

# APPEAL AGAINST PETITION RESPONSE

Petition by STRAW to Full Council 31.1.2023



## I. BACKGROUND

Members of Committee will recall that the petition at Appendix A was presented to Council on the 30 January 2023 and, concerning Armada Way, requested that Council consider:

*'If you would rather they change their plans to incorporate a bit more of what we already have rather than bulldozing it flat then get behind our campaign to save the trees!'*

Council debated the item at the meeting and approved the resolution at Appendix B to this report. The key elements which amounted to a recommendation to the Cabinet Member are as follows:

- *We therefore call on the Cabinet Member for Transport to undertake a comprehensive review of the engagement arrangements for the scheme and commit to publishing the results of this review to inform this and delivery of future city centre schemes.*
- *We also call on the Cabinet Member for Transport to publish a detailed statement regarding the maintenance costs of the Better Places Programme projects.*
- *We call on the Cabinet Member for Transport to set these out in detail for the benefit of local businesses and the public.*
- *Plymouth City Council calls upon the Cabinet Member for Transport to note its dissatisfaction with the lack of public engagement and suspend tree felling whilst undertaking a meaningful community engagement process in February, which considers the natural environmental and climate resilience before finalising the designs for Armada Way*
- *The Council further asks that no work be carried out that could prejudice the survival of the existing trees until the design is finalised. Having undertaken this process and published the results, the Council supports and requests that the Cabinet Member implements that final design quickly to avoid on-going disruption to city centre businesses from the construction works*

On the 9 February STRAW submitted an appeal against the response to the petition, as attached at Appendix C in full. It contains a number of grounds of appeal.

The Petitions Guidance states, at section 8, that where a petitioner is not happy with a response to its petition it can ask the Overview and Scrutiny Committee to review the Council's response. Where an appeal is made it will be considered at the next meeting of the Overview and Scrutiny Committee.

## 2. RELEVANT INFORMATION FOR COMMITTEE WHEN CONSIDERING THE APPEAL

Committee should note that what it is being asked to consider is whether to uphold the response approved by Full Council to the petition.

Committee should also note that, as reflected in the recommendation of Council, the issue is wider than the trees, but the trees in context of the scheme proposed for the redevelopment of Armada Way.

In considering the appeal Committee should be aware and take account of the following:

- The action requested in the original petition is an Executive Function. The legal separation of powers between full Council and the Executive means that Council is not able to direct Cabinet as to the exercise of its functions concerned with the petition, unless there is a specific exception in law permitting overlap of functions. As such Council, in any response, **may only recommend** a course of action to Cabinet to consider. This equally applies to Committee when considering if the response was adequate.
- A petition is one way that views of the public can be expressed, as stated in the Petition Guidance. In this case there has been a subsequent programme of public engagement to, using the wording of the petitioner in their appeal, allowing an “opportunity [for the Council to] fully engage with the public through the means requested in the petition submission” as requested in the resolution by Council in response to the petition.
- Any action pursuant to the petition will therefore be a matter for Cabinet / Officers in line with the Leaders scheme of delegation or any pre-existing specific delegations made by Cabinet to Officers.
- The Petition Guidance is clear as to what constitutes a valid petition. In the appeal STRAW raise issues that are relevant to the determination that the petition was valid, and to what extent it was. In this case the petition:
  - had in excess of 10,000 signatures at the point of submission to the Council. As set out in the report all were not from within the Plymouth travel to work area, though the petition met the threshold for the matter to be debated at Council.
  - had a statement at the outset of it. When submitting the petition STRAW also included in the email a word document with additional text. This was not part of the published petition and was not undersigned by petitioners and therefore was discounted. The interpretation was not legalistic but reflected the clear rules in the Guidance, as provided to STRAW before their petition was submitted.
- Prior to consideration of the petition by full Council STRAW sought to lodge an appeal to have the matter referred to the Committee. In line with the guidance, they were informed that they were entitled to appeal a response. As Council had not debated and made a resolution on the matter, they had no response to appeal.

- Over the engagement period, through the sessions held, social media and representations made, STRAW and other persons objecting to the scheme appear to now request that no trees are removed at all. Engagement, as in line with the recommendation from Council, has been on the scheme in its totality. No decision has been made at the time of this report on the future scheme following the engagement events and no decision will be taken in relation to it in advance of Scrutiny considering this appeal.

### **3. MATTER FOR CONSIDERATION BY COMMITTEE**

In light of the appeal Committee is now required to review the response to the petition. It is open to Committee to confirm or reconsider that response **however** Committee must note that it is not entitled to make any commitment or decision which would be the exercise of an Executive function.

If Committee is minded to amend the response, it may only do so by making further recommendations to the relevant Cabinet Member.