



# Appeal Decision

Site visit made on 1 February 2010

by **E C Grace** DipTP FRTPi FBEng PPIAAS

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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**Decision date:**  
**11 February 2010**

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## Appeal Ref: APP/Q1445/A/09/2111265

### Land rear of 1 Orchard Avenue, Hove BN3 7BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Thomas against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00579, dated 6/3/09, was refused by notice dated 18/8/09.
- The development proposed is use of site as a car park.

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### Decision

1. I dismiss the appeal.

### Main Issues

2. I consider the main issues in this case are whether the proposed car park would harm: a) the street scene and/or b) living conditions for residents in nearby dwellings.

### Reasons

3. The land subject of this appeal originally formed the rear part of the garden of 1 Orchard Avenue, which is a corner house with a return frontage to Orchard Gardens. The application depicts that this severed area of land together with the garage at the rear of 3 Orchard Avenue are in the appellant's ownership, with no other land shown as being within the appellant's control. Access is directly from Orchard Gardens, with a concrete apron between the highway and the garage, while the rest of the land has been hard surfaced with stone chippings. Although the application seeks approval to use the land for the parking of 3 cars it is evident the activity has already commenced and I am therefore treating the proposal as being for the retention of the use of the site as a car park.
4. Despite the locality being predominantly residential in character it is clearly subject to kerbside parking stress due to the presence of nearby commercial premises, whose employees park in these residential streets. It is understood that the appellant rents the land to Portslade Panelworks for use by some of their employees. Despite the application indicating that 3 spaces would be provided, several local residents maintain it frequently has 5 cars parked thereon. However, at the time of my visit, there were no cars parked on the land despite all the kerbside parking being taken. Moreover, there appeared to be spare parking capacity at the Panelworks. In addition, residents point to the availability of modestly priced parking spaces nearby for local workers at the Co-op and Greyhound stadium.

5. The appellant maintains that the land could have been used for parking cars without planning permission if it was still part of a residential curtilage, but I agree with the objectors that its use for commercial parking confers it with a different appearance, not least the sign warning about clamping and the total absence of trees and shrubs. I also noted there was unsightly litter strewn about, which I consider would be less likely if it were being used for domestic parking in connection with an associated residential property.
6. On balance, despite the high levels of kerbside parking in the locality, I am not persuaded that the levels of parking stress are such as to warrant the use of this land as a commercial car park. Moreover, I consider the documented intensity of the use combined with the absence of any planting is detrimental to the visual amenities of the locality and the general street scene. Although there is a measure of support for the proposal I note the vast majority of those do not live in the immediate locality.
7. With regard to the effect on the living conditions of nearby residents, I do not regard the small scale of the site as likely to give rise to such levels of noise and disturbance to warrant refusal. Nevertheless, I consider the introduction of a commercial car park between residential properties, combined with the total hard-surfacing of the site, absence of planting and littering problem gives rise to a poor outlook for the occupants of the houses opposite in particular.
8. For the reasons given above I conclude that the development contravenes Policies QD1, QD2 and QD27 of the Brighton and Hove Local Plan and that the appeal should be dismissed.

*Edward Grace*

Inspector