ii) and v) is unreasonably short. They go on to state that the building is occupied by residential and commercial tenants and they as landlord are unable to evict tenants without following the correct legal process and may need a court order to do so. They also consider that the works to demolish or construct the building are estimated to take a minimum of 18 months from when the site is vacated.
46. I understand that having to find and relocate to alternative premises is likely to be a stressful experience for tenants and that court orders may be required to evict tenants. Moreover, I acknowledge that the works to the building are likely to begin once the building is vacated. However, I have not been provided with specific information to substantiate the claim that a period of twelve months would allow insufficient time to comply with requirements ii) (as varied) or requirement v). I am also mindful that the appellants would have the choice as to which set of requirements to comply with.
47. I conclude, taking into account the Council's reasons for issuing the notice and the considerations cited above, that the time periods specified would be reasonable and would not result in a disproportionate burden. Accordingly, the ground (g) appeals fail.

### **Conclusions – (Appeal A & Appeal B)**

48. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement EN with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

*D Boffin*

INSPECTOR