

**TOWN AND COUNTRY PLANNING ACT 1990**  
**SECTION 174 INQUIRY**

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

**APPEALS BY MR LOVERIDGE, MR O'DONNELL, MR P. STOKES, MR CARTER, MR B.  
STOKES, MR CRUMLISH, MR FLYNN**

**PINS REFS: APP/L1765/C/22/3296767; 3296768; 3296771; 3296772; 3296773; 3296774;  
3296776; 3296777; 3296778; 3296779; 3296781; 3296782; 3296783; 3296784; 3296503; 3296504**

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**COSTS APPLICATION FINAL REMARKS**  
**ON BEHALF OF THE LOCAL PLANNING AUTHORITY**  
**WINCHESTER CITY COUNCIL**

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**Introduction**

1. The Council have made a written application for a partial award of costs in respect of each appeal, dated 27<sup>th</sup> November 2023. That application is based on the following substantive points: (i) in respect of Ground (a) – the scope of the appeal only became clear at the Inquiry; (ii) in respect of the ‘legal grounds’ (b), (c), (d), (e) and (f) – each and all are without merit. In a lengthy response dated 29<sup>th</sup> November 2023, the Appellants have resisted that application as being unmeritorious. The Council seeks to respond briefly to some of the points raised in that response.

**Application for Partial Award on Ground (a) Matters**

2. Section 174(2)(a) TCPA 1990 provides “*that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged*”.
3. It was only at the Inquiry that the scope of the Appellant’s case was properly set out as a narrower use than that alleged in the notices.
4. The Appellants’ SoCs provided no clarity as to the scope of the appeal. The Appellants refer to ¶5.1-5.5 of the WSPA SoC: Response, ¶6. However, at ¶5.3, the WSPA SoC unqualifiedly asserts: “*It is considered that there is no plausible reason not to grant planning permission*”. In the context of a ground (a) appeal, especially given the previous Green Planning Studio SoC (dated July 2022) it must be assumed that the case being advanced was in respect of the breach of planning control

contained in the notices. None of the notices were framed in terms limited to gypsy and traveller use. At ¶5.4, the WSPA SoC goes on to discuss conditions. At ¶5.5, the WSPA SoC states “*It will be submitted that if the appeal site is no longer required for Travelling Showpeople then there is no reason not to grant planning permission for Gypsy / Travellers. [...]*”. There is no reference to this being achieved via condition, or a suggestion that the deemed appeal is narrower than for what was stated in the notice.

5. Mr Woods’ PoE did nothing to clarify matters: cf. Response, ¶6. In relation to EN1, he expressly acknowledged that the deemed application for **use as a caravan site, comprising the stationing of approximately 100 caravans** is “quite broad in its parameters”: BW PoE ¶13.2. The Appellants do not refer to where Mr Woods refers in his PoE to the EN1 deemed application being limited by condition to G&T use (cf. Response, ¶6), and on further review of his PoE we cannot find such a reference.
6. The application for an award of costs in respect of the EN1 ground (a) appeal is well-founded and should be granted.

#### **Legal Grounds – (b), (c), (d), (e), (f).**

7. The Ground (e) appeals took up a lot of inquiry time. Whatever the “clear instructions” received by the Appellants’ planning consultants, the evidence before the inquiry plainly does not give rise to any doubt – let alone clear doubt – that the Council has complied with the statutory service requirements: cf. Response, ¶11. The Appellants’ focus on whether “*some of the site residents did not receive the Notices*” is misplaced and was also comprehensively addressed by Mr Tom Wicks and Mr Nigel Wicks in evidence. The Appellants’ point on returned recorded post (Response, ¶11) goes nowhere and fails to recognise that the expansive provision of further information based on specific questions from the Inspector only reiterated that the Council had complied with the statutory service requirements.
8. The Council does not seek to rehearse the arguments on the reasonableness of advancing grounds (b), (c), (d) and (f). For the avoidance of doubt, on ground (f), the Council’s position was set out in closings at ¶93-98. In the circumstances, and for the reasons given in the Council’s costs application, it was unreasonable for the Appellants to advance these grounds of appeal.

#### **Conclusion**

9. The Council’s position is clear. The real focus of these appeals was always Ground (a), and the other grounds were not credibly substantiated by evidence at inquiry. The scope of Ground (a) should have been properly particularised and defined from the start and the other grounds should

not have been pursued. The Council's application for a partial award of costs on this substantive basis should be granted.

10. In these final comments, the Council must also address the frankly astounding assertion at ¶21 of the Appellants' Response that "*Both main parties have behaved entirely reasonably throughout the appeal process, there has been no unreasonable behaviour and no wasted costs incurred, as a result of unreasonable behaviour or otherwise on the part of the Appellants*". If that is the Appellant's position, one questions why they have sought to make (and maintain) a costs application. The telling comment reflects the reality that whilst the Council's application is made for the clear reasons set out previously, the Appellants' costs application was little more than a final reactive attempt to muddy the waters.

**Jack Parker**

**Jack Barber**

Cornerstone Barristers

1 December 2023.