

**Case Name:** *Hilltop Experiences Ltd, R (On the Application Of) v Norfolk County Council*  
[2026] EWCA Civ 541 (06 May 2026)

**Full case:** [Read here](#)

**Commentary:** The Court of Appeal dismissed an appeal against Lieven J's decision to dismiss a judicial review of the grant of planning permission by Norfolk County Council ('the Respondent') for a new Household Waste Recycling Centre ('HWRC'). The planning application was made by Norfolk County Council's Director of Highways, Transport and Waste ('the Interested Party') – a functionally separate body from the Respondent. Adjacent to the site of the proposed HWRC, Hilltop Experiences ('the Appellant') own land used to provide outdoor experiences for children with special education needs. An existing HWRC on the same site prevented the Appellant from using part of their land these purposes. The site also fell within the Norfolk Coast National Landscape.

The Appellant's two grounds of review related to the Respondent's alleged failure to consider an alternative site for the new HWRC. Consideration of alternative sites was mandatory owing to a local plan policy concerning development proposals within a National Landscape area. The Interested Party had identified a possible alternative site outside the National Landscape in its planning statement ('the Quarry site'), although it discounted this option on the basis that the landowner had been unresponsive.

First, the Appellant contended that the planning officer's failure to specifically identify the Quarry site as a potential alternative site had materially misled the Respondent's planning committee. The Appellant also framed this error as a material error of fact (applying *E v Secretary of State for the Home Department* [2004] QB 104). A witness statement produced by Respondent's planning officer conceded that he had not understood that the site referred to in the Interested Party's planning statement was the Quarry site.

Second, the Appellant submitted that the Interested Party's statement that the Quarry site owner had been unresponsive constituted another material error of fact. Emails between the Quarry site owner and the Interested Party relied on by the Appellant purported to show that the owner had in fact expressed interest in accommodating the HMRW. The Appellant alleged that this factual error tainted the Respondent's decision.

Dove LJ did not accept either ground of review. Crucially, the planning officer had advised that insufficient efforts had been made to assess alternative sites. The officer's report was clear that alternative sites outside the NL designation may be able to accommodate the HWRC and that this counted against the grant of the permission. The Respondent's committee weighed this information in the planning balance and proceeded to grant the permission. Given this context, Dove LJ did not consider that the report's failure to specifically mention the Quarry site was material to this decision.

Dove LJ likewise dismissed the first alleged error of fact as immaterial. The planning officer's confusion regarding the identity of the alternative site did not materially impact

the committee's decision, since that decision specifically took account of the fact that there may be suitable alternative sites.

Pursuant to *E v SSHD*, material errors of fact must also be 'established' in order to vitiate a decision. Dove LJ held that the second first alleged error of fact did not satisfy this test. Notwithstanding the exchange of emails, the Quarry site owner ultimately failed to confirm any arrangement for a meeting to discuss the issue. Consequently, it was reasonable to conclude that the owner *had* failed to engage. Dove LJ also noted that the allegedly erroneous statement was made merely in the Interested Party's planning statement, not in the officer's report. As such, it was only of indirect relevance to the committee's decision.

Accordingly, Dove LJ upheld Lieven J's refusal to quash the grant of permission and dismissed the appeal. Miles LJ and Zacaroli LJ agreed.

*Case summary prepared by Archie Hunter*