

APPEALS BY OWNERS AND OCCUPIERS OF CAROUSEL PARK

PROOF OF EVIDENCE

Of Mr. Patrick Crumlish Plot 9, 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. Patrick Crumlish. I am giving this statement on behalf of Plots 9A, 9B, and 9C, which comprise the former Plot 9 of Carousel Park. I occupy Plot 9A.
- 2.2 As a starting point, I would like to state that my father was a travelling showmen. I do not identify as such myself, as I trade horses, and do power washing. I am often away travelling for a few weeks at a time, during the summer when the weather is good, as is the work. My son Oliver also works with me.
- 2.3 I reside on Plot 9A, occupying one of the two static caravans on that plot. I occupy with my wife Christina. Our son Oliver (32) occupies the second static with his wife Ellen Conrad.
- 2.4 Christina suffers with mental health issues, such as panic attacks, high blood pressure, and blackouts.
- 2.5 Ellen was diagnosed with Breast Cancer, and has been subject to ongoing treatments. She has cystic fibrosis, and lymphedema in her right arm. She also suffers with mental health issues, and panic attacks.
- 2.6 Ellen and Oliver have 3 children,
- Child A (11 years old)
 - Child B (11 years old)
 - Child C (7 years old)
- 2.7 Child B and Child C both attend a local school in primary school. They are both getting along well at school.
- 2.8 In terms of Plot 9A, what we would like is for the two statics to be retained, alongside the touring caravans, stored on the plot.
- 2.9 Plot 9B is occupied by my son Patrick Crumlish (Junior) and his wife Josephine. They have no children yet, and moved onto the plot 2 years ago. They are actively seeking to start a family, but have been apprehensive due to these appeal proceedings.

- 2.10 There are additional static caravans on the plot, which have been rented out to persons not Travellers. These are temporary lettings however, and have been necessary for my son Patrick to be able to afford to progress his appeal.
- 2.11 My daughter Christina Hegerty (26) occupies Plot 9C. She is by herself, raising her 4 children.
- Child D (8 years old)
 - Child E (6 years old)
 - Child F (3 years old)
 - Child G (2 months old)
- 2.12 Child D, Child E, and Child F are all enrolled in a local school in Micheldever.
- 2.13 Christina is seeking two statics (one 3-bedroom, one 2-bedroom) to be retained on Plot 9C due to the number of children needed to be accommodated.
- 2.14 For all of us involved, were the appeals to be dismissed, we would have nowhere else to go. We would be forced back to the roadside, which would be catastrophic for some of us, like Ellen, who is reliant on the site and the stability it provides to access healthcare, not to mention the education for the children.
- 2.15 All we would like to do is to be able to retain the site, and continue using it as our home. The site is perfect as it is, and we have done a lot of work to make sure mains are connected, and even had a new drainage system installed.