Complaint (ref: 26736718) - report

Subject of complaint

I refer to your letter dated 16 February 2026, requesting a Stage 2 investigation of your complaint concerning Peloton Real Estate vs Liverpool City Council

Summary: In respect of issues raised I have ***partially upheld*** your complaint. I have found areas in the Council's processes requiring improvement, in relation to the sourcing of specialist opinion, the submissions of information requirements to the Planning Inquiry within the timeframes set out, and the recording of interactions with (planning) applicants.

The Planning Inspector noted the Council had acted "unreasonably" in relation the Council's very late (in the proceedings) changing of its final position with regards to supporting the Planning Committee's decision to refuse the application on Air Quality grounds and the impact this had on the appellant (notably the costs incurred to support its appeal against the refusal on Air Quality grounds). I have considered this statement as part of my review and noted that the exercise to source specialist opinion commenced relatively late in within the set timeframes and therefore recommendations have been made to improve processes so that a final position in response to the Inquiry's requirements is arrived at in line with stated timeframes. This includes commencing commissioning activities as early as possible.

A further recommendation has been made regarding liaising with the Council's procurement service when specialist services are required at short notice. Officers reached out to 9 organisations in the northwest of England in relation to providing specialist opinion. This is considered to be a sufficient, however further assistance in the search for potential providers could have been sought from the Council's procurement service which would have provided fuller assurance that sufficient efforts had been made to source potential providers.

The Council had already noted in the Stage 1 response that there were gaps in processes regarding the recording of interactions with applicants. Recommendations have been made; however, it is noted that officers have already initiated new processes to ensure that interactions are recorded appropriately.

However, on balance, I did not find that these issues caused material harm or impact in relation to the Council's response to the applicant's appeal to the Planning Inspectorate and/ or the subsequent impact on related stakeholders.

The Planning Officer's report(s) to Planning Committee did not find reason to refuse the relevant application on Air Quality grounds, however the Planning Committee did cite Air Quality as one of the reasons for refusal of the application. This therefore created an inherent discord between specialist advice obtained for the report(s) to Committee and the specialist opinion that would have been in support of the opposite conclusions that was subsequently required to be presented at the Inquiry. It is considered that this would not have been a quick process and this is supported by both the responses received from the organisations contacted, and the ultimate ruling by the Inspector. Rule 6 parties (short summary here).

Whilst the Council not defending the refusal on Air Quality grounds would have been disappointing to a third party who wished for this position to be upheld, Rule 6 parties were not unduly impacted by the Council's late decision to not submit a defence of the refusal on Air Quality grounds, as each party to the Inquiry is under their own obligations to source evidence in support of their position in relation to the appeal.

Noting the above finding that the exercise to source specialist opinion commenced late in the Inquiry's timeframes, Officers reached out to 9 organisations in the northwest of England in relation to providing specialist opinion. This is considered to be sufficient. None of the 9 companies were able to offer sufficient services in support of the Planning Committee's refusal of the application on Air Quality grounds. This, in line with Planning Officers original reports to the Planning Committee and the Inspector's ultimate decision on the matter, indicates that there had been sufficient scrutiny of the decision and a widening of the search at an earlier date is unlikely to have had a material impact in relation to finding an independent expert who could have supported the Planning Committee's position.

In relation to managing conflicts of interest, the review has noted that the citing of this in the Stage 1 response referred to a conflicted stated by a third party (which impeded any potential engagement by the Council). Therefore, there was no conflict to be managed by the Council.

I will refer to these findings in more detail along with action taken and recommendations in my report.

Your complaint

Following our response to you at stage 1 of the Have Your Say process, you were still unhappy for the following reasons: -

1. The Council retained air quality as a formal reason for refusal yet presented no supporting expert evidence at the Public Inquiry.
2. The Inspector subsequently found that the Council had acted unreasonably in failing to substantiate that reason.
3. The explanation that consultants were conflicted or unable to disagree with the applicant's submissions was not accompanied by clarification of:

- how potential conflicts were identified and assessed.
- whether alternative independent expertise was sought beyond the immediate local commercial environment.
- whether legal advice was obtained regarding the risks of maintaining an unsupported refusal reason; or
- why the refusal reason was not withdrawn once expert evidence could not be secured.

1. Repeated officer–applicant meetings, including the 28 May 2025 meeting on "Air Quality matters," were not minuted or recorded, and the governance implications of that absence of record were not addressed.
2. The Planning Inspectorate has confirmed that the appeal was not subject to a formal fast-track procedure, which calls into question earlier explanations that compressed timescales were determinative.

You said that the impact of this on you was - that the impact is procedural, participatory, financial, and reputational:

1. A significant public health issue was not tested through competing expert evidence at Inquiry.

2. Residents were led to believe that air quality was a defendable refusal reason, only for it to be unsupported at the hearing.
3. As a Rule, 6 Party, we were not informed in advance that the Council would present no air quality evidence, materially affecting our ability to participate effectively.
4. Public confidence in the Council's environmental governance and transparency has been undermined; and
5. The Council incurred a cost finding for unreasonable behaviour, exposing public funds to avoidable expense.

You said that your desired outcome is - we seek a clear and reasoned Stage 2 determination addressing whether there was maladministration in:

1. Retaining and advancing an unsupported refusal reason.
2. The assessment and management of potential consultant conflicts of interest.
3. The failure to record substantive officer–applicant meetings after refusal.
4. Communication with affected parties regarding the evidential status of retained refusal reasons

You also requested - confirmation of any procedural changes implemented or proposed to ensure:

1. Refusal reasons are evidence-based and defensible before Inquiry.
2. Conflicts of interest are transparently recorded and managed.
3. Officer–applicant meetings on live refusal issues are appropriately documented.
4. Rule 6 parties are informed where the evidential position materially chan

How I considered this complaint

I have considered the complaint against:

- Any existing protocols within the Planning Service.
- Contract Standing Orders.
- Town and Country Planning Rules (Inquiries Procedures) (England) (2000).

I have discussed your complaint with:

- Director of Planning
- Head of Development Management and Major Projects
- Major Projects Officer (Planning)
- Head of Law (Planning & Regulatory)

Findings

1. **The Council retained air quality as a formal reason for refusal yet presented no supporting expert evidence at the Public Inquiry.**

The reason (air quality) was retained as a formal reason for refusal was that that was the

Committee's decision. In this case it was the members of the Committee who were acting as the Local Planning Authority, not planning officers, therefore it is the decisions (and the reasoning) made by the Committee that must be considered.

Notwithstanding the above, the Council should attempt to ensure that its reasoning for not submitting evidence is provided in line with the timescales set out by the Planning Inspector. This will provide clarity to stakeholders, and comply with the Inquiry's requirements, thereby reducing the risk of incurring costs due to having acted "unreasonably" by not submitting evidence at the Inquiry.

Conclusion:

The planning officer's report(s) to Planning Committee had not found reason(s) to refuse the planning application on grounds of air quality.

The Planning Committee, as is within its function, chose to refuse the application, with one of the reasons cited as air quality.

This creates an inherent opposition of position, but one that is possible, if not usual, with the planning application process.

Following the submission of an appeal to the Planning Inspectorate, officers attempted to obtain independent, expert advice in support of the rejection on air quality grounds but were unable to do so.

This exercise concluded after the initial submissions to the Inspector, and therefore it is evident that these would have indicated that the Council was going to defend the reason at the Inquiry.

The regulatory impact of this is covered below.

With regards to internal processes, a recommendation has been made that officers ensure that a final position is clarified before formal submissions are made to an Inquiry. It is recognised that this may curtail the opportunity in seeking thie external support.

2. **The Inspector subsequently found that the Council had acted unreasonably in failing to substantiate that reason.**

The Planning Inspector's costs decision states:

The Council in this case has failed to substantiate its reason for refusal with regard to air quality matters which it was still presenting as a concern well into the Inquiry process. I therefore consider that the Council has acted unreasonably with regard to the substance of the matter under appeal.

Officers noted that the Council had maintained it would be substantiating its position as attempts were being made to obtain expert opinion.

Once those attempts failed, the Council decided not to present evidence to the hearing in support of the reason to reject the planning application.

There are 3 separate areas to consider re whether rejection of the application on air quality was appropriate, and whether the rejection on this basis could be supported at the Inquiry.

1 - The officers report
2 - Expert opinion
3 - The Planning Inspector

The Planning officers report, citing the Council's Environmental Health Team, does not find air quality to be a reason to reject the appeal.

The Council attempted to engage with experts. Of those that provided a view, a majority indicated that the decision in relation to air quality could not be supported.

The Planning Inspector, notwithstanding that the Council did not provide expert opinion, noted "*To conclude on this matter, the proposal will not give rise to any significant harm to the living conditions of occupiers of nearby residential properties with regard to air quality impacts.*"

On balance of the above, there does not appear to have been reasonable scope for the Council to substantiate the reason for rejecting the application on Air Quality grounds.

Notwithstanding the above, the Council should attempt to ensure that it's reasoning for not submitting evidence is provided in line with the timescales set out by the Planning Inspector. This will provide clarity to stakeholders, and comply with the Inquiry's requirements, thereby reducing the risk of incurring costs due to having acted "unreasonably" by not submitting evidence at the Inquiry.

<u>Conclusion:</u>

The planning officer's report(s) to Planning Committee had not found reason(s) to refuse the planning application on grounds of air quality.

The Planning Committee, as is within its function, chose to refuse the application, with one of the reasons cited as air quality.

This creates an inherent opposition of position, but one that is possible, if not usual, with the planning application process.

Following the submission of an appeal to the Planning Inspectorate, officers attempted to obtain independent, expert advice in support of the rejection on air quality grounds but were unable to do so.

This exercise concluded after the initial submissions to the Inspector, and therefore it is evident that this would have indicated that the Council was going to defend the reason at the Inquiry.

The regulatory impact of this is covered below.

With regards to internal processes, a recommendation has been made that officers ensure that a final position is clarified before formal submissions are made to an Inquiry.

3. **The explanation that consultants were conflicted or unable to disagree with the applicant's submissions was not accompanied by clarification of:**

- *how potential conflicts were identified and assessed.*

9 companies were approached to enquire if they were interested/ able to provide expert opinion in support of the LPA's rejection of the planning application.

Of those 6 provided responses:

2 did not have the capacity to perform the work

1 did not think there was sufficient time to provide appropriate level of support, and noted that some deadlines had already passed

2 responded stating that they agreed with the Council's EHO position in the planning report

1 provided a quote but assessment by Planning service officers did not consider that the company had sufficient experience of public Inquiries.

This combined with the assessment of 2 other companies that the reason for rejection on air quality grounds could not be supported, led officers to decide not to appoint the company.

It was noted that during conversations, 1 company cited a conflict of interest - however this was not recorded.

Conclusion:

The responses provided by the suppliers approached did not indicate that a wider search could have found a supplier who had capacity to carry out the work, and who considered the reason for rejection on Air Quality grounds to be supportable.

It is noted that the service required was specialist in nature. However, a recommendation is to be made that discussions should be held with CPU to establish if there are extant frameworks from which relevant services could be commissioned, potentially reducing the time need to source potential suppliers.

It is considered that officers made reasonable attempts to source independent opinion to support the refusal on grounds of Air Quality.

The initial response referenced conflict(s) of interest, however this was not clarified as a conflict cited by a potential supplier and therefore management of this conflict by Council officers was not necessary.

A recommendation is to be made that clear records are maintained to evidence either the inability of suppliers to engage and/ or decisions by officers not to engage with potential suppliers.

- *whether alternative independent expertise was sought beyond the immediate local*

commercial environment

Officers sought responses from 9 companies in the northwest of England.

Of the 6 companies that responded, 3 indicated that capacity/ timescales were an issue. (NB their position on whether the reason for rejection on Air Quality grounds could have been supported is not known).

The Council's Procurement service were not engaged as the anticipated costs were considered to be below the threshold required for CPU engagement £25k.

Conclusions:

The responses provided by the suppliers approached did not indicate that a wider search could have found a supplier who had capacity to carry out the work, and who considered the reason for rejection on Air Quality grounds to be supportable.

It is noted that the service required was specialist in nature. However, a recommendation is to be made that discussions should be held with CPU to establish if there are extant frameworks from which relevant services could be commissioned, potentially reducing the time need to source potential suppliers.

- *whether legal advice was obtained regarding the risks of maintaining an unsupported refusal reason; or*

In the report to Planning Committee on 13th May 2025, the planning officer's report states:

Should the application be refused, Members are reminded that the applicant would have the option of appealing against the decision which opens the possibility of costs being awarded against the Council, if the council is found to have behaved in an unreasonable manner.

Therefore it is considered that there is an appropriate awareness of the implications of not submitting a defence.

Conclusions:

It is considered that officers provided sufficient advice to members of the Planning Committee regarding the potential impact of refusing the application on grounds that had not been cited as reasons/ formed part of the planning officers' recommendations in their report(s) to Committee.

- *why the refusal reason was not withdrawn once expert evidence could not be secured.*

The reason (air quality) was retained as a formal reason for refusal was that that was the Committee's decision.

In this case it was the members of the Committee who were acting as the Local Planning Authority, not planning officers, therefore it is the decisions (and the reasoning) made by the Committee that must be defended.

Conclusions:

The reasons for refusal of the application are determined by the Planning Committee. The decision, and its reasons, are the subject of the appeal by an applicant to the Planning Inspectorate and therefore must be heard at the appeal.

A recommendation has been made regarding ensuring that final positions on whether those reasons are to be defended at an Inquiry are made in line with the timeframes set out by the Inspector.

4. **Repeated officer–applicant meetings, including the 28 May 2025 meeting on "Air Quality matters," were not minuted or recorded, and the governance implications of that absence of record were not addressed**

This was acknowledged as a point for improvement in operational processes in the Stage 1 response.

A note was sent in February 2026 to planning officers outlining the need to have 2 officers present, and to take relevant notes/ minutes depending on the nature of the engagement which are to be shared with the other party for completeness.

Conclusions:

This was acknowledged as an area of weakness in the Stage 1 response.

Management have evidenced that officers have been informed of the requirements to improve the documenting of interactions with applicants and evidence has been provided that the processes are now in operation.

5. **The Planning Inspectorate has confirmed that the appeal was not subject to a formal fast-track procedure, which calls into question earlier explanations that compressed timescales were determinative**

It is noted that the wording used in the Stage 1 implied the appeal was subject a specific "Fast Track" procedure.

It is clarified that this wording was used in error.

The appeal timeframes were considered by officers to be tighter than expected, and thus time pressures had a greater impact on activities such as attempting to source independent specialists.

Conclusions:

The wording used in the Stage 1 response was inaccurate.

A recommendation is to be made that where technical terms are included in responses to complaints the statement is reviewed to ensure the information is clear and accurate.

The impact of the Council's actions

1. **The impact is procedural, participatory, financial, and reputational:**

- *A significant public health issue was not tested through competing expert evidence at Inquiry.*

There are 3 separate areas to consider re whether rejection of the application on air quality was appropriate, and whether the rejection on this basis could be supported at the Inquiry.

1 - The officers report
2 - Expert opinion
3 - The Planning Inspector

The Planning officers report, citing the Council's Environmental Health Team, does not find air quality to be a reason to reject the appeal.

The Council attempted to engage with experts. Of those that provided a view, a majority t indicated that the decision in relation to air quality could not be supported.

The Planning Inspector, notwithstanding that the Council did not provide expert opinion, noted "*To conclude on this matter, the proposal will not give rise to any significant harm to the living conditions of occupiers of nearby residential properties with regard to air quality impacts.*"

Conclusions:

There are 3 separate areas to consider re whether rejection of the application on air quality was appropriate, and whether the rejection on this basis could be supported at the Inquiry:

1 - The officers report
2 - Expert opinion
3 - The Planning Inspector

It is therefore considered that there has been reasonable assessment of the issue, and there has been no material impact on stakeholders.

- *Residents were led to believe that air quality was a defendable refusal reason, only for it to be unsupported at the hearing.*

At the time of the initial submission to the Inquiry, the Council had intended to obtain expert opinion in support of a defence of the Planning Committee's decision to reject the application on Air Quality grounds. As time progressed it became clear that officers considered that it was not possible to source an independent expert who would be able to defend the position, however this was after the initial submission to the Inspector. To have withdrawn this reason for refusal would have been for officers to acted directly contrary to the recommendation of Planning Committee.

A recommendation has been made on improving processes to ensure that the Council's position is finalised prior to Inquiry deadlines.

Conclusions:

The planning officer's report(s) to Planning Committee had not found reason(s) to refuse the planning application on grounds of air quality.

The Planning Committee, as is within its function, chose to refuse the application, with one of the reasons cited as air quality.

This creates an inherent opposition of position, but one that is possible, if not usual, with the planning application process.

Following the submission of an appeal to the Planning Inspectorate, officers attempted to obtain independent, expert advice in support of the rejection on air quality grounds but were unable to do so.

This exercise concluded after the initial submissions to the Inspector, and therefore it is evident that this would have indicated that the Council was going to defend the reason at the Inquiry.

The regulatory impact of this is covered below.

It is acknowledged that this chain of events would cause confusion, however the reason for refusal was tested at the Inquiry (albeit unsupported) and therefore it is considered that there is no material impact on stakeholders.

With regards to internal processes, a recommendation has been made that officers ensure that a final position is clarified before formal submissions are made to an Inquiry.

- *As a Rule, 6 Party, we were not informed in advance that the Council would present no air quality evidence, materially affecting our ability to participate effectively.*

At the time of the initial submission to the Inquiry, the Council had intended to obtain expert opinion in support of a defence of the Planning Committee's decision to reject the application on Air Quality grounds.

As time progressed it became clear that officers considered that it was not possible to source an independent expert who would be able to defend the position, however this was after the initial submission.

A recommendation has been made on improving processes to ensure that the Council's position is finalised prior to Inquiry deadlines.

In relation to Rule 6, it is the Council's opinion that each party is under its own obligations to present evidence and each party does not have the right to rely on/ expect another party to provide information evidence on its behalf.

Rule 6 parties should ensure that they present their own evidence in support of their position in relation to the planning application/ Planning Inquiry.

Conclusions:

Whilst the Council's initial submission to the Planning Inspector may/ would have indicated that the Planning Committee's decision was going to be defended, this does not impact on the obligations of Rule 6 parties who are required to provide their own evidence in support their position in relation to the appeal.

Therefore, whilst the Council's position may have caused confusion, and the subsequent decision not to defend the reason caused disappointment, this does not mean that there has been a breach in the Council's obligations with regards to providing information to a Rule 6 party.

- *Public confidence in the Council's environmental governance and transparency has been undermined.*

Technical advice was provided to members of the Planning Committee in the officer reports which did not find Air Quality as a reason to reject the application. Members chose to reject the application against the recommendation in the officer's report. Both the officer's report(s) and the minutes of the meetings are publicly available, therefore the democratic process is considered to be transparent.

Notwithstanding the above, the Council should attempt to ensure that it's reasoning for not submitting evidence is provided in line with the timescales set out by the Planning Inspector. This will provide clarity to stakeholders, and comply with the Inquiry's requirements, thereby reducing the risk of incurring costs due to having acted "unreasonably" by not submitting evidence at the Inquiry.

Conclusions

Whilst the Council's initial submission to the Planning Inspector would have indicated that the Planning Committee's decision was going to be defended, this does not impact on the obligations of Rule 6 parties who are required to provide their own evidence in support their position in relation to the appeal.

Therefore whilst the Council's position would have caused confusion, and subsequent decision not to defend the reason caused disappointment, this does not mean that there has been a breach in the Council's obligations with regards to providing information to a Rule 6 party.

The Council's initial position, the Planning Committee's decision, and the testing of that decision at the Planning Inquiry are all publicly available documents, therefore it not considered that there has been a lack of transparency or regard to environmental governance.

- *The Council incurred a cost finding for unreasonable behaviour, exposing public funds to avoidable expense.*

In the report to Planning Committee on 13th May 2025, the planning officer's report states:

Should the application be refused, Members are reminded that the applicant would have the option of appealing against the decision which opens the possibility of costs being awarded against the Council, if the council is found to have behaved in an unreasonable manner.

Officers provide recommendations to the Planning Committee; it is for committee members to make the decision whether to approve or reject the application.

Pending the notice of appeal, officers attempted to source independent consultants to defend the reason to refuse on Air Quality grounds. However, as noted above, this was not successful and the Council did not/ was not able to defend its position at the Inquiry.

Notwithstanding the above, the Planning Inspector's costs decision states:

The Council in this case has failed to substantiate its reason for refusal with regard to air quality matters which it was still presenting as a concern well into the Inquiry process. I therefore consider that the Council has acted unreasonably with regard to the substance of the matter under appeal.

It is therefore clear that not determining its final position in line with Inquiry timeframes was the key factor in the Inspector's decision which cost the Council money.

Conclusions:

It is considered that committee members were given clear advice of the implications of rejecting an application, specifically in relation to reasoning which went against the advice in officer's report.

This potential conflict of opinion, and associated risks, is inherent in the nature and processes of how the planning function works.

However, officers did not determine the Council's position in time to meet the Planning Inquiry timescales and this the key factor in the Inspector's decision which cost the Council money.

With regards to internal processes, a recommendation has been made that officers ensure that a final position is clarified before formal submissions are made to an Inquiry.

Actions you expect the Council to take - You seek a clear and reasoned Stage 2 determination addressing whether there was maladministration in:

1. **Retaining and advancing an unsupported refusal reason.**

The planning officer's report(s) to Planning Committee had not found reason(s) to refuse the planning application on grounds of air quality.

The Planning Committee, as is within its function, chose to refuse the application, with one of the reasons cited as air quality.

This creates an inherent opposition of position, but one that is possible, if not usual, with the planning application process.

Following the submission of an appeal to the Planning Inspectorate, officers attempted to obtain independent, expert advice in support of the rejection on air quality grounds but were unable to do so.

This exercise concluded after the initial submissions to the Inspector, and therefore it is evident that this would have indicated that the Council was going to defend the reason at the Inquiry.

The regulatory impact of this is covered below.

With regards to internal processes, a recommendation has been made that officers ensure that a final position is clarified before formal submissions are made to an Inquiry.

Conclusions

The juxtaposition of the Planning Committee’s decision against the officer's recommendations in a report creates an inherent tension in the planning process.

In this case it is considered that officers made reasonable attempts to secure independent specialist advice to support the Planning Committee's decision.

It has been noted that processes commenced too late to meet the Inquiries deadlines, and the assistance could have been sought from the Council's procurement service.

Recommendations have been made on both issues.

2. **The assessment and management of potential consultant conflicts of interest.**

The initial response referenced conflict(s) of interest; however, this was not clarified as a conflict cited by a potential supplier and therefore management of this conflict by Council officers was not necessary.

A recommendation is to be made that clear records are maintained to evidence either the inability of suppliers to engage and/ or decisions by officers not to engage with potential suppliers.

Conclusions:

This is/ was not an issue for the Council as the conflict related to a third party.

3. **The failure to record substantive officer–applicant meetings after refusal.**

This was acknowledged as a point for improvement in operational processes in the Stage 1 response.

A note was sent in February 2026 to all planning officers outlining the need to have 2 officers present, and to take relevant notes/ minutes depending on the nature of the engagement which are to be shared with the other party for completeness.

Conclusions:

This is considered to have been a gap in the operational process control environment which has been acknowledged and for which remedial action has since been taken.

The lack of notes / minutes taken for this specific case is not considered to have been due to maladministration.

4. **Communication with affected parties regarding the evidential status of retained refusal reasons**

A recommendation has been made on improving processes to ensure that the Council's position is finalised prior to Inquiry deadlines.

In relation to Rule 6, it is the Council's opinion that each party is under its own obligations to present evidence and each party does not have the right to rely on/ expect another party to provide information evidence on its behalf. Rule 6 parties should ensure that they present their own evidence in support of their position in relation to the planning application/ Planning Inquiry.

Conclusions:

Whilst the Council's initial submission to the Planning Inspector would have indicated that the Planning Committee's decision was going to be defended, this does not impact on the obligations of Rule 6 parties who are required to provide their own evidence in support their position in relation to the appeal.

Therefore whilst the Council's position would have caused confusion, and subsequent decision not to defend the reason caused disappointment, this does not mean that there has been a breach in the Council's obligations with regards to providing information to a Rule 6 party.

Outcome

On the balance of interviews with officers and the information reviewed, I have concluded that your complaint has been partially upheld.

The delay in the Council's ultimate decision to not defend the refusal on Air Quality grounds would have caused confusion to stakeholders and was the principal factor in the Planning Inspector's ruling that the Council had acted "unreasonably" with regards to the appellant at the Planning Inquiry.

I have recommended that officers consider process improvements to ensure that the Council reaches a definitive position in line with the timeframes set out by a Planning Inquiry.

However, I have concluded that, whilst there would have been the noted confusion resulting from the Council's actions with regard to not defending the reason for refusal on Air Quality grounds, officers carried out a reasonable exercise which intended to procure specialist consultants to support the Council's reason for refusal on Air Quality grounds at the Inquiry.

I have recommended minor process improvements for future procurement exercises; however, I do not consider that, in this case, these would have had a material impact on the procurement exercise outcome and the resulting subsequent events.

As previously noted in the Stage 1 response, process gaps have been identified in relation to the recording of interactions with applicants. It is noted that management have already acted to resolve this issue.

In addition, it has been noted that inaccurate terminology in relation to the timeframe of the Inquiry has been used in the Stage 1 response. However, I have concluded that this does not have a material impact on the issue. Nevertheless, inaccurate terminology causes confusion, therefore a recommendation has been made on this point.

The assessment of air quality has been carried out at distinct stages. It has been directly assessed during the compilation of the officer reports to Planning Committee, and at the Planning Inquiry. It has also been indirectly tested during the attempts to procure specialist consultants. Therefore, I conclude that there has been ample opportunity for the potential public health issue to be tested/ reviewed.

Officers made Planning Committee members aware of the potential implications (including costs) were a decision to be made which went against the planning officer's report(s). Therefore, acknowledging the recommendation regarding the timeliness of the determining of a final position, officers were cognisant of the relatively unusual circumstances raised when the Planning Committee votes against an officer's recommendation.

I have also concluded that, again noting the confusion resulting from the Council's actions with

regard to not defending the reason for refusal on Air Quality grounds, that its actions did not impact on your status as a Rule 6 party. Rule 6 parties are under their own obligation to provide evidence in support of their position at the Inquiry.

Finally, there is no conclusion to reach with regards to the assessment and management of conflicts of interest, as the cited conflict was raised by a third party and therefore outside of the Council's influence.

Decision – Partially Upheld

Recommendations

1. Processes are introduced (e.g. a checklist with key milestones) which detail the requirements set out by a Planning Inquiry, including the date for the determination of a final position. Controls should include a responsible officer for monitoring progress against the milestones, with clear escalation routes marked if potential delays are identified.

31 July 2026

IMPLEMENTATION DATE

2. For urgent, specialised commissioning exercises, officers should engage with the Council's procurement service to establish if there are extant frameworks from which relevant services could be commissioned, potentially reducing the time need to source potential suppliers.

31 July 2026

IMPLEMENTATION DATE

3. Clear records are maintained to evidence either the inability of suppliers to engage and/ or decisions by officers not to engage with potential suppliers.

31 July 2026

IMPLEMENTATION DATE

4. Where technical terms are included in responses to complaints the statement is reviewed to ensure the information is clear and accurate.

31 July 2026

IMPLEMENTATION DATE

Your right to refer to the Local Government and Social Care Ombudsman

This is our final response to your complaint. You may now complain to the Local Government and Social Care Ombudsman. The Ombudsman is not a further appeal. It looks at whether public bodies have followed the right steps when taking action or reaching a decision.

The Ombudsman decides whether it can and should investigate complaints. For example, the Ombudsman may decide not to investigate your complaint if you have not been significantly

personally affected by the issue you are raising. You can find out more information about what complaints the Ombudsman may consider on its website.

If you wish to raise your complaint with the Ombudsman, you can find out more information about how to do so below:

Website: https://www.lgo.org.uk/how-to-complain
Telephone: 0300 061 0614

Yours sincerely,

Gareth Lewis

Head