



**Oversight and Governance**

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## **GROWTH AND INFRASTRUCTURE OVERVIEW AND SCRUTINY COMMITTEE**

Tuesday 21 February 2023

3.00 pm

Warspite Room, Council House

**Members:**

Councillor Riley, Chair

Councillor Coker, Vice Chair

Councillors Goslin, Hendy, Holloway, Hulme, Luggier, Noble, Partridge, Poyser, Salmon, Tippetts and Tofan.

Members are invited to attend the above meeting to consider the items of business overleaf.

This meeting will be webcast and available on-line after the meeting. By entering the Warspite Room, councillors are consenting to being filmed during the meeting and to the use of the recording for the webcast.

The Council is a data controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with authority's published policy.

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**Tracey Lee**

Chief Executive

## **Growth and Infrastructure Overview and Scrutiny Committee**

### **1. Apologies**

To receive apologies for non-attendance submitted by Councillors.

### **2. Declarations of Interest**

Councillors will be asked to make any declarations of interest in respect of items on the agenda.

### **3. Chair's Urgent Business**

To receive reports on business which in the opinion of the Chair, should be brought forward for urgent consideration.

### **4. Call-in: Decision Reference - T19 22/23 - Lease Surrender of Land at Cattewater Harbour (Pages 1 - 16)**

The Committee will consider the decision called in by Councillors Kelly, Mrs Beer, Hulme and Singh.

# CALL-IN REQUEST FORM



<b>Decision to be called in</b>	T19 22/23 – Lease Surrender of land at Cattewater Harbour
<b>Decision made by:</b>	Councillor Jonathan Drear (Cabinet Member for Transport)
<b>Date decision was made</b>	01/02/2023 (call in received 08/02/2023)
<b>Are you calling the decision in because you believe it to be outside of the Budget or Policy Framework</b>	No
<b>Reasons for the Call-In</b>	<p>The process was deficient as all potential users/past users were not contacted for their input and feedback.</p> <p>The decision maker did not consider alternatives regarding the safeguarding of fees and charges for future users and new users where the cost has been prohibitive in the past. Any action should look to increase usage and public access to our coastal waters.</p> <p>The decision maker did not take into account relevant factors. THE BLS is a platform that used correctly could open up the coastal waters to many more users, therefore encouraging greater participation of the NMP, one of the PCC's objectives for the NMP. The BLS asset is valued at £441,469, it is being given away with no direct benefit for local taxpayers, apart from reducing PCC to the ongoing maintenance costs. The transfer should convey benefits and rights for the public to be able to use it/other users for an agreed period at no cost or greatly reduced cost. Another PCC asset is being given away without any public consultation, yet it was funded through public money. Visitors to the city by marine craft should be able to use this facility.</p> <p>The public get very frustrated when public assets are disposed of for no, or very low returns to the public purse and have not been invited to provide any views or feedback on such disposals. This is another asset of nearly £0.5million that is being transferred to a private company without sufficient caveats to directly benefit the public in the future.</p>

**Signatures** To be valid **THREE** Members must support the request. All three Members should sign the form *OR* all three Members should email the Democratic Support Section ([democratic.support@plymouth.gov.uk](mailto:democratic.support@plymouth.gov.uk)) expressing their support for the call-in.

**Signatures of THREE Members**

<b>Name</b>	<b>Signature</b>
<b>Cllr Nick Kelly</b>	Received via email
<b>Cllr Terri Beer</b>	Received via email
<b>Cllr Chaz Singh</b>	Received via email
<b>Cllr Stephen Hulme</b>	Received via email

<b>Contact</b>	
<b>Name of Councillor to be contacted if there are any difficulties or questions.</b>	Cllr Nick Kelly

**Notice of call-in for non-urgent decisions –**

**(i) must be received in the Democratic Support Section by 4.30 p.m. on the fifth working day after Members have been notified that the decision has been made;**

**(ii) can be submitted to the Democratic Support Section or by using the on-line form which should be emailed to [democratic.support@plymouth.gov.uk](mailto:democratic.support@plymouth.gov.uk)**

## Scrutiny Call-In

Call In – Procedure to be Followed in the Meeting



1. Once the Chair has opened the meeting and any previous business on the agenda been dealt with, the Members who called in the decision will be asked to explain why they have done so and what they feel should be reviewed.

**The Members making the call-in shall be allowed up to 15 minutes in total to present their case.** It shall be up to them to determine how they wish to use their time, they may ask one speaker to speak or share the time among members who made the call in as they see fit.

2. **15 minutes shall be allowed to respond on behalf of the decision maker(s).** It shall be up to them to decide how to use this allocation. The relevant Cabinet Member, or a senior officer, may make the presentation or dividing the time as they see fit.
3. **After each presentation, Members of the Committee may ask questions to clarify any points made by the speakers** (although the speakers will not have an opportunity to cross-examine one another).
4. The Committee will then discuss the matter. **Members may ask further questions of the Members making the call in or the decision maker(s) during the debate. The Members making the call in and the decision maker will not normally speak during the debate, except to answer questions.**
5. When the Chair considers that the matter has been debated for a reasonable length of time, the decision maker will be offered the opportunity to make any final comments on the matter. **One of the Members making the call in will also be offered the opportunity to sum up. Each side will be allowed five minutes for this purpose.**

6. **The matter will then move to the vote –**

- 6.1 The first issue to consider is whether to confirm that the decision should be implemented (the decision can then be acted on immediately) –

**If Members vote YES at this stage, the call in is ended (the matter will not be referred back).**

- 6.2 The second issue to consider is whether the matter is within or outside of the policy framework and budget –

**If the decision is not outside of the policy framework and budget, the Committee can decide to –**

- support the decision which can then be acted on immediately, or
- send the decision back with its comments to the Cabinet or Cabinet member, who will take a final decision.

**If the decision is outside of the policy framework and budget, it will go as a recommendation to the next ordinary meeting of the Council, along with any comments from the relevant Overview and Scrutiny Committee (if two Cabinet Members want earlier action, an extra ordinary meeting of the Council can be held, see Council Procedure Rule 6).**

**Council is able to –**

- **ask the Cabinet to reconsider, or**
- **change the policy framework and budget so that the decision is within it – the decision can then be acted on immediately.**

6.3 If Members vote in favour of referring the matter for reconsideration, they must vote on where to refer the matter.

The Chair will ask Members to vote in favour of –

- **recommend that the decision maker should reconsider the decision in light of the comments expressed by the Committee**
- **refer the decision to Council to consider the call in (If the decision is outside of the policy framework and budget, it will go as a recommendation to the next ordinary meeting of the Council, along with any comments from the relevant Overview and Scrutiny Committee)**
- **(send comments to Council on any decision that recommends changing the policy framework and budget).**

If referred back to the decision maker(s), the Chair will confirm the Committee's comments for the referral back to Cabinet.

# EXECUTIVE DECISION

made by a Cabinet Member



## REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER


Executive Decision Reference Number – T19 22/23

Decision				
1	<b>Title of decision:</b> Lease Surrender of land at Cattewater Harbour			
2	<b>Decision maker:</b> Councillor Jonathan Drean, Cabinet Member for Transport			
3	<b>Report author and contact details:</b> Mike Artherton - <a href="mailto:mike.artherton@plymouth.gov.uk">mike.artherton@plymouth.gov.uk</a>			
4	<b>Decision to be taken:</b> To surrender the lease between Plymouth City Council and The Cattewater Harbour Commissioners for the section of foreshore and fundus adjoining Commercial Wharf in the Cattewater Harbour.			
5	<b>Reasons for decision:</b> To support the Councils commitment to maintaining access to the water, to avoid future costs and financial pressures associated with the requirement to maintain the Barbican Landing Stage.			
6	<b>Alternative options considered and rejected:</b> Not to surrender the lease is rejected as this would not support the longer term access to the water and add financial pressures to the Council in the ongoing maintenance of the Landing Stage.			
7	<p><b>Financial implications and risks:</b> Under the terms of the lease the Council have responsibility for maintaining the safe operation of the Landing Stage. The costs of operating and maintaining the Landing Stage currently exceed the income received from the licencing of operators to use the landing stage. In 2021/22 the Landing Stage had a deficit of £9,752; the lease has 84 years remaining.</p> <p>Upon surrender of the lease the Landing Stage will transfer to The Cattewater Harbour Commissioners who will assume responsibility for the maintenance and safe operation of the Landing Stage. The Landing Stage has a current net book value of £441,469.</p>			
8	<b>Is the decision a Key Decision?</b> (please contact <a href="#">Democratic Support</a> for further advice)	Yes	No	<b>Per the Constitution, a key decision is one which:</b>
			x	in the case of <b>capital</b> projects and contract awards, results in a new commitment to spend and/or save in excess of <b>£3million</b> in total
			x	in the case of <b>revenue</b> projects when the decision involves entering into new commitments and/or making new savings in excess of <b>£1 million</b>

			x	is <b>significant</b> in terms of its effect on communities living or working in an area comprising <b>two or more</b> wards in the area of the local authority.
	<b>If yes, date of publication of the notice in the <u>Forward Plan of Key Decisions</u></b>	N/A		
<b>9</b>	<b>Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:</b>	<p>These proposals support our Corporate Plan, specifically:</p> <ul style="list-style-type: none"> <li>• Support a green, sustainable city that cares about the environment</li> <li>• Create a vibrant economy, developing quality jobs and skills</li> <li>• Create a varied, efficient, sustainable transport network</li> <li>• Create a friendly welcoming city.</li> </ul>		
<b>10</b>	<b>Please specify any direct environmental implications of the decision (carbon impact)</b>	The decision to terminate the lease has no direct environmental implications.		
<b>Urgent decisions</b>				
<b>11</b>	<b>Is the decision urgent and to be implemented immediately in the interests of the Council or the public?</b>	<b>Yes</b>		(If yes, please contact Democratic Support ( <a href="mailto:democraticsupport@plymouth.gov.uk">democraticsupport@plymouth.gov.uk</a> ) for advice)
		<b>No</b>	X	<b>(If no, go to section 13a)</b>
<b>12a</b>	<b>Reason for urgency:</b>			
<b>12b</b>	<b>Scrutiny Chair Signature:</b>		<b>Date</b>	
	<b>Scrutiny Committee name:</b>			
	<b>Print Name:</b>			
<b>Consultation</b>				
<b>13a</b>	<b>Are any other Cabinet members' portfolios affected by the decision?</b>	<b>Yes</b>		
		<b>No</b>	X	<b>(If no go to section 14)</b>
<b>13b</b>	<b>Which other Cabinet member's portfolio is affected by the decision?</b>	Cllr Shayer, Deputy Leader and Cabinet Member for Finance and Economy		



<b>I3c</b>	<b>Date Cabinet member consulted</b>	30 <sup>th</sup> January 2023						
<b>I4</b>	<b>Has any Cabinet member declared a conflict of interest in relation to the decision?</b>	<b>Yes</b>		If yes, please discuss with the Monitoring Officer				
		<b>No</b>	<b>X</b>					
<b>I5</b>	<b>Which Corporate Management Team member has been consulted?</b>	<b>Name</b>	Anthony Payne					
		<b>Job title</b>	Strategic Director for Place					
		<b>Date consulted</b>	21 <sup>st</sup> December 2022					
<b>Sign-off</b>								
<b>I6</b>	<b>Sign off codes from the relevant departments consulted:</b>	<b>Democratic Support (mandatory)</b>	DS96 22/23					
		<b>Finance (mandatory)</b>	pl.22.23.353.					
		<b>Legal (mandatory)</b>	LS/00000616/AC/27/1/23					
		<b>Human Resources (if applicable)</b>	KAB300123					
		<b>Corporate property (if applicable)</b>	JW 0115 30/01/23					
		<b>Procurement (if applicable)</b>	N/A					
<b>Appendices</b>								
<b>I7</b>	<b>Ref.</b>	<b>Title of appendix</b>						
	A	Briefing report						
	B	Equalities Impact Assessment						
<b>Confidential/exempt information</b>								
<b>I8a</b>	<b>Do you need to include any confidential/exempt information?</b>	<b>Yes</b>		If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in <b>I8b</b> below.  (Keep as much information as possible in the briefing report that will be in the public domain)				
		<b>No</b>	<b>X</b>					
		<b>Exemption Paragraph Number</b>						
		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>

<b>I8b</b>	<b>Confidential/exempt briefing report title:</b>							
<b>Background Papers</b>								
<b>I9</b>	<p>Please list all unpublished, background papers relevant to the decision in the table below.</p> <p>Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</p>							
<b>Title of background paper(s)</b>		<b>Exemption Paragraph Number</b>						
		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
<b>Cabinet Member Signature</b>								
<b>20</b>	<p>I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act (2010) and those who do not. For further details please see the EIA attached.</p>							
<b>Signature</b>				<b>Date of decision</b>	27 <sup>th</sup> January 2023			
<b>Print Name</b>	Councillor Jonathan Drean (Cabinet Member for Transport)							

## BARBICAN LANDING STAGE (BLS)

### 1. INTRODUCTION

- 1.1. This report sets out the proposed surrender of the lease between Plymouth City Council and The Cattewater Harbour Commissioners for a section of foreshore and fundus adjoining Commercial Wharf in the Cattewater Harbour.
- 1.2. This proposal will support the Councils commitment to ensuring safe access to our waters, and will protect the Council from future costs associated with the future maintenance and upkeep of the Barbican Landing Stage.
- 1.3. The proposal within this report supports the Councils values, specifically: -

**Democratic** – Plymouth is a place where people can have their say about what is important to them and where they are empowered to make change happen;

**Responsible** – We are responsible for our actions; we are accountable for their impact on others and the environment and expect others to do the same;

**Fair** – We will be honest and open in how we act. We will treat everyone with respect, champion fairness and create opportunities;

**Collaborative** – We will provide strong community leadership, working with residents, communities, and businesses to deliver our common ambition.

### 2. BACKGROUND

- 2.1. On 17<sup>th</sup> May 2008 the Council entered into a lease with The Cattewater Harbour Commissioners for a section of foreshore and fundus off Commercial Wharf, which also included the Barbican Landing Stage located within this area of fundus. The lease has a 99 year term. At the same time the Council undertook significant improvement works to the Landing Stage.
- 2.2. Cattewater Harbour Commissioners are a statutory port authority who exist by Act of Parliament as the navigation and conservancy authority for the Cattewater Harbour, as well as civil pilotage for the Port of Plymouth.
- 2.3. Under the lease the Council are responsible for the maintenance and safe operation of Barbican Landing Stage, with exception to a one section, which is operated and managed by The Cattewater Harbour Commissioners, supporting Cattewater Harbour Commissioners to undertake their statutory port responsibilities.
- 2.4. The Council charge for issuing licences to permit commercial operations/businesses to use the Landing Stage in delivering their business/services; these include tour vessels, water taxis and casual mooring.

### 3. CURRENT POSITION

- 3.1. There is an opportunity for the Council to surrender the current lease with The Cattewater Harbour Commissioners, which would see the Landing Stage transfer to The Cattewater Harbour Commissioners.
- 3.2. Undertaking this course of action would remove the Council from the financial risks associated with the current responsibilities to maintain the safe operation of the Landing Stage. Whilst the Council has continued to maintain the safe operation of the Landing Stage, as with any ageing asset the future maintenance requirements can be expected to increase. Surrendering the lease will protect the Council from future costs, investment requirements and all liabilities associated with operating a Landing Stage.
- 3.3. The Cattewater Harbour Authority has the required resources and expertise to maintain the continued safe operation of the Landing Stage, complementing their existing statutory functions and in supporting access to the water.
- 3.4. Authority is to be sought from the Cabinet Member consistent with the authority required for an asset disposal as the surrender is for nil consideration.

### 4. FINANCIAL IMPLICATIONS

- 4.1. The costs of operating and maintaining the Landing Stage currently exceed the income received from the licencing of operators to use the landing stage. In 2021/22 the Landing Stage generated £14,576 of income and incurred £24,328 in expenditure (£8,920 relating to maintenance); a net deficit of £9,752.
- 4.2. Whilst the Council has maintained the safe operation and use of the Landing Stage, there are additional, non-safety related, maintenance requirements that would help to maintain the longer term future of the asset. To undertake these works the Council would be required to allocate a planned preventative maintenance budget nearer £20k per annum, placing additional revenue pressures on the Council. Over the remainder of the lease term this would place significant revenue pressures on the Council.
- 4.3. As of 1<sup>st</sup> April 2022 the Landing stage has a net book value of £441,469.

### 5. RECOMMENDATION

- 5.1. It is the recommendation of this report to approve the surrender of the lease between Plymouth City Council and The Cattewater Harbour Authorities for the section of foreshore and fundus adjoining Commercial Wharf in the Cattewater Harbour.

# EQUALITY IMPACT ASSESSMENT – LEASE SURRENDER - CATTEWATER

## SECTION ONE: INFORMATION ABOUT THE PROPOSAL

<b>Author(s):</b> This is the person completing the EIA template.	Zoe Anning	<b>Department and service:</b>	Plymouth Highways, Marine Services	<b>Date of assessment:</b>	17/01/23
<b>Lead Officer:</b> Please note that a Head of Service, Service Director, or Strategic Director must approve the EIA.	Mike Artherton	<b>Signature:</b>	Mike Artherton	<b>Approval date:</b>	17/01/23
<b>Overview:</b>	The Council is seeking to surrender a lease between Plymouth City Council and The Cattewater Harbour Commissioners in respect to an area of foreshore and fundus on the Cattewater Harbour.				
<b>Decision required:</b>	To approve the surrender of the lease between Plymouth City Council and The Cattewater Harbour Authorities for the section of foreshore and fundus adjoining Commercial Wharf in the Cattewater Harbour.				

## SECTION TWO: EQUALITY IMPACT ASSESSMENT SCREENING TOOL

<b>Potential external impacts:</b> Does the proposal have the potential to negatively impact service users, communities or residents with protected characteristics?	<b>Yes</b>		<b>No</b>	√
<b>Potential internal impacts:</b> Does the proposal have the potential to negatively impact Plymouth City Council employees?	<b>Yes</b>		<b>No</b>	√
Is a full Equality Impact Assessment required? (if you have answered yes to either of the questions above then a full impact assessment is required and you must complete section two)	<b>Yes</b>		<b>No</b>	√
If you do not agree that a full equality impact assessment is required, please set out your justification for why not.				

## SECTION THREE: FULL EQUALITY IMPACT ASSESSMENT

<b>Protected characteristics (Equality Act, 2010)</b>	<b>Evidence and information (e.g. data and consultation feedback)</b>	<b>Adverse impact</b>	<b>Mitigation activities</b>	<b>Timescale and responsible department</b>
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	All data is from the 2011 Census except for age and sex which has been updated with 2021 data. Data will be updated with the 2021 Census data as it becomes available.			
<b>Age</b>	<p>Plymouth</p> <ul style="list-style-type: none"> <li>• 16.4 per cent of people in Plymouth are children aged under 15.</li> <li>• 65.1 per cent are adults aged 15 to 64.</li> <li>• 18.5 percent are adults aged 65 and over.</li> <li>• 2.4 percent of the resident population are 85 and over.</li> </ul> <p>South West</p> <ul style="list-style-type: none"> <li>• 15.9 per cent of people are aged 0 to 14, 61.8 per cent are aged 15 to 64.</li> <li>• 22.3 per cent are aged 65 and over.</li> </ul> <p>England</p> <ul style="list-style-type: none"> <li>• 17.4 per cent of people are aged 0 to 14.</li> <li>• 64.2 per cent of people are aged 15 to 64.</li> <li>• 18.4 per cent of people are aged 65 and over.</li> </ul> <p>(Data sourced from the 2021 Census)</p>	No adverse impact anticipated		
<b>Disability</b>	10 per cent of our population have their day-to-day activities limited a lot by a long-term health problem or disability (2011 Census).	No adverse impact anticipated		

<b>Gender reassignment</b>	<p>There are no official estimates for gender reassignment at either national or local level (awaiting 2021 Census data).</p> <p>However, in a study funded by the Home Office, the Gender Identity Research and Education Society (GIREs) estimate that between 300,000 and 500,000 people aged 16 or over in the UK are experiencing some degree of gender variance.</p>	No adverse impact anticipated		
<b>Marriage and civil partnership</b>	<p>There were 234,795 marriages in England and Wales in 2018.</p> <p>In 2020, there were 7,566 opposite-sex civil partnerships formed in England and Wales, of which 7,208 were registered in England and 358 were registered in Wales.</p> <p>There were 785 civil partnerships formed between same-sex couples in England and Wales in 2020, of which 745 were registered in England and 40 were registered in Wales.</p>	No adverse impact anticipated		
<b>Pregnancy and maternity</b>	<p>There were 640,370 live births in England and Wales in 2019, a decrease of 2.5 per cent since 2018. The mid-year 2019 population estimates show that there were 2,590 births in Plymouth.</p> <p>The total fertility rate (TFR) for England and Wales decreased from 1.70 children per woman in 2018 to 1.65 children per woman in 2019.</p>	No adverse impact anticipated		

<b>Race</b>	<p>92.9 per cent of Plymouth's population identify themselves as White British. 7.1 per cent identify themselves as Black, Asian or Minority Ethnic.</p> <p>Census data suggests at least 43 main languages are spoken in the city, showing Polish, Chinese and Kurdish as the top three (2011 Census).</p>	No adverse impact anticipated		
<b>Religion or belief</b>	<p>Christianity is the biggest faith in the city with more than 58 per cent of the population (148,917). 32.9 per cent (84,326) of the Plymouth population stated they had no religion (2011 Census).</p> <p>Those who identified as Muslim were just under 1 per cent while Hindu, Buddhist, Jewish or Sikh combined totalled less than 1 per cent (2011 Census).</p>	No adverse impact anticipated		
<b>Sex</b>	<p>51 per cent of our population are women and 49 per cent are men (2021 Census).</p>	No adverse impact anticipated		
<b>Sexual orientation</b>	<p>There is no precise local data on sexual orientation in Plymouth (awaiting 2021 Census data).</p>	No adverse impact anticipated		

#### SECTION FOUR: HUMAN RIGHTS IMPLICATIONS

Human Rights	Implications	Mitigation Actions	Timescale and responsible department
	No adverse impact has been identified.		



**SECTION FIVE: OUR EQUALITY OBJECTIVES**

<b>Equality objectives</b>	<b>Implications</b>	<b>Mitigation Actions</b>	<b>Timescale and responsible department</b>
<b>Celebrate diversity and ensure that Plymouth is a welcoming city.</b>	No adverse impact has been identified.		
<b>Pay equality for women, and staff with disabilities in our workforce.</b>	No adverse impact has been identified.		
<b>Supporting our workforce through the implementation of Our People Strategy 2020 – 2024</b>	No adverse impact has been identified.		
<b>Supporting victims of hate crime so they feel confident to report incidents, and working with, and through our partner organisations to achieve positive outcomes.</b>	No adverse impact has been identified.		
<b>Plymouth is a city where people from different backgrounds get along well.</b>	No adverse impact has been identified.		

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