

APPEALS BY OWNERS AND OCCUPIERS OF CAROUSEL PARK

PROOF OF EVIDENCE

Of Mr. Hughie Stokes Plot 6, 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 Hughie Stokes, and I am giving this evidence on behalf of my family who occupy Plot 6 of the Carousel Park site. Plot 6 is sub-divided, and now comprises Plot 6 and Plot 6A.
- 2.2 I occupy what we refer to as Plot 6 Pitch 1. I occupy with my wife Caroline, and our 3 adult sons, Child A (17), Michael (20), and Hughie (who is separated from his wife).
- 2.3 We also have 2 other married sons. Christopher and Margaret, Martin Joe and Margaret, alongside their 3 children (2 at school, 1 infant), and Patrick and Shirleen, alongside their 3 children (1 at school, 1 pending attendance).
- 2.4 Martin Joe's children are,
- Child B (5 years old)
 - Child C (2 years old)
 - Child D (10 months old)
- 2.5 Patrick's children are,
- Child E (7 years old)
 - Child F (5 years old)
 - Child G (3 years old)
- 2.6 Christopher and Margaret live on Plot 6 Pitch 1 with us. They reside in a Touring Caravan, whilst we stay in the Static with our single sons.
- 2.7 Plot 6 Pitch 2 is occupied by a static and 2 touring caravans, which accommodate Martin Joe and Patrick, and their children.
- 2.8 Plot 6A is occupied by Patrick Stokes and Rosemary, and their 2 children, Child H (2 years old) and Child I (1 year old). They have two statics on their plot.
- 2.9 The children of school age are all enrolled in a local primary school in Micheldever.

- 2.10 Our granddaughter has been diagnosed with IgA nephropathy, a kidney disorder. It causes inflammation, and requires her to have regular checks at hospital.
- 2.11 All the other children, and ourselves, are registered with the GP at Gratton Chase surgery.
- 2.12 I attend horse fairs, and trade in horses. My sons do a mixture of Roofing and Landscaping works, and travel a couple of months in the summer.
- 2.13 We consider that we have quite firmly settled in, having been living on the site for 7 years. Our needs have certainly evolved since we first moved onto the site, as our children have grown up and gotten married, starting families of their own. We have done the best we can to keep our family together.
- 2.14 Currently on the site we have 2 statics and 3 touring caravans. All of which are occupied. If permission was granted, we'd like to tidy things up, and organise ourselves a bit more. It's not ideal having to live in a touring caravan, and so if we could secure an additional static, and have enough room for it, then it would make sleeping arrangements a bit easier.
- 2.15 If permission were to be refused, we would be forced to get rid of our static caravans, having to return to the roadside, without any alternatives. We would all be stuck leading life in the tourers, being pushed from pillar to post, and we may never see another settled base in our lifetime.