

# ARMADA WAY REGENERATION LEARNING REVIEW

## Terms of Reference



### Independent Learning Review into the Armada Way decision of 14 March 2023

**Independent Chair:** [insert name of Chair]

**Independent Legal Advisor:** [insert name]

**Independent Regeneration and Planning Advisor:** [insert name]

### Background

The original Armada Way executive decision was published on 14 March 2023 signed by the then Leader of Plymouth City Council (the Original Decision). The decision was to proceed with a redevelopment scheme for Armada Way, the final design for which included the felling of 129 mature trees, the retention of 20 existing trees and the planting of 169 new, sustainable semi-mature trees (“the Original Scheme”). Following the local elections in May 2023, Plymouth City Council’s (PCC) Leader and Cabinet were replaced. The new Leader withdrew the Original Decision and confirmed that the Original Scheme would be progressed no further. Furthermore, the Leader also announced at a Cabinet meeting of 10 July 2023 his commitment to establish an Independent Learning Review into the Original Decision (“the ILR”). That commitment included an outline indication of the format and scope the of ILR and these elements have now been formalised as part of a Court Order arising from Judicial Review proceedings into the Original Decision.

### Purpose and Methodology

The principles and purpose of the ILR are:

- a. To provide an opportunity for PCC to receive feedback from interested stakeholders to enable it to objectively analyse areas of good practice and areas of improvement for the organisation moving forward.
- b. To obtain an independent, fair and objective appraisal of all relevant facts and factors pertaining to Original Decision and the implementation of the Original Scheme; and
- c. To provide PCC with learning outcomes from which it can identify improvements to its procedures and processes, particularly in relation to governance, decision making and the management of the Original Scheme as a major project.

In convening the ILR the Council is committed to organisational change through learning and improvement. It is not intended that the ILR will seek to allocate blame or culpability to any of the parties involved for previous actions or events and the process will be a non-adversarial one. The ILR will be conducted in the spirit of openness and fairness that avoids hindsight bias and any bias towards any of those involved. Instead, the focus will be aimed at implementing improvement in processes and procedures moving forward. The ILR will be guided by that focus.

In order to achieve its goals, the ILR will examine what happened and why it happened. It will consider the facts relating to the development and approval of the Original Scheme, alongside any written submissions received under these ToR. This will help to provide a clear picture of what happened and whether there are improvements that could be made to the Council's approach to governance as well as processes and procedures to be implemented in similar circumstances. The ILR will review all

relevant documentation and other forms of information to include a review of Freedom of Information requests (accepted and rejected), issues around disclosure and transparency and recordings of meetings. Commercially sensitive and legally privileged documents will be reviewed on a case-by-case basis to establish whether they can be released to the ILR following legal advice provided to the Council as stakeholder. Redaction may need to be undertaken by an independent party to protect data and any other sensitive or privileged material. The Council has agreed to provide the ILR with all information it holds which the ILR may consider relevant subject to the foregoing considerations.

The ILR will organise private discussions with relevant Council officers and members identified following a review of the documentation. It will provide the opportunity for members of the public and interested parties to make written submissions to the ILR based on the objectives of the review. Any submissions that do not address the purposes and issues for consideration set out in the ToR will not be considered.

The ILR will publish a report at its conclusion, which will be considered at a meeting of the full Council.

### **Issues for consideration:**

The ILR will examine:

- The approach taken by the Council in preparing the Original Decision and associated documentation, to include issues around the wording, accuracy and focus of the Original Decision;
- Details of the decision-making processes from a governance and legal perspective, to include:
  - the use of “urgent” decision-making procedures including
  - the lack of opportunity to “call-in” the decision;
  - the reasoning for urgency, including pre-election period and bird nesting;
- Whether a sufficient consultation process was undertaken to include how well the Council engaged with stakeholders throughout the process and the extent to which feedback was incorporated into the plans for the Original Scheme;
- The eventual implementation of the Original Decision and the events surrounding it, including the stakeholder response and documentation submitted to the injunction hearing by both sides;
- Recording of officer decision making processes and actions, in particular in relation to the implementation and project management of the Original Scheme;
- The impact of the Original Scheme on the local environment, to include reasons why an environmental impact assessment was not undertaken prior to the Original Decision;
- The financial implications of the events and circumstances arising from the Original Decision and the implementation of the Original Scheme, including the costs directly to the Council.

In making any findings in relation to the legality of the decision-making process as set out above, this is expected to be in the context of providing advisory conclusions for best practice in future under similar circumstances where a Local Authority finds itself faced with decision making options in unusual circumstances. Only a court of law can conclude whether the way in which a decision was taken was lawful or unlawful.

### **Conduct of the ILR**

The ILR will not commence until the conclusion of all extant legal proceedings, in accordance with the Court Order.

The ILR will be independent of all stakeholders and will consist of a panel made up of an Independent Chair with local government governance expertise, along with two further advisors possessing suitable governance/legal and environmental/regeneration/planning expertise in a local government context. The ILR members will be remunerated for conducting the ILR.

It will adopt a constructive and inquiring approach; that is to say, it will pose questions and seek information in order to help the Council and others understand what happened and how improvements can be made to the Council's processes and procedures as a result.

The ILR will comply with Freedom of Information, data sharing and confidentiality requirements as set out in the contract between the ILR members and the Council.

The ILR members will be supported by an administrative officer and advisors who have had no prior involvement with the Original Decision or Original Scheme.

The ILR members will be mindful of the need to keep the cost and duration of the ILR within reasonable limits. This will include complying with the requirement of the Court Order to complete the review within 3 months of commencement, as well issues surrounding proportionate use of time and resources.

The Council will publish the details of the ILR on its website and will also provide details of the way in which the members of the public can provide submissions to the ILR at the relevant time.

The ILR will, on the conclusion of its review, produce a draft report. Prior to finalisation of the ILR report, those who have been interviewed will have the opportunity to review the transcript of their interview to ensure accuracy and factual correctness. The draft ILR report will remain confidential until such time as it has been finalised. Upon finalisation of the ILR report, a copy will be made available to all stakeholders, including Plymouth City Council for presentation to its full Council. It will also be published on the Council's website.