



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/01791/2020**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at a hearing at Bradford IAC
On the 6 July 2022**

Decision & Reasons Promulgated

On the 05 September 2022

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**MR TELEMA APAEMI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr M. Diwnycz, Senior Presenting Officer

DECISION AND REASONS

Introduction:

1. The appeal was listed for a resumed hearing. It is the appeal of Mr Telema Apaemi, who is a national of Nigeria.
2. Whilst the FtTJ made an anonymity direction, there were no reasons for doing so within the decision. In the light of the decision to refuse his protection claim, no reasons had been given for the anonymity

direction to continue. I therefore discharged that order for anonymity. No further application was made by the appellant for such an order.

Background:

3. The appellant's immigration history is summarised as follows. The appellant is a national of Nigeria born in 1994, who first arrived in the United Kingdom as a student in 2013. He was granted leave to enter the United Kingdom as a Tier 4 student from September 2013 to 3 October 2016. The appellant returned to Nigeria in October 2016 at the conclusion of his visa.
4. On 10 April 2017, he applied for a spouse Visa from abroad which was issued and valid until 11 March 2020. The appellant's leave was curtailed following a notification on 24 October 2018 of a breakdown in the relationship. The appellant did not leave the UK and on 13 January 2020, an enforcement visit was conducted at his residential address and the appellant was identified as an over stayer. He was served enforcement documents and was detained.
5. On 14 January 2020 he claimed asylum and made a human rights claim based on his relationship with a British Citizen. He had known her for five years whilst at university and had met through an online dating site in or about 2014 or 15 but as a friend. They began a relationship "officially" when the marriage ended in January 2019/February 2019. It was asserted that his girlfriend was 7 to 8 weeks pregnant when interviewed.
6. In a decision made on 17 February 2020 the respondent refused his protection and human rights claim. The respondent set out reasons as to why his claim for protection was not well-founded and that his application for asylum was not made until 14 January 2020 after he was arrested and detained. It was also noted that his fear and returned to Nigeria related solely to experiences prior to his arrival in the UK however he had not claimed asylum at the earliest opportunity but waited until he was refused leave and detained. The decision letter also set out that even taking the claim at its highest that there was sufficiency of protection, or he could internally relocate upon return to Nigeria.
7. The decision letter considered Article 8. In terms of his relationship, it was set out that he had not provided evidence that was legible or of sufficiency to demonstrate the relationship. As to the requirements for leave to remain as a partner (set out in section R-LTRP 1.1, the eligibility requirements for limited leave to remain as a partner under section E-LTRP 1.1 and immigration status requirements), it was noted that all of the above eligibility criteria needed to be met in order to qualify under the Immigration Rules and that he could not meet those requirements as he was in the UK in breach of immigration laws.

8. The nature of his claim relationship was considered it was noted that his relationship with a British citizen was based on his claim to have been dating her since February 2019 shortly after his divorce (although no evidence had been provided about the divorce) and that she was 7 to 8 weeks pregnant at the time of the interview in February 2020. The decision letter noted that apart from a copy of her passport and driving licence, there was no other material evidence regarding the relationship. Neither had he provided anything as regards her pregnancy. Thus it was not considered that he was in a subsisting relationship as claimed.
9. Furthermore at [131] when applying the home office guidance, an unmarried partner means a person living with the applicant in a relationship akin to marriage at least two years prior to the date of the application. The respondent noted that they are not living together due to religious beliefs. It was also noted in the letter dated 7 February 2020 that he stated that he had initially planned "to get married last year and even took things a bit further renting a house". However the respondent considered there was no evidence of a request to marry made to the Home Office and that the relationship started only recently therefore they could not meet the definition of GEN 1.2.
10. The respondent concluded that it was not accepted that the relationship was genuine and subsisting.
11. As a result no further consideration was given to EX1.
12. His application was considered under the private life rules under paragraph 276 ADE, where it was noted that the appellant was a national of Nigeria who had last entered the UK in 2017 and therefore had lived in the UK for 4 years. It was not accepted that he had lived continuously in the UK for at least 20 years, he was not between the ages of 18 and under 25 having lived in the UK for more than half his life and was over the age of 18 and therefore could not meet the requirements of paragraph 276 ADE(1 (iii)(iv) and (v). As to paragraph 276 ADE(1) (vi) the respondent did not accept that there would be very significant obstacles to his integration into Nigeria, if required to leave the UK because he had entered the UK in 2017 as an adult and had spent his childhood, education, and a proportion of his adult life in Nigeria. From the evidence provided, it is not accepted that he had lost cultural, family, or social ties in Nigeria and would be able to re-adjust there. It was considered that he could return to Nigeria and use existing skills, and qualifications to gain lawful employment. Consequently, he failed to meet the requirements of that part of the rule.
13. The respondent did not consider that there were any exceptional circumstances to warrant a grant of leave to remain and considered the issues that had been raised as to why it would be unjustifiably

harsh for him to return to Nigeria. His claim based on his depression, stress and anxiety was considered between paragraphs 150 – 171, but it was concluded that there was available health provision in Nigeria and that he would be able to seek medical treatment there. The respondent did not find that there was any evidence to demonstrate that there were any “ exceptional circumstances ” established in his case.

14. The Appellant’s appeal against the Respondent’s decision to refuse leave came before the First-tier Tribunal (Judge Howard) on the 18 March 2020.
15. In a determination promulgated on the 17 April 2020, the FtTJ dismissed the appeal against the protection claim finding that having considered the deficiencies in the appellant’s evidence and his conduct in advance of the asylum claim, taking into account that upon expiry of the student Visa in October 2016 he returned to Nigeria and remained there at least until April 2017 rather than make a protection claim, undermined his account and that he did not find the appellant’s account of events in Nigeria to be a credible.
16. However the FtTJ allowed the appeal on human rights grounds (article 8). The FtTJ found that the appellant was in a genuine and subsisting relationship with a British citizen, although it was not one that met the definition provided in GEN 1.2. and that it would be removal of the appellant would be disproportionate. The reasons are set out in his decision and summarised in the earlier error of law decision.
17. Permission to appeal was issued on behalf of the respondent on the 1 May 2020 and on 20 May 2020, permission was granted by FtTJ Robertson.
18. The appeal came before the Upper Tribunal on 4 December 2020. The respondent was represented by Senior Presenting Officer and the appellant in person. By a decision promulgated on 18 February 2021 , I concluded that the First-tier tribunal had erred in law in the human rights aspect of the decision (but not in respect of the dismissal of the protection claim) and set aside the decision to be remade by the Upper Tribunal. This decision should be read alongside the “error of law decision.”
19. The assessment made of the protection claim remained as set out at paragraphs 24-24 and the issue would be confined to Article 8 of the ECHR.

The remaking of the appeal:

20. The hearing took place on 6 July 2022. The appeal had been listed previously but had been adjourned firstly for the appellant to comply with the directions relating to service of documents and a further

adjournment was caused as the appellant had not been served with notice of the hearing. The appellant attended court with his partner, both of whom gave evidence. The respondent was represented by Mr Diwnycz, Senior Home Office Presenting Officer.

21. The tribunal had a copy of the previous documents provided on behalf of the appellant and on the day before the hearing, the appellant sent 3 emails exhibiting photographs. He brought the originals of those photographs to the hearing.
22. I heard oral evidence from the appellant. In his oral evidence he confirmed that he adopted as his evidence earlier letters that he had sent to the respondent and to the tribunal. In order to ascertain the factual background, I asked open questions of each of the witnesses. The appellant confirmed that he had entered the UK as a student but had not completed his degree and thus did not obtain a qualification from the UK. He had recently completed a course online in computer science. He said he returned to Nigeria when his visa had expired. He had applied for a spousal visa and had re-entered the UK based on his relationship with a British citizen. That relationship broke down in or about 2019 which resulted in his leave being curtailed.
23. He stated that he knew his partner previously when at university when they were just friends and after the marriage had broken down he stated that she was caring to talk to and understood him and that he had moved from London to Manchester to be in close proximity. He said that since the application was made then started living together in the 3 months prior to that he had been living in Bolton and looking after the children while she worked. He said they would live separately for a while and had email contact and phone contact via WhatsApp and that it was a "bit up and down" and they had stopped communicating with each other due to friction between him and her family. When asked why that was the position, he said that he was not sure, but it might be thought that he did not have the qualities that they were looking for. He said at that stage they were seeing each other once a week.
24. When asked about the birth of the children, he said they were born in August 2020 at the hospital and that he had been there throughout the labour and experienced the birth. Following the birth they lived separately, and she was living with her mother and needed support. He said there was contact between them, and he was going to her mother's house helping her with the children when she decided later that she wanted to return back to work, she would drop the children with him. He said the children were approximately 3 or 4 months old when they were left with him to look after while his partner went to work. He only had a room, and she would pick them up. He would take to the park, look after the children and put them to sleep.

25. He said that in terms of the relationship they were “at peace and happy” and that the bridge was the children, and they were happy with the children and there was nowhere he would like to be other than in the unit. They were planning to marry next year and to get his finances on track they want to be a couple and raise the children together. That is what the children deserve.
26. His partner was a social work assistant in the mental health support worker and that he looked after children when she was at work. In terms of future plans, he said he would be looking for a role in data services. When asked what he would say if it were suggested he could return to Nigeria, he stated that the children were in a routine and that they were not rich enough for him to go home and apply. He could not afford to return to Nigeria and look after the children. When asked what the effect would be upon the children and his partner if he left, he said it would be hard for his partner and her mental health. It is hard to manage the chaos in the house; she has her family that it is when they are available, and her mother would not stop work to look after the children nor her sister. Sometimes her brother would not come down to see the children.
27. In relation to the photographs he stated that they showed family in Wales on a holiday when they went with a few friends for green space. The photographs he said showed his involvement with the children’s lives and that they were a unit and capturing the moment as the children grow so fast. He confirmed the children did not have any health problems other than 1 of the children had a rash. The other photographs showed their 1st birthday in 2021, photographs of the new property where they have moved to. He had a copy of the council tax in both their names. The last photograph was taken for 5 days ago where they were playing football. He said he wanted to give his children and provide for them and be present in their lives and that was all that mattered. He said his partner would struggle in Nigeria that there was friction between him and his family and moving to Nigeria would mean her leaving her job and her family and the ties that she has. When considering the effect of the children he said he could not imagine what it would be like, and he could not put it into words, but it would be devastating, and he was brought up in a two-parent home.
28. In cross-examination, Mr Diwnycz asked if he was divorced, and he said he was and produced a copy of the decree. When asked about plans to marry, he said they had, but no date had been set maybe next year but once the finances allowed. He showed a document which is a council tax document and stated that they were living together in a privately rented property. He said there were no problems in prolonging the tenancy. He was asked if he returned Nigeria would his partner and children follow him? The appellant stated, “I do not know.”

29. His partner Margaret gave evidence and relied upon her letter dated 16 March 2020 and also an undated letter in the tribunal file. She was given the letter to reread she confirmed the contents of it. She said that they had met online in 2014 initially the relationship was a friendship that they spent more time together. In 2016 he travelled back to Nigeria and then returned later, and they rekindled their relationship, but he did not have any status. They made a plan to be together and to get married, but the registry office did not get back to them. In 2019 had a fallout and the appellant was “picked up by the immigration officers” and she was pregnant but not aware of this.
30. She said during the course of the pregnancy they did not live together, and she moved back to her mother’s home because she needed support and she was having twins. They managed to rent a bedsit so that he could come every single day and now they lived together since April this year.
31. When asked what role he played in supporting her, she said that he was an emotional support and as he could not work, and she had a full-time job he did the washing would make the meals. She said he was amazing and was upset that he could not live with them, but he was fully involved. She said that he help looking after the children changing nappies and did not go home until midnight and was very much involved. He would attend hospital appointments. She said that she had an accident with her back, and he helped her with that.
32. As to the circumstances she said she was in full-time employment as a social work assistant in a mental health hospital and 40 hours per week paid by way of minimum wage and that they were financially struggling. She had applied for universal credit. Her partner could not work as he was not eligible. She said she was going to do a master’s degree, but the funding side held her back; she did not have the means to do that. While she had applied for a place at University and waited to see if she secured a place she would have to look to find whether it could be funded by a bursary.
33. She said that when she worked the appellant looked after the children and then they would be together. Prior to living together she would drop them off with him as she thought it would be better to live together. She said she went back to work when the children were 6 months old, at the time the appellant lived in a shared house and despite the difficulties they decided to live together. She said she had always worked and that she went back to work because she needed to do so, and she thought being a full-time parent would affect her mental health. She said she knew this because after 6 months being at home she wanted to be back at work and that she would not be able to provide for the children without their father. She said she grew up in a single-parent household and she did not want that for her children. She said that children are bonded with their father, and they loved him and not to have that anymore would be awful. She said

going to Nigeria would mean they would not be separated but it would isolate her she did not know anyone there and that the cultural differences were massive. She said that she had everyone in the UK including her mother, sister and brother and that it would be “anxiety provoking and that she could not think of going there even for a period of time. She said she did not like change, and she had a routine. She said they had lived together now, and the children were very happy and in the process of making the house a home.

34. In cross-examination, Mr Diwnycz asked if they had plans to marry. She said they had discussed it, and everything was going well, she confirmed that they had not set a date, but they had discussed this. It was said that they had lived together for 2 months but she stated that the appellant had been going to her mother’s house since the girls were born. She said prior to that they had lived together during pregnancy. Mr Diwnycz asked if the children would adapt to living with no father figure (as it had been said children are adaptable). She replied that they were now 2 years old, but they would grow up and ask about their father. She said she was from a single-parent family and had never met her father.
35. No further questions were asked.
36. At the conclusion of the evidence Mr Diwnycz on behalf the respondent submitted that whilst the decision letter may have been correct in February 2020 subsequently there had been the birth of the twins which had changed matters. He said that it was difficult being a litigant in person and that had the appellant provided evidence it would have meant the proceedings were shorter. He said that there was no dispute that the appellant was the father of the children and conceded that issue, he accepted family life existed between the appellant and the children and given the passage of time and the concessions made the circumstances which might have been correct in 2020 were not the same now and it would not be reasonable for the children to leave the United Kingdom.
37. The appellant was asked if he had anything further that you wish to add to his evidence or by way of summary, but he stated that there was nothing further to add.

Discussion:

38. The appeal turns on whether it would be a disproportionate breach of Article 8 ECHR to remove the appellant from the UK. It is based on his family life with his partner and their two children.
39. The circumstances of the appellant in terms of his family life in the UK has changed significantly since the application made to the respondent and the decision of the FtTJ. As Mr Diwnycz observed, if the appellant had provided evidence earlier on in these proceedings

the factual circumstances would have been easier to ascertain. For example, he had not provided a copy of his divorce documentation but when asked at the hearing promptly produced the decree to Mr Diwnycz. He has also provided DNA evidence in respect of the children and their birth certificates. Mr Diwnycz on behalf of the respondent accepted that the appellant was the father of the twins, that he had a genuine and subsisting parental relationship with the children and with his partner. There is no dispute from the respondent that article 8 is engaged as the appellant has established a family life in the UK with his partner and children.

40. In terms of other findings and assessment of article 8, and as part of the adoption of the structured approach, and the consideration of proportionality at stage 5, I am required to consider the statutory provisions of Part V of the 2002 Act. Section 117B (1) confirms that the maintenance of immigration control is in the public interest.
41. From the outset the appellant is unable to meet the requirements of article 8 under the Rules and so cannot meet the weight to be addressed to those identified elements. In terms of private life under paragraph 276ADE, by reason of his length of residence in the United Kingdom he cannot meet the Rules. Nor do I find that he has established that there are very significant obstacles to his integration to Nigeria in the light of having resided there for a significant part of his life including his childhood and formative years and that he retains his cultural and linguistic links to Nigeria.
42. The appellant cannot meet the requirements of Appendix FM under the requirements because he is not married to his partner and has not been in a relationship akin to marriage for 2 years. Mr Diwnycz on behalf of the respondent conceded that having heard the evidence and read the documents provided, that the appellant and his partner were in a genuine and subsisting relationship. He did not seek to rely upon the credibility points which had been raised in the grounds for permission. Whilst they have known each other for a number of years as both stated, their relationship has fluctuated. I accept the appellant's partner's evidence that after she became pregnant with twins that the appellant provided a source of comfort and assistance and that they were not living together at that time as she had moved to live with her mother who would not allow them to cohabit under her roof.
43. There was also no challenge to their evidence that after the birth of the twins the appellant provided help, assistance and support to his partner in looking after the children and that he has been looking after them whilst his partner has returned to her employment. Their evidence was consistent in this respect. Mr Diwnycz also accepted that the evidence given that they have lived together in a rented property and have done so for approximately two months. The appellant has continued to look after the children during the time that

his partner is at work. In her evidence she stated that she gained personal satisfaction from that work notwithstanding that she worked in social care/mental health provision on a minimum wage and that she has been able to do so only because the children were looked after by her partner.

44. As part of the structured assessment I observe that section 117B, which is relevant to my enquiry in this matter, must be construed to ensure consistency with article 8 and so there must be injected into it a limited degree of flexibility so that the application of the statutory provisions will always lead to an end result consistent with article 8: *Rhuppiah v. Secretary of State for the Home Department* [2008] UKSC 58, [\[2018\] 1 WLR 5536](#), at [36], [49]. Consequently, the limited degree of flexibility may permit an appellant to succeed in establishing exceptional circumstances though they have been unable to satisfy the relevant provisions of the Rules as here.
45. The appellant speaks English and has been financially independent. Whilst the appellant does not obtain a positive right from these factors, they are not ones that count against him: *AM (s117B) Malawi* [\[2015\] UKUT 260 \(IAC\)](#), [2015] Imm AR 1019.
46. As to section 117B (4) and (5) I place in the balance that the appellant was lawfully present with lawful leave for periods of time, when a student. Little weight attaches to his relationship with his partner as during such time his immigration status was either unlawful (after leave had ended) and when he was here as a student was precarious and thus attracts little weight (see *Rhuppiah*, at [44]). However, “little weight” does not mean “no weight” and I give some weight to given to the periods of time that the appellant has been present in the United Kingdom lawfully.
47. However, notwithstanding the matters set out above, in the light of the factual circumstances of this appeal which have changed since the hearing before FtT] Howard, the relevant provision is section 117B (6). It states:
 - “In the case of a person who is not liable to deportation, the public interest does not require the person's removal where-
 - (a) the child has a genuine and subsisting parental relationship with a qualifying child and
 - (b) it would not be reasonable to expect the child to leave the UK.
48. A qualifying child is one who is British or has lived continuously in the UK for seven years or more (s117D(1)).
49. Where Article 8 ECHR is engaged and s117B(6) is satisfied, this will be determinative of the Article 8 ECHR proportionality balance in the appellant's favour in accordance with R (on the application of MA

(Pakistan) and others v Upper Tribunal (Immigration and Asylum Chamber) [2016] at EWCA Civ 705 at [17] which states;

"Subsection (6) falls into a different category again. It does not simply identify factors which bear upon the public interest question. It resolves that question in the context of article 8 applications which satisfy the conditions in paragraphs (a) and (b). It does so by stipulating that once those conditions are satisfied, the public interest will not require the applicant's removal. Since the interference with the right to private or family life under article 8(1) can only be justified where there is a sufficiently strong countervailing public interest falling within article 8(2), if the public interest does not require removal, there is no other basis on which removal could be justified. It follows, in my judgment, that there can be no doubt that section 117B(6) must be read as a self-contained provision in the sense that Parliament has stipulated that where the conditions specified in the subsection are satisfied, the public interest will not justify removal. It is not legitimate to have regard to public interest considerations unless that is permitted, either explicitly or implicitly, by the subsection itself".

50. Therefore whilst I have made findings on the other S117B factors, if the appellant meet S117B(6) it will be determinative of the article 8 proportionality balance.
51. When looking at the second part of test I set out the following relevant principles.
52. In SSHD v AB (Jamaica) and AO (Nigeria) [2019] EWCA Civ 661, Singh LJ rejected the Secretary of State's argument that the reasonableness test plays no role where the child in question will not in practice leave the UK. His Lordship stated at [75];

"It is clear in my view that the question which the statute requires to be addressed is a single question; is it reasonable to expect the child to leave the UK? It does not consist of two questions, as suggested by the Secretary of State. If the answer to the single question is obvious because it is common ground that the child will not be expected to leave the UK, that does not mean that the question does not have to be asked; it merely means that the answer to the question is: No".
53. In Runa v SSHD [2020] EWCA Civ 514 Singh LJ emphasised that the correct question is not whether it is reasonable for the child to remain in the UK with their other parent but whether it is reasonable for them to leave with the appellant. This question must be answered against the background of the relevant facts including whether the other parent is likely to accompany the appellant abroad.
54. The conduct of the parent (in this case the appellant) is not a relevant consideration (see KO (Nigeria) at paragraphs 16 – 18).

55. Whilst court or tribunal must base its analysis of reasonableness on the facts as they are, the “real world” context applies. In KO (Nigeria), the central point made in that appeal was that neither parent had the right to remain in the UK. However the “real world” facts here involve one parent being a British citizen. It is therefore necessary to determine the future location of the parent without the right to remain in the UK, and if there was a further separation of the child from a parent, how long state of affairs would endure, and the best interests of the children should be evaluated with that in mind.
56. Mr Diwnycz on behalf of the respondent in his closing submissions accepted that the operative provision was that of S117B(6). He further conceded that the appellant was in a genuine and subsisting relationship with his partner and that he also accepted that the evidence demonstrated that he also had a genuine and subsisting parental relationship with the two children concerned, both of whom were British Citizens and were therefore “qualifying children”.
57. As to the second limb of s117B(6) in his final submissions he accepted that this is a case where on its facts it would be considered unreasonable for the children to leave the United Kingdom.
58. It is therefore accepted by the respondent that on the facts of this particular appeal that it falls into one of the categories of cases where the public interest does not require his removal as section 117B (6) applies.
59. Applying the real-world analysis, the appeal concerns one parent being a British citizen and the relevant children sharing that status. Therefore where the facts involve one parent being a British citizen and the children also have the status, the evaluative enquiry is more nuanced. The children’s nationality is of particular importance because it brings into play the considerations noted by Baroness Hale in ZH (Tanzania) [2011] UKSC 4 and the relevant consideration which includes the potential deprivation of the benefits of that citizenship “and of its protection and support, socially, culturally and medically, and in many other ways evoked by, but not confined to, the broad concept of lifestyle”. The children have never left the UK and whilst they are young, any departure from the UK would necessarily mean that they would lose the benefits of their nationality including being able to access education, health and social provisions. They would also be separated from the wider family network which would not be in their best interests.
60. It has not been submitted on behalf of the respondent during this hearing that this is a case where it is reasonable for the appellant’s partner to leave the UK and the real-world analysis is based on the appellant’s partner remaining in the UK with the 2 children.

61. When considering the best interests of the two children concerned, those best interests are a primary consideration but not determinative. There is no dispute that the appellant has a genuine, subsisting parental relationship with the children and I accept his partner's evidence, set out both orally and in the written letters, that he has provided emotional support to her during the pregnancy which she described as a "high risk pregnancy" which resulted in the early birth of the twins. Their evidence was not challenged by Mr Diwnycz that he has been a hands-on father who undertakes the children's care whilst his partner works to support them all. Whilst the children were born prematurely, it is not said that they have any particular health problems. I find that it is in the children's best interests that they remain being parented by both of their parents and it is not in the children's best interests to be separated from the father who is a practical co-parent.
62. It has not been submitted on behalf of the respondent at the hearing that the parties should leave the UK temporarily. That would involve the appellant's partner uprooting both herself and the children and in effect losing her employment which sustains the family unit presently. Nor is it suggested that if the appellant left any separation would be reasonable. This is in the light of the current arrangements of the parties adopted since their birth. The children are co-parented by their parents. Without the presence of the appellant's partner, she would not be able to work therefore there is little prospect of the appellant securing entry clearance. I am satisfied that this course would also entail the separation the children from the father for a length of time that was not likely to be of a temporary nature.
63. In the light of those reasons and as it has been accepted by the respondent that on the facts of this particular appeal that it falls into one of the categories of cases where the public interest does not require his removal as section 117B (6) applies, the appeal succeeds.
64. For those reasons and as it is now accepted on behalf of the respondent that that the respondent's refusal of the appellant's human rights claim does not strike a fair balance between his right to respect for family life and the public interest. That decision and any consequential removal from United Kingdom constitutes a disproportionate interference with the appellant's private and family life and is therefore unlawful under section 6 of the Human Rights Act 1998.
65. The appeal is remade as follows; the appeal is allowed on Article 8 grounds.

Notice of decision:

66. The decision of the First-tier Tribunal involved the making of an error on a point of law and therefore the decision of the FtT shall be set aside.

The appeal is remade as follows: the appeal is allowed on Article 8 grounds.

Signed Upper Tribunal Judge Reeds

Dated 27 July 2022.

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be received by the Upper Tribunal within the appropriate period after this decision was sent to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is in the United Kingdom at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is 12 working days (10 working days if the notice of decision is sent electronically).
3. Where the person making the application is in detention under the Immigration Acts, the appropriate period is 7 working days (5 working days if the notice of decision is sent electronically).
4. Where the person who appealed to the First-tier Tribunal is outside the United Kingdom at the time that the application for permission to appeal is made, the appropriate period is 38 days (10 working days if the notice of decision is sent electronically).
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday, or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.