Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: AA/10863/2014**

THE IMMIGRATION ACTS

Heard at North Shields	**Decision & Reasons Promulgated**
On 28 January 2016	**On 4 February 2016**
Prepared on 28 January 2016	

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

S. K.
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant:	Mr Selway, Counsel instructed by Brar & Co Solicitors
For the Respondent:	Mr Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Iraq. He was refused asylum and a decision was made to remove him from the UK on 24 November 2014.
2. The Appellant duly appealed against those immigration decisions and his appeal was heard by Judge Manchester and allowed on Article 8 grounds in a decision promulgated on 9 June 2015.

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3. The Respondent's application to the First Tier Tribunal for permission to appeal was granted by First Tier Tribunal Judge Shimmin on 25 June 2015.
4. The Appellant filed no Rule 24 response, and neither party applied to introduce further evidence. Thus the matter comes before me.

The grounds of appeal

5. The Appellant has lodged no cross appeal.
6. The Respondent's grounds, as drafted asserted that the Judge had erred in allowing the appeal in the light of the best interests of the Appellant's two children, because he had failed to give sufficient weight to the public interest as set out in s117A-5 of the 2002 Act. It was asserted in amplification of this argument that the Appellant had made what amounted to a fraudulent claim to asylum, did not speak English, was not self sufficient, and that his family had been and would continue to be, a burden upon the public purse. Since the medical conditions of the two children did not meet the Article 3 threshold, it was asserted the Judge must have converted their best interests from a primary consideration, into the primary consideration.
7. Before me Mr Diwnycz accepted that it was plain when the decision was read as a whole that the Judge had considered the provisions of s117A-B, and that the Judge had not fallen into the trap of converting a primary consideration into the sole consideration. He accepted that it was not open to him to argue that the Judge had failed to consider the provisions of s117B because he had made express reference to them. He accepted that the conclusion reached upon the balance between the interests of the individuals and the public interest, was one that was open to the Judge upon the evidence before him, and that the weight to be given to individual features of the appeal was a matter for the Judge. Thus he accepted that the grounds were exposed as no more than a disagreement with the Judge's decision, and that they identified no arguable error of law.
8. It follows that, despite the terms in which the grant of permission to appeal was framed, this is a challenge that must be dismissed. I reject the Respondent's argument that the Judge made any material error of law that requires his decision to be set aside and remade.

DECISION

The Determination of the First Tier Tribunal which was promulgated on 9 June 2015 did not involve the making of an error of law in the decision to allow the appeal that requires that

decision to be set aside and remade. The decision to allow the appeal is accordingly confirmed.

Direction regarding anonymity – Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Deputy Upper Tribunal Judge JM Holmes
Dated 28 January 2016