

**LAND AT CAROUSEL PARK, BASINGSTOKE ROAD,
MICHELDEVER, WINCHESTER,
HAMPSHIRE, SO21 3BW**

**APPLICATION FOR COSTS ON BEHALF OF THE
APPELLANTS – FINAL COMMENTS**

1. The Appellants seek a full award of costs in each appeal against the LPA in the event that any of the appeals succeed under ground (e). As made clear in the Applications, the ground (e) appeals could only succeed if the Inspector was to find that there had been a failure to properly serve the enforcement notices (“**the Notices**”), with the Notices being consequently quashed.
2. The applications on behalf of all of the Appellants are predicated on the submission that a failure to meet an unambiguous statutory obligation amounts to unreasonable behaviour, and that such unreasonable behaviour has occasioned the wasted costs of the entire appeal process.
3. The response from the LPA is brief, adopts the rather tired approach of describing everything any appellant ever does as being “*misconceived*” or “*hopeless*”, or in this case a “*distraction*”, and does not address the substance of the allegation of unreasonable behaviour. It merely asserts that it does not follow that if the ground (e) appeals succeed there has been unreasonable behaviour.
4. A failure to meet a statutory obligation through inadequate service is clearly unreasonable behaviour. It is incumbent upon all public bodies to meet their statutory obligations, particularly one so simple as to ensure adequate service of the Notices. Without reasonable excuse a failure to meet those statutory obligations is clearly unreasonable behaviour. The LPA do not rely upon any reasonable excuse.

5. If the Notices are found not to have been served in accordance with the clear and very familiar statutory provisions this is an unambiguous failing of the LPA to perform their statutory duties adequately and to meet their statutory obligations. By any measure that is unreasonable behaviour, whether that be by the failure to adequately serve the Notices in the first place, the failure to adequately review their case when the appeals were lodged or a failure to review their case at any subsequent point throughout the appeal process, merely relying upon a haphazard ‘scatter-bombing’ of Notices on the Appeal Site and rather vain attempts in XX to get residents of the Appeal Site to make random and speculative assertions as to the behaviour and knowledge of other residents. That is not how adequate service of the Notices should be achieved or established.
6. Considered cumulatively, the approach of the LPA to service of Notices, both initially and subsequently is clearly unreasonable, by any measure. That unreasonable behaviour, in the event that any of the appeals succeed under ground (e) will have led to the wasted costs of the entire appeal process, with the process no doubt having to start again (for the fourth time, arguably fifth time given the aborted Inquiry before Inspector Russell resulting in the de novo Inquiry before Inspector Murray), and the Appellants should not have to bear the costs of a further Inquiry.
7. If any or all of the ground (e) appeals do not succeed then these applications fall away and need not be addressed; they are made only in the event that any or all of the ground (e) appeals succeed.

Michael Rudd
Kings Chambers
Manchester-Birmingham-Leeds
1st December 2023