

APPEALS BY OWNERS AND OCCUPIERS OF CAROUSEL PARK

PROOF OF EVIDENCE

Of Mr. Christy Stokes Plot 1, Carousel Park

**regarding three Enforcement Notices served by Winchester City
Council**

at Carousel Park, Basingstoke Road, Micheldever, Winchester

August 2023

WS Ref:	J004151
LPA Ref:	None
PINS Ref:	APP/L1765/C/22/3296767

1.0 **INTRODUCTION**

1.1 To summarise the information in the statement, it relates to matters of personal circumstance. The following matters should be taken into account in the overall planning balance,

- a) **the personal need for accommodation of the applicant**
- b) **the availability (or lack) of alternative accommodation for the applicant**
- c) **the medical and/or welfare considerations of the applicant**
- d) **the best interests of children**

1.2 Case law is clear that there is a duty on both the LPA and Secretary of State to treat the best interests of the child (including unborn children) as a primary consideration, and that no other consideration is inherently more important. This was established in the case of *AZ v SSCLG & South Gloucestershire Council [2012]* and *Collins v SSCLG [2013]*. **As such, the best interests of the children occupying the site are a paramount consideration which must be taken into account by the Decision Maker.**

1.3 The Best interests of the children arise from the duty set out under Article 3.1 of the United Nations convention on the right of the child. The Court of appeal in the case of *Collins v Secretary of State for Communities and local Government and Fylde Borough Council 2013 EWCA 1193* confirmed that inspectors must apply the principles set out by Mr Justice Hickinbottom out at paragraph 69 of *Stevens v SSCLG and Guildford [2013] EWHC 792* which states as follows:-

“69. From these authorities, in respect of the approach of a planning decision-maker, the following propositions can be derived.

- i) Given the scope of planning decisions and the nature of the right to respect for family and private life, planning decision-making will often engage article 8. In those circumstances, relevant article 8 rights will be a material consideration which the decision-maker must take into account.*

- ii) *Where the article 8 rights are those of children, they must be seen in the context of article 3 of the UNCRC, which requires a child's best interests to be a primary consideration.*
- iii) *This requires the decision-maker, first, to identify what the child's best interests are. In a planning context, they are likely to be consistent with those of his parent or other carer who is involved in the planning decision-making process; and, unless circumstances indicate to the contrary, the decision-maker can assume that that carer will properly represent the child's best interests, and properly represent and evidence the potential adverse impact of any decision upon that child's best interests.*
- iv) *Once identified, although a primary consideration, the best interests of the child are not determinative of the planning issue. Nor does respect for the best interests of a relevant child mean that the planning exercise necessarily involves merely assessing whether the public interest in ensuring planning controls is maintained outweighs the best interests of the child. Most planning cases will have too many competing rights and interests, and will be too factually complex, to allow such an exercise.*
- v) *However, no other consideration must be regarded as more important or given greater weight than the best interests of any child, merely by virtue of its inherent nature apart from the context of the individual case. Further, the best interests of any child must be kept at the forefront of the decision-maker's mind as he examines all material considerations and performs the exercise of planning judgment on the basis of them; and, when considering any decision he might make (and, of course, the eventual decision he does make), he needs to assess whether the adverse impact of such a decision on the interests of the child is proportionate.*

- vi) *Whether the decision-maker has properly performed this exercise is a question of substance, not form. However, if an inspector on an appeal sets out his reasoning with regard to any child's interests in play, even briefly, that will be helpful not only to those involved in the application but also to the court in any later challenge, in understanding how the decision-maker reached the decision that the adverse impact to the interests of the child to which the decision gives rise is proportionate. It will be particularly helpful if the reasoning shows that the inspector has brought his mind to bear upon the adverse impact of the decision he has reached on the best interests of the child, and has concluded that that impact is in all the circumstances proportionate. I deal with this further in considering article 8 in the context of court challenges to planning decisions, below."*

- 1.4 It is now the case that the Decision-Maker has a duty to ask themselves what the best interests of the children are, and to keep that at the forefront of their mind. The best interests of the children must carry at least as much weight as any other material consideration and that the balancing exercise must be an exercise of substance rather than form.

2.0 PERSONAL

- 2.1 I am Mr. Christy Stokes, and I am giving this evidence on behalf of my family who occupy Plot 1 of the Carousel Park site. Plot 1 is a sub-divided part of the former Plot 1 of the site, which now comprises Plot 1 and Plot 1A. My son Patrick will also seek to be in attendance at the Inquiry, but this statement serves as a joint statement on matters relating to Personal Circumstances for his family and mine.
- 2.2 My family and I are not Travelling Showpeople, and identify as Travellers.
- 2.3 I occupy what we refer to as Pitch 1. I occupy a single static caravan, alongside my wife Stacey, and our two children, Tommy (23 years old) and Child B (14 years old).
- 2.4 We also look after, and provide accommodation, for two of our grandchildren. These are Child C (4 years old), and Child D (6 years old). They are under our care around 90% of the time.
- 2.5 Child C is diagnosed with Downes Syndrome, but his progress at school has helped, and he has been improving his speech.
- 2.6 Child D is diagnosed with Autism, and is under our care most of the time, but will periodically be with his mother.
- 2.7 My wife Stacey attends our GP in Micheldever, and is undergoing assessment and treatment for depression. She has been referred to the mental health team, and is prescribed Duloxetine. Her issues arose following a traumatic experience a few years ago where persons unknown to us came to the Carousel Park site and began attacking our property. Shots were fired through our windows, given our Plot is one of the first you would see coming into the site. I believe they were after money, and after a few years, the matter is still being taken up in Court. *Author Note: Mrs Stokes has asked for some discretion regarding this matter.*
- 2.8 I do not undertake any traditional form of work, due to my age, but continue to work with horses. I will frequently travel to fairs to buy and sell horses, and will take my family along with me when I can.

- 2.9 My son Patrick Stokes resides on what we refer to as Plot 1 Pitch 2, and has a single static caravan. He occupies alongside his wife Shannon, and their 4 children, Child E (5 years old), Child F (4 years old), Child G (1 year old), and Child H (11 months old). *Author Note: At the time of giving this statement, Mr. Patrick Stokes advised that they were expecting another child.*
- 2.10 Patrick undertakes work as a roofer. He travels typically around 1 or 2 months in the summer.
- 2.11 His children, of school age, attend a local school in Micheldever, as do our grandchildren Child C and Child D.
- 2.12 We have lived on the site for around 6 years now, and prior to that we were leading a roadside existence, being moved from pillar to post, and doubling up where we could. This became increasingly more difficult as our family grew, and it was clear to us that we needed to find a settled base wherever we could.
- 2.13 I have been advised that the 2 static caravans on site are situated too close to one another, within 6m, and so if permission were to be granted, we would seek to reposition these such that they are separated sufficiently. Given my own activities with horses, I would also like to retain the stables situated at the back of the yard.
- 2.14 Beyond this, we just want to make the site our home, and a place that we can stay, and raise the children with some stability. My son and I both spend periods of time travelling, and so would need to be able to keep touring caravans, but there is ample space for us to do this on the site.
- 2.15 Much of the sites infrastructure is already in place, such as drainage, and mains electricity and water, so we are well set up already.
- 2.16 If the appeals were dismissed, we would be left with nowhere to go. As a consequence we would be back on the roadside. It would be devastating for us to have to uproot our families and move. I know it would also be difficult for the other families on site as well, as we all get along very well. Whilst we may not be family, we have grown to become friends, and have been able to develop a safe environment for all of us to live in.