



Costs Decision

Inquiry held 10-14 & 18 November 2025

Site visit made on 14 November 2025

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2026

Costs application in relation to Appeal Ref: APP/Z4310/W/25/3369126

Garston Industrial Estate, Blackburne Street, Garston, Liverpool L19 8JB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by MREF V c/o Peloton Real Estate Ltd for a partial award of costs against Liverpool City Council.
 - The appeal was against the refusal of planning permission for change of use of existing employment site to use class B8 for open storage purposes.
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Decision

1. The costs application is allowed and partial costs are awarded.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application for costs is made on the basis that the Council did not seek to defend the original refusal of the planning application on the basis of the issue of air quality. It was confirmed during the opening remarks on behalf of the Council¹ that it would present no evidence to the Inquiry in respect of that matter.
4. The Council's Decision Notice from May 2025 along with noise, clearly identified concern with regard to the living conditions of occupiers of nearby residential properties through unacceptable air quality impacts.
5. A Case Management Conference (CMC) was held on 24th September 2025 where the main issues for the Inquiry were agreed. The agreed main issue relating to air quality at the CMC referenced 'The effect of the proposal on the living conditions of occupiers of nearby residential properties with regard to air quality impacts arising from the use of the site and from vehicle movements to and from the site'. The main issue was reflective of concerns over air quality that were referenced within the Councils Statement of Case dated 18th September 2025².
6. Following this, it was reasonable for the appellant to set course to address the Councils concern. The Council effectively argues that there has been no wasted

¹ CD 16.4 Opening Remarks on behalf of Liverpool City Council.

² CD 13.1 LCC Statement of Case Paragraph 9.3 & 9.4.

cost on the appeal process for the appellant as they would have had to present the same evidence and call the same witnesses to meet concerns from the Rule 6 Party, Garston Community United (GCU).

7. However, it could reasonably have been the case that the appellant may not have chosen to consider air quality in the level of depth and detail that it did when it was under the impression that the Council harboured concerns over this issue. Further, there is a likelihood that GCU's concerns were influenced by the concerns that it believed the Council held as can be inferred from one of its rebuttal statements³.
8. A Local Planning Authority is at risk of having costs awarded against it amongst other circumstances where it fails to produce evidence to substantiate its reasons for refusal on appeal. 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.

Conclusion

9. There is evidence of unreasonable behaviour by the Council which has led the appellant to incur unnecessary or wasted expense in the appeal process. A partial award of costs is therefore justified with regard to the appellants costs of responding to the concerns of the Council with regard to air quality matters.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Liverpool City Council shall pay to MREF V c/o Peloton Real Estate Ltd the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Liverpool City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

T Burnham

INSPECTOR

³ Rebuttal Statement on Air Quality Grounds and related Transport Grounds Proof of Evidence, Gary Woolam and John Davies, 3rd November 2025.