

Case Name: *Halton Borough Council v Secretary of State for Housing, Communities and Local Government and Ors* [2025] EWCA Civ 1566 (3 December 2025)

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Commentary:

This was a successful appeal relating to the decision of the Planning Inspectorate (“PINS”) to make a partial award of costs against a local planning authority (“LPA”). The LPA had resolved to grant permission for a housing scheme, notwithstanding the objections of the Health and Safety Executive and the operator of a nearby energy recovery facility. Before permission could be granted, the Secretary of State called in the application and an inquiry was duly held. Part of the evidence at the inquiry was heard in closed session, owing to national security concerns. At that closed session, one of the LPA’s witnesses indicated in cross-examination – apparently in contradiction of his earlier position – that he would advise the Secretary of State that planning permission should not be granted. This precipitated an adjournment of the inquiry, the LPA’s recognition that it could no longer support the application, and the developer’s withdrawal of the application.

A member of the relevant team at PINS made a partial award of costs against the LPA, briefly on the basis that:

- there had been no material change in evidence so as to justify the LPA’s decision to withdraw its support;
- the LPA had not clearly set out exactly what in its witness’ responses to questioning had caused it to withdraw its support;
- it had been the LPA’s responsibility to satisfy itself as to the strength of its witness’ evidence and to ensure that it could stand up to scrutiny; and
- for the LPA to withdraw its support for the application at the time it did so was unreasonable.

The decision to make the award of costs was upheld at first instance. The Court of Appeal, however, overturned that judgment and characterised the critical issue as being whether or not the LPA was unreasonable in relying on its witness’ evidence up to the point of his cross-examination. As to whether or not the LPA had good reason to withdraw its support for the application, Lewison LJ commented:

“It is, with respect, difficult to conceive of a better reason for withdrawing support for the proposed development than the principal expert witness being no longer able to support the case advanced...”

The reasoning in the costs decision indicated that the author of the decision had thought that the witness' evidence should have been more thoroughly tested by the LPA and that a failure to do so was unreasonable. The court disagreed, finding that even if the LPA could have done more, there was no requirement on it to have done so. The appeal was therefore allowed.

Case summary prepared by Aline Hyde