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# Appeal Decision

**by Elizabeth Jones BSc (Hons) MTCP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 November 2021**

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**Appeal Ref: APP/L5240/X/21/3268320**

**Addington Palace, Gravel Hill, Croydon CR0 5BB**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Ms Deniza Power against the decision of the Council of the London Borough of Croydon.
  - The application Ref 20/00423/LE, dated 27 January 2020, was refused by notice dated 7 August 2020.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is use of land for the purposes of car parking in association with Addington Palace.
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## Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

## Procedural Matters

2. I consider that this appeal can be determined without a site visit without causing injustice to any party. This is because I have been able to reach a decision based on the documentary evidence submitted.
3. The appeal site forms part of the land leased by the Council to Addington Palace and comprises two 'upper' tennis courts. These 'upper' tennis courts are adjoined to the 'lower' tennis courts. For the avoidance of doubt, the appeal before me only concerns the 'upper' tennis courts.

## Planning History

4. A temporary two-year planning permission was granted in 1996<sup>1</sup> which included the use of the appeal site for the provision of 50 parking spaces. This was renewed in 1998<sup>2</sup> for a further two years.
5. In 2001 a planning application Reference: 01/0497/P was submitted for redevelopment of Addington Palace. Permission was granted subject to a

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<sup>1</sup> Appendix 4 Appellant's Statement of Case (SoC) - Ref: 96/0231/P "Use of ground floor as conference and entertainment venue; internal and external alterations to include disabled persons access ramp; provision of 93 parking spaces; 3 cycle stands and upgrading of car park lighting."

<sup>2</sup> Appendix 5 Appellant's SoC - Ref: 98/1475/P.

completed s106 Agreement. The s106 Agreement remained unsigned and therefore the planning permission was not issued.

## **Main Issue**

6. The main issue is whether the Council's decision to refuse an LDC was well-founded.

## **Reasons**

7. For a LDC to be issued in respect of the appeal in accordance with s191(a), the appellant would need to show that the appeal site has been in substantially uninterrupted use as car parking for 10 years under s171B (3)<sup>3</sup>.
8. The onus is on the appellant to prove their case on the balance of probability. Moreover, the appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the local planning authority has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable there is no good reason to dismiss the appeal provided the appellant's evidence is sufficiently precise and unambiguous.
9. Accordingly, it is necessary to consider whether the appeal site has been used for car parking for a substantially uninterrupted period of ten years commencing on or before the date of the LDC application, which is 27 January 2020.
10. Addington Palace is a mansion house which provides a number of rooms which are used to accommodate varying numbers of guests. In addition, there is a Royal Marquee (hereafter referred to as the Marquee) adjacent to the Palace. Weddings provide the main source of income and the Palace is normally used to host a civil ceremony or used for drinks, canapes and photographs prior to the reception in the Marquee. The appellant says that more than 70% of events are of a large scale and thus involve the use of both the Palace and the Marquee.
11. The courtyard to the front of Addington Palace provides parking. During events parking in this area is restricted and visitors are directed to park on the appeal site and the lower tennis courts.
12. The planning history<sup>4</sup> indicates that the appeal site was lawfully used for car parking in association with Addington Palace between 25 April 1996 to 15 October 2000.
13. The 2001 application submitted for redevelopment included a report by Julian Harrap Architects<sup>5</sup> (JHA report). This report describes the appeal site as 'existing car parking'. Moreover, the Council in their determination of a planning application in 2009<sup>6</sup> acknowledged that the lower tennis courts had not been used for tennis for 20 years and that the appeal site had been used

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<sup>3</sup> Town and Country Planning Act 1990 s171B(3) "In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach".

<sup>4</sup> Refs: 96/0231/P & 98/1475/P.

<sup>5</sup> Appendix 6 Appellant's SoC - Redevelopment Proposals Julian Harrap Architects November 2001, appendix D.

<sup>6</sup> Appendix 10 Appellant's SoC - Appellant's Statement of Case - temporary Planning permission Ref: 08/04030/P granted 6 February 2009 for the "Retention of temporary vehicular ramp and use of tennis courts as car parking area."

for parking for at least 10 years. A subsequent planning application<sup>7</sup> dated December 2011 refers to the car parking provision of 200 spaces, which the appellant argues included the 50 spaces provided by the appeal site.

14. Google earth images<sup>8</sup> dated 10 September 2006, 27 June 2010, 22 August 2011, 29 June 2019, unknown date in 2020 and an aerial image in the JHA report (page 6) labelled 2000 show the appeal site being used for the parking of vehicles. In answer to the Council's concerns, the appellant suggests that the limited number of Google earth images showing parking at the appeal site is because the images were likely taken in the morning whereas in general events take place at Addington Palace during the afternoon and evening. I accept that aerial photographs are a snapshot in time and the exact date and time of day is not always specified or available.
15. It is the appellant's case that the appeal site is used for parking for all significant events at Addington Palace which average twice a week except in December and January when there are fewer.
16. The appellant has provided a Schedule of Events<sup>9</sup> which shows the total number of events held each year from 2011 to 2020.
17. The annual average number of events is 83 of which 81 involved the use of the appeal site for car parking. The annual average excludes 2020 because of the Coronavirus Pandemic. The appellant has also provided lists of the bookings for each year. This evidence shows that events have taken place each month of the year between 2011 and 2019. Furthermore, as can be seen from the schedule, the appeal site has been used for car parking for the majority of these events.
18. In 2020 there were 6 events between January and March all of which used the appeal site for parking. However, no information has been submitted for 2010, thus, this evidence alone falls short of showing that the appeal site has been used for car parking substantially uninterrupted over the requisite 10-year period prior to 27 January 2020.
19. A signed statement dated 13 January 2020 is provided from Mr Craig Davis who has been the general manager at Addington Palace since 1998. Mr Davis states that the signpost for the car parking was erected 15 years ago (i.e. in 2005). Furthermore, the parking at the appeal site has been continuous for a period of 19 years since the expiry of the last temporary planning permission. I give significant weight to Mr Davis' evidence because as general manager he has personal knowledge of the use of the appeal site since 1998 to the present time.
20. The various email communications during the period 2016-2018 are not in themselves sufficient to show a continuous 10 year period of use. Although they indicate that the tennis courts were used for parking during this time it is not clear whether they relate to the upper or lower tennis courts.
21. The Council contend that the appeal site has only been used for parking in connection with events in the Marquee and not in connection with events

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<sup>7</sup> Appendix 11 Appellant's SoC - Appellant's Statement of Case Ref: 11/03508/P

<sup>8</sup> Appendix 14 Appellant's SoC

<sup>9</sup> Appendix 16 Appellant's SoC.

associated with the Palace. Also, it considers the Marquee is unlawful. Whilst it is not for me to determine the lawfulness of the Marquee within the context of this appeal, evidence pertaining to it is useful to inform my considerations regarding the use of the appeal site for car parking.

22. It is evident that the Marquee has been in situ since at least December 2005<sup>10</sup>. Also, a planning permission granted in 2007 included a planning condition<sup>11</sup>, which required the Marquee to be used only in connection with Addington Palace. Moreover, in 2011 a Council Officer's report<sup>12</sup>, acknowledges that it is difficult to make a distinction between guests attending the Palace and those attending the Marquee. The appellant agrees stating that the Palace and the Marquee have a 'symbiotic relationship'.
23. I accept that the signpost at the entrance to the car park<sup>13</sup> and the guest parking instructions<sup>14</sup> refer to 'Royal Marquee Car Parking', however, this evidence is insufficient to show that the use of the appeal site is exclusive to the Marquee or that the Marquee is used separately to the Palace. Thus, notwithstanding the Council's Breach of Condition Notice<sup>15</sup> and regardless of whether the Marquee is lawful, it is reasonable to assume that the appeal site has been used as a car park in association with the overall use of Addington Palace (including the Palace and the Marquee) and not just in association with the Marquee as suggested by the Council.
24. From the evidence before me it would appear that historically the appeal site formed part of the larger Addington Palace site. In 1996 temporary planning permission was granted for amongst other things, to use the former tennis courts as car parking in association with Addington Palace. The use of the former tennis courts as a car park brought about a material change in the definable character of the land. The temporary planning permissions expired in October 2000. Thus, the 10-year clock began.
25. The picture painted from October 2000 by the various planning records and aerial images indicate that the appeal site has been used for car parking in association with Addington Palace. I give considerable weight to the planning documents including the JHA report as they were not prepared with this appeal in mind and thus can be taken at face value. There is no indication that the car park use was/is functionally or physically separate from the use of Addington Palace.
26. Taking the evidence submitted as a whole, I find it sufficiently precise and unambiguous to demonstrate, on the balance of probability, that the use of the appeal site for car parking in association with Addington Palace has occurred substantially uninterrupted in excess of 10 years. I consider that the Council has no evidence of its own, or from others, of any significance so as to seriously contradict or otherwise make the appellant's version of events less than probable.

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<sup>10</sup> Appendices 7 & 8, Appellant's SoC - Enforcement notices dated 20 December 2005 & 31 May 2006.

<sup>11</sup> Appendix 9, Appellant's SoC, Ref: 07/00692/P dated 26 June 2007 Condition 2 "Except with the prior written consent of the Local Planning Authority the marquee shall be used only in connection with the main Addington Palace building as a conference and entertainment venue."

<sup>12</sup> Appendix 6, Appellant's SoC, Officer's report for planning application Ref 11/03508/P.

<sup>13</sup> Signed statement by Mr Craig Davis, CD2

<sup>14</sup> Appendix 14, Appellant's SoC

<sup>15</sup> Issued on 16 October 2020.

## Conclusion

27. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of use of the land for the purposes of car parking in association with Addington Palace, Gravel Hill, Croydon CR0 5BB was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*Elizabeth Jones*

INSPECTOR

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# 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

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**IT IS HEREBY CERTIFIED** that on 27 January 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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:

Signed

*Elizabeth Jones*

Inspector

Date: 26 November 2021

Reference: APP/L5240/X/21/3268320

## ***First Schedule***

Use of land for the purposes of car parking in association with Addington Palace.

## ***Second Schedule***

Land at Addington Palace, Gravel Hill, Croydon CR0 5BB

## 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: 26 November 2021

**by Elizabeth Jones Bsc (Hons) MTCP MRTPI**

**Land at: Addington Palace, Gravel Hill, Croydon CR0 5BB**

**Reference: APP/L5240/X/21/3268320**

Not to scale

