



Appeal Decision

Site visit made on 5 May 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2026

Appeal Ref: APP/G5180/C/24/3351724

Nicholas James Care Homes Ltd, 30 Station Road, Orpington BR6 0SA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Regal Care Homes Ltd. against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 9 September 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the material change of use of the Land from a residential (C3) to a mixed use of residential and office, and the laying of hardstanding in the rear garden to create a car parking area of which together forms the purpose of that mixed use.*
- The requirements of the notice are:
 - (a) Cease the use of the land for the mixed use of residential and office; and
 - (b) Remove the hardstanding from the rear garden land; and
 - (c) Cease the use of the rear garden as a car park for the office use; and
 - (d) Remove any resulting debris from the land and restore the land to its condition before the breach of planning control took place.
- The period for compliance with the requirements is: *2 months after the notice takes effect.*
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the 1990 Act (as amended). 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 1990 Act (as amended).

Formal Decision

1. It is directed that the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the Land from a residential (C3) to an office use, and the laying of hardstanding in the rear garden to create a car parking area of which together forms the purpose of that office use at 30 Station Road, Orpington BR6 0SA as shown on the plan attached to the notice, subject to the following conditions:
 - 1) The office use hereby permitted shall only take place between the following hours:
0800 – 1800 Mondays - Fridays
No use on Saturday or Sunday and on Bank or Public holidays.
 - 2) Within 6 months of the permission hereby granted, details of soft landscape works shall be submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details within 3 months in accordance with an agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance for the lifespan of the development.

Background

2. It is prudent to detail the background of the site in terms of planning history. Based on the evidence before me, the lawful use of the property is as a residential unit (C3). Planning permission was refused in April 2005 for the erection of a three bedroom detached dwelling with car parking, to the rear of 30 Station Road, Orpington, BR6 0SA¹.
3. Two further applications were submitted for the demolition of existing dwelling and erection of part two/three storey block comprising 5 two bedroom flats and 3 one bedroom flats with associated vehicular access and parking from Hill View Road²; and demolition of existing dwelling and erection of three storey block comprising 6 two bedroom flats with associated cycle and bin storage and vehicular access fronting Hill View Road and six car parking spaces³. Both applications were refused and dismissed at appeal.
4. A prior approval application was submitted to and issued by the Council for a single storey rear extension, extending beyond the rear wall of the original house by 8.0m, for which the maximum height would be 4.0m, and for which the height of the eaves would be 2.7m (Ref: 15/04484/HHPA) at the appeal site. The Council were satisfied that the development was an enlargement, improvement or other alteration of a dwellinghouse and indicated that prior approval was not required in December 2015.
5. A retrospective planning application⁴ was submitted to the Council in November 2022 for the erection of two external domestic air conditioning units to the flank elevations at the appeal site.
6. Finally, a lawful development certificate (LDC) application⁵ was submitted for an existing use consisting of the partial change of use for the ground floor only, from residential (C3) to office space (E(g)i) with operating hours for the office as 08:00 - 18:00. The LDC was refused in August 2023 as the Council found (based on the evidence submitted at the time) that there was insufficient information to demonstrate that the ground floor of the building had been in use as an office for a period of ten uninterrupted years.

Appeal under ground (d)

7. An appeal on ground (d) is that, at the date on which the enforcement notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by those matters. The test of the evidence is the balance of probability⁶, and the burden of proof is on the appellant. Therefore, the appellant must show, on the balance of probability that the use of the land for mixed use purposes had been continuous for the relevant period, beginning with the date of the breach.
8. The notice is directed against operational development in the form of a hardstanding to create car parking spaces associated with the mixed

¹ London Borough of Bromley Planning Ref: 05/00735/FULL1

² London Borough of Bromley Planning Ref: 08/04013/FULL1

³ London Borough of Bromley Planning Ref: 09/02182/FULL1

⁴ London Borough of Bromley Planning Ref: 22/04653/FULL6

⁵ London Borough of Bromley Planning Ref: 23/00173/ELUD

⁶ *Thrasivoulou v SSE & Hackney LBC (No 1)* [1984] JPL 732

residential/office use. *Case law*⁷ highlights where an enforcement notice is directed at a material change of use, it can require the removal of ancillary operational development within the ten-year immunity period, even if the four year limit has passed, if the works were intended to facilitate the unlawful use. Given that the operational development is ancillary to the mixed use against which the notice is directed, in order to demonstrate immunity from planning control, the applicant must show that the mixed use has continued on an uninterrupted basis for at least ten years from the date of when the notice was served. Accordingly, the material date here is 9 September 2014.

9. In support of their appeal the appellant has submitted various correspondence including bank statements for a business account, a Companies House annual return, Council tax records, an electricity bill and letters from Canterbury City Council, which all highlight that Nicholas James Care Homes Ltd was registered at the appeal site. The Companies House annual return is dated December 2011, and the bank statements for a business account are dated between December 2011 and August 2024. Whilst the electricity bill is supplying an alternative property, it is dated November 2011 and addressed to the company at the appeal site. I therefore have little doubt that a company has been registered at the property for some time.
10. Whilst a company may have been registered at the address, this does not conclusively provide evidence that the premises was operated solely as an office, nor as a mixed residential/office use. The submitted Council Tax records lends further credence to the mixed use claim, as they highlight the appeal site was a residential premises banded D in 2014, albeit the ground floor was charged under a non-domestic rate as 'Offices and premises'. However, this is a snapshot in time and does not unambiguously show that a mixed use continued at the site uninterrupted for the requisite ten year period.
11. From the information supplied, and as detailed above, the appellant applied to the Council for a householder prior notification in December 2015, which was issued as not being required, suggesting at the time the property was in use as a dwellinghouse. Furthermore, the plans and application form submitted by the appellant with the planning application for the retrospective domestic air conditioning units (ref: 22/04653/FULL6), highlight that at that time the property was in use as a residential dwelling only.
12. The Council have supplied evidence in the form of a completed Planning Contravention Notice (PCN), dated November 2021 from the landlord (Mr. Kanagaratnam Rajakanthan). Mr. Rajakanthan stated he used the ground floor at the appeal site as a second home where he would also conduct business. A tenant (Mr. Alan Burns) occupied the first floor and also worked from home on an ad hoc basis. Kitchen and laundry areas were shared, and the property contained four bedrooms, two separate bathrooms and toilet facilities on each floor.
13. Overall, the evidence submitted is inconsistent, lacks detail, and is not sufficiently precise and unambiguous for me to conclude, on the balance of probability, that a material change of use to a mixed use of residential and office at 30 Station Road, began prior to 9 September 2014 and continued uninterrupted for ten years. Although the use at the site appears to have been there for a significant period,

⁷ *Murfitt v SSE & East Cambridgeshire CC* [1980] JPL 598

based on the evidence submitted it has not been demonstrated the use was immune from enforcement action through the passage of time.

14. The appeal on ground (d) therefore fails.

Appeal under ground (a), the deemed planning application

Main issues

15. A ground (a) appeal is that planning permission should be granted for the matters alleged in the enforcement notice, in whole or in part. Consequently, the deemed planning application is for the material change of use to a mixed use of residential and office at 30 Station Road and the associated car parking facilities. Therefore, the main issues in this appeal are the effect of the development on:

- Character and appearance of the surrounding area; and
- The living conditions of the adjoining and existing residents.

Reasons

Character and appearance

16. The area surrounding the appeal site is mainly residential, with the surrounding roads such as Hillview Road, Elm Grove and The Approach exhibiting detached and semi-detached properties in a traditional layout with larger gardens to the rear. Whilst Station Road has a traditional suburban layout, it also contains larger flatted developments and a variety of non-residential units, such as commercial, care homes and Orpington railway station, providing a mixed use feel within this area.
17. The appeal site is a large, two-storey detached building in a spacious plot occupying a prominent position at the junction of Hillview Road and Station Road. The principal elevation fronts Station Road with parking for three vehicles on the front forecourt. The rear of the site stretches along Hillview Road towards the boundary with No 1. There is a small section of amenity space adjoining the premises at the rear with a larger section of hardstanding providing a private car park for eight vehicles, accessed via Hillview Road.
18. In regard to the building itself, it was clearly designed as a dwellinghouse and taken in isolation, visually the building is more akin to a residential unit. The design incorporates traditional features such as bay-windows, gables and hipped roofs, with the materiality consisting of brickwork, painted render, hung-tiles and clay roof tiles. This would not be considered out of keeping within a residential setting. There are no external changes proposed to the property, and whilst the use of the property as a residential and office mixed use would be different to that of a purely residential use, visually the property would resemble a large detached dwellinghouse, rather than an office. Furthermore, any signage is currently limited which provides an understated appearance to the premises.
19. It is acknowledged that the development provides a significant amount of off-street parking to the rear of the site, however this is not an uncommon feature within the locality. Similar developments close by, also exhibit concentrations of off-street parking, such as the rear of the veterinary surgery on the opposite corner (albeit not as formal); the care home; and flatted development all located along Station

Road. As such, the hardstanding and car parking is not out of keeping in this regard.

20. Overall, the development harmonises with the varying design, plot sizes and orientation of properties within the immediate vicinity. The building whilst operating as a mixed use still resembles a dwellinghouse. The scale of hardstanding at the rear to provide a private car park when viewed from either Hillview Road or Station Road is moderated by the close board fencing along the boundary treatment. Only glimpse views are available via the access point. As such, car parking in this location does not adversely impact upon character and appearance.
21. I therefore conclude that the development does not lead to an adverse effect on the character and appearance of the surrounding area. The development, in this regard, complies with the design requirements of policy 37 of the London Borough of Bromley Local Plan (BLP), adopted January 2019 which requires new development to be of a high standard of design and layout that makes a positive contribution to the existing street scene. The development also accords with the provisions of the National Planning Policy Framework (the Framework) which amongst other things, also seeks to secure a high quality of design that respects its surroundings. However, I do not find conflict with BLP policy 9 which focuses principally upon residential conversions to smaller residential units. The content of this policy is largely irrelevant given the change of use is to a mixed residential and office use.

Living conditions of the adjoining and existing residents

22. The development provides additional off-street car parking spaces for approximately eight vehicles to the rear of the property, via Hillview Road. Movements into and out of this part of the site generally occur at two peak periods, with staff arriving in the morning and departing in the evening. Whilst this is excessive in respect of a residential property, it is akin to an office use. Given the mixed use nature of the surrounding environment, with particular reference to Station Road, any increase in noise levels from activities associated with its use are likely to be within ambient noise levels and minimal. Therefore, the number of cars and people in this part of the site, is not considered excessive in my view.
23. It is acknowledged that parking provision is tight, however during my site visit I observed vehicles using the parking spaces and turning on site, which confirmed that vehicles enter and exit in a forward gear. The use of the parking spaces create some additional movements in the area, involving slow, careful and precise driving manoeuvres in order to turn. However, any increased activity is limited to peak times, thus unlikely to be spread over the day. As such, this is not considered overly intrusive.
24. The accessway is narrow, with close-board fences along the boundaries, which I observed on site. Whilst it is acknowledged that the development increases movements in the area due to the manoeuvres involved in turning on site, the existing boundary treatment mitigates light pollution from headlights to nearby residents. Moreover, Station Road is a fairly busy thoroughfare and given these circumstances, the existing hustle and bustle within the area significantly diminishes the effect or influence of vehicle engine noise, headlight glare, fumes and the comings and goings associated with the use of the parking spaces.

25. During my site visit I noted that there was a modest garden/amenity area at the rear of the premises between the property and the car park. I acknowledge at the time of my visit the site contained no residential element. Nevertheless, the modest amenity area provides an adequate level of outdoor living space, providing space for tables and chairs and other domestic paraphernalia to be accommodated here. Any residential accommodation is unlikely to be used for family accommodation. In this context, a proportionate amenity space has been provided.
26. I have been presented with no evidence that there is a minimum requirement in the BLP for the provision of outside amenity space, and whilst modest, the space does not appear to be either cramped or unusable. Furthermore, given its layout, any overlooking of the garden is minimal, thus protecting privacy.
27. Considering the above, I find that the development does not harm the living conditions of either the adjoining dwellings or any existing or potential occupiers of the property with regard to amenity space, noise and other nuisance and general disturbance. Consequently, it complies with the relevant objectives of BLP policy 37 which seeks development to provide attractive settings and to avoid any adverse impact on the amenity of neighbouring properties by reason of noise and disturbance, loss of daylight/sunlight, loss of privacy or overshadowing, amongst other things. It is also consistent with Paragraph 135 of the Framework insofar as it seeks a good standard of amenity for all existing occupants of buildings.

Conclusion on ground (a)

28. Overall, subject to conditions, the development does not have a harmful effect on the character and appearance of the area nor the living conditions at neighbouring properties or existing residents with reference to noise and disturbance and amenity standards. The development therefore complies with policy 37 of the BLP and the Framework, which collectively seek to provide a high standard of private and public amenity space and respect the amenities of occupiers of neighbouring properties, amongst other things.

Conditions

29. In attaching conditions to this decision, I have had regard to the tests set out at paragraph 56 of the Framework and the Planning Practice Guidance⁸. Given that the development is retrospective there is no need to attach the standard time limit condition or approved plans. However, I have imposed conditions in respect of hours of operation and a landscaping scheme in order to retain and enhance the existing vegetation in the interests of the appearance of the area, and the living conditions of the neighbouring properties.

Conclusion

30. Whilst the ground (d) appeal is unsuccessful, for the reasons given above, I conclude that the appeal should succeed on ground (a). Planning permission will therefore be granted, and the enforcement notice will be quashed.

Robert Naylor

INSPECTOR

⁸ Use of Planning Conditions: Paragraph: 003 Reference ID: 21a-003-20190723