

APPEALS BY OWNERS AND OCCUPIERS OF CAROUSEL PARK

PROOF OF EVIDENCE

Of Mr. George Doran Plot 3B, 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. George Doran, and I am giving this evidence on behalf of my family who occupy Plot 3C of the Carousel Park site. Plot 3B is a sub-divided part of the former Plot 3 of the site, which now comprises Plot 3, Plot 3A and Plot 3B. My brother Charles Doran 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 I occupy one of the static caravans on the site with my wife Ashling, and our daughter Child A (2 years old).
- 2.3 My brother, Charles Doran, occupies the other static caravan with his wife Rosaline, and their daughter Child B (9 months old).
- 2.4 My family and I are not Travelling Showpeople, and identify as Travellers.
- 2.5 I currently have 2 static caravans and 2 touring caravans on the plot, alongside a brick built dayroom. One of the static caravans is, at the time of given this statement, out of use, and is due to be replaced.
- 2.6 My family have no medical circumstances sought to be put forward, and the children are not currently in education, although when they are old enough we would like them to be.
- 2.7 I undertake work as a roofer, and my brother buys and sells horses. We both find that we are travelling for maybe 6 months of year, and essentially just relying on the site during the winter months. As the children grow older though, this may be more difficult to do as family units.
- 2.8 If planning permission were granted, we would like to make the site a home. Pretty much, this would be keeping it how it is, but we would like to make sure everything is tidied up a bit, and that the static we are seeking to have replaced, is replaced. After that, we would just like to get on with life, and use the site as a home.
- 2.9 If the appeals were dismissed, we would be forced to return to the roadside. We have nowhere else to go, and so we would be essentially homeless, being pushed from pillar to post.