

## **CHECK AGAINST DELIVERY**

### **Launch of Street Trees Inquiry Report**

#### **Statement by Independent Chair**

**Sir Mark Lowcock KCB**

**6 March 2023**

Good morning.

I offered to act as the Independent Chair for the street trees Inquiry because, as a longstanding public servant, I am interested in the resolution of public policy problems. The goals I established for the Inquiry, which were set out in the Terms of Reference I published in March 2022, reflected that: our focus has been on contributing to the ongoing recovery from the dispute by supporting reconciliation, and on helping to minimise the risk of the dispute re-emerging.

It is to their credit that all parties recognised that the truth and reconciliation approach was the right way to conduct this Inquiry.

My view is that the starting point for reconciliation is an honest and comprehensive account of what happened and why it happened. I am aware that parts of the report we are publishing today will make for uncomfortable reading for a number of people. The Inquiry has worked hard to ensure the factual accuracy of the report, to present a balanced account, and to draw reasonable and fair conclusions based on the facts.

The report draws on three sources of information.

First, we have reviewed a large volume of documentary material. The basis on which I agreed with the Council that I would become the Independent Chair was that they would make available all the information they hold that I considered relevant to the Inquiry. To the best of my knowledge, they have honoured that commitment. I want again to thank those Council staff who worked very hard to ensure that. I am also grateful to Amey and numerous other organisations, including South Yorkshire Police and the Office of the Police and Crime Commissioner, and to many individuals for the material they provided.

Second, the Inquiry met a substantial number of people – nearly 160 of them – for private discussions. Those discussions were invaluable in complementing the documentary evidence. The report is drafted in a way which protects the confidentiality of all private discussions.

Third, the Inquiry held public hearings, the video recordings of which remain available.

I would like to thank those Council staff who worked to ensure the Inquiry could be conducted effectively. In particular I am grateful to Kate Josephs, Eugene Walker, Richard Eyre, Ryan Keyworth, James Henderson, Scott Fitzjohn and Gill Charters. Nothing in what follows attaches any significant criticism to any of them.

I would also like particularly to record my thanks to Julie Dore and John Mothersole. My discussions with them were valuable and provided important insight into what happened and why. John Mothersole accepted an invitation to appear at a public hearing; Julie Dore decided not to do that, for reasons which I understand and respect. Having served in senior public roles myself, I have an understanding of the challenges they faced.

The main thing I want to do in talking to you now is summarise the Inquiry's conclusions and recommendations.

The report is lengthy – about 100,000 words, which makes it longer than either of the books I have written. That reflects the duration and complexity of what happened. There is however a short first section which contains an overview and the Inquiry's conclusions and recommendations. What I am about to say comes largely from that part of the report.

When I finish speaking the full report should be available on the Inquiry pages of the Sheffield City Council website.

There are a few more introductory points before I move on to the conclusions and recommendations.

There is no dispute that before the Streets Ahead programme the roads, pavements and street lighting of Sheffield were in a poor state. This was a significant political issue in the city, and addressing it was a priority for every administration between 2006 and 2012.

There has been a lot of debate, confusion and misinformation about the design of the street trees dimension of the Streets Ahead programme. The Inquiry's report clarifies that.

In summary, the key points are as follows.

In 2007 the Council took delivery of an analysis it had commissioned from Elliott Consulting Ltd. The analysis found that 74% of the city's 35,000 street trees were mature or overmature. In March 2008, the Council produced an outline business case for the Streets Ahead programme in which it said that "a large proportion" of the mature and overmature street trees were "now ready for replacement."

That is not what Elliott said or intended. The Inquiry did not find evidence that in saying what they did the Council was malign or intending to mislead. The assertion was more likely a result of misinterpretation, arising from the fact that the people making the key judgments on design issues were highway engineers not tree specialists. They failed adequately to consult others with wider expertise, to

understand the value people attached to trees or to apply the available best practice guidance on street tree management.

The result was that in November 2009, the Council decided to invite bidders, as part of the procurement process for the Streets Ahead programme, to develop plans to remove and replace 17,500 street trees over the 25 years of the programme. Large, mature trees were to be replaced with small, young ones. The report details the process by which the intention to remove and replace 17,500 street trees was embedded in the contract the Council signed with Amey in 2012.

It was implicit in this approach that while some of the trees to be removed would be dead, diseased, dying or dangerous, a substantial number would be healthy with potentially many years still to live.

The plans Amey developed for tree replacement were front-loaded, with nearly a third of the total to be completed within the first five years of the contract. The largest tree replacement programme, both in the first five years and over the contract as a whole, was proposed for Southwest Sheffield.

The Council saw this as an opportunity to renew the city's street tree stock and leave it in a good state for the next generation. Neither they nor Amey expected the tree replacement programme to attract the opposition it did. The risk assessments done on this issue before the contract was signed were inadequate. Decision makers simply did not foresee the problem. Obvious facts, for example that people saw a world of difference between a newly planted tree and a large mature one, were overlooked. A failure to ask the right questions of the right people helps to account for that. A consequence of failing to identify the risk was that nothing was done to mitigate it.

The plan for the Streets Ahead programme was in that sense flawed from the moment the contract was signed. The serious dispute that then emerged, however, was not inevitable.

The Council was slow to understand the scale and nature of opposition that was building gradually in several parts of the city from 2013 up to 2015. Despite a large and growing number of information requests, correspondence and complaints, the Council and Amey genuinely thought that things were progressing smoothly. They dismissed as unrepresentative evidence to the contrary from local people, experts and interest groups.

Leading politicians felt they were having to manage serious consequences of austerity across the city and did not want to have to put more money into the Streets Ahead contract to placate the campaigners. They ignored those who said the dispute needed a political solution. They did not get adequate advice from senior officers on that, partly because the political direction and mood within the Council was increasingly to prevail in the dispute not to find a compromise.

Between 2016 and early 2018, the Council's attitude hardened as it sought to deter the efforts of campaigners and protesters to block the tree replacement programme.

Some of the things the Council did were, in the view of the Inquiry, unacceptable. Some of the ideas it flirted with but did not pursue were worse.

From early 2017 onwards Amey had increasing misgivings about the Council's approach, but under threat of significant financial penalties, it acquiesced in, and provided support for, efforts to deter campaigners from hindering the programme. What happened is described in detail in the report.

The campaigners were very successful in making their case. Several senior Council people we spoke to went out of their way, including in public hearings, to praise campaigners for their success in conveying their message across the media and winning support and sympathy from people far and wide. Viewed in one way, a gracious tribute is being paid here. But there is a deeper point. The Inquiry's assessment is that what the campaigners saw as the Council's irrational, unreasonable, deceitful, dishonest, bullying and intimidating behaviour is what generated the determination, persistence, creativity and ingenuity that the campaigners displayed. The Council's behaviour, in other words, was the fuel that drove the protests.

By early 2018, the Council had united almost everyone against them: it was hard to find any influential outsider willing to defend what they were doing.

The Inquiry looked at the role South Yorkshire Police were drawn into playing between 2016 and 2018. The police provided the Inquiry with valuable information. The Police and Crime Commissioner and the Chair of the independent panel he appointed came to hearings and provided detailed additional material. They told us what had, before the Inquiry, already been done to review the role the police played in the dispute. On the front-line, and under pressure, there may have been individual mistakes, but there is nothing to suggest an inappropriate approach by the police. The Inquiry has not seen evidence which it thinks significantly calls into question what the police, the Police and Crime Commissioner and the chair of his panel said to us. Ultimately, the Inquiry's view is that the police were put in an invidious position because it took too long for the Council to adopt an approach which facilitated a calming of the dispute.

With that introduction, let me now summarise for you the Inquiry's main conclusions.

Eleven years ago, the streets of Sheffield were in a sorry state. Now the roads, pavements and lighting in most of the city are much better. That brings significant benefits to residents, local businesses and other organisations, visitors and the neighbouring region. It is important to keep that closely in mind in what follows.

The only practical option available to the Council in the years from about 2005 when it was developing ideas on how to tackle problems with the highways, was a scheme under the Private Finance Initiative. It was, essentially, a choice between PFI or potholes.

The Council's development in the years up to 2012 of the Streets Ahead programme followed standard processes, as required by central government who were looking at providing £1.2 billion in grants.

But the approach to street trees was flawed.

Developing and then adopting a flawed plan was a failure of strategic leadership. Responsibility for that rests primarily with senior Council officers and senior politicians in the administrations of the governing groups between 2008 and 2012.

Amey also bear part of the responsibility. Late in the design phase they advised against a cost saving proposal from the Council to reduce the tree replacement programme by half, from 17,500 to 8,750. Amey's advice, which the Council accepted, was substantially based on the rationale that a larger and front-loaded tree replacement programme would better facilitate the upgrading and maintenance of the built highways infrastructure.

Starting in 2013, and in an increasingly coordinated way from 2015, campaigners launched a wave of correspondence (including freedom of information requests), gathered petitions, and continuously raised issues in Council meetings in pursuit of their concerns. The Council did not have or put in place the capacity to deal adequately with all that.

In the wake of growing public concern, in late 2015 the Council decided to set up an Independent Tree Panel. From the perspective of its proponents, the ITP was a genuine attempt to find compromise and build public support by demonstrating the Council was acting reasonably. But others in the Council were not bought in to this approach. The ITP was misled over what could be done at Amey's cost under the contract as were the public and, later, the courts. The report describes this in detail. The Inquiry did not find perjury or criminality but misleading the courts is a serious matter.

From 2016 the Council rejected many of the recommendations the Independent Tree Panel made in good faith to save trees. Setting up an independent panel, misleading it and then ignoring substantial numbers of its recommendations was destructive of public trust and confidence.

Campaigners sought a judicial review of what the Council was doing in early 2016. They were granted a temporary Injunction which paused some tree removals. The High Court ruled that the Council was not acting unlawfully by refusing to halt the tree replacement programme. One consequence of that was to harden the Council's position. It felt validated and endorsed, and increasingly its mindset was to defeat those opposing the tree replacement programme, not to seek an agreement with them.

The Council had opportunities in 2016 and later to propose contract amendments which might have dealt with the dispute. It failed to take them. It had leverage over Amey which it could have used to seek a solution in which the costs may have fallen largely to Amey. But it did not wish to go down that route until its position became untenable in early 2018.

The Council did not between 2016 and early 2018 adequately consider whether its strategy of facing down the campaigners would work. Nor did it adequately consider

whether the increasingly drastic action it was taking, and was seeking from both Amey and the police, was wise. It is the Inquiry's view that the Council stretched the proportionate use of its authority beyond reasonable limits.

Our conclusion is that the Council's behaviour amounted to a serious and sustained failure of strategic leadership. Responsibility for that ultimately rests with the political leadership, in particular the relevant Cabinet member and the Council Leader: they were responsible for setting the direction and tone.

The Inquiry did not find evidence of officers acting in ways that were contrary to political direction. However political decision-makers were not well enough supported by senior officers. The report describes that in detail.

The Council exacerbated its problems by the approach it took to explaining to the public what it was doing. It lacked transparency, and repeatedly said things that were economical with the truth, misleading and in some cases were ultimately exposed as dishonest. On occasion that was inadvertent, but the Council long persisted in putting out messages that it knew conveyed a false impression. That further eroded public trust and confidence, in ways that went beyond the narrow issue of the street tree dispute.

Some people involved in or supportive of the campaign also behaved in ways which were unacceptable, including abusing and harassing public officials and others. The report describes some of the things that happened.

A combination of factors led the Council to change course in the spring of 2018. The escalated measures to deter the campaigners were not working. Amey were concerned that health and safety risks had reached unacceptable levels and had already offered to meet costs of a different approach allowing more trees to be saved. The police were concerned that attending protests was diverting resources from more important work. Some of the ruling party's backbench councillors reported to their leaders that the public mood was against the Council. Politicians from Sheffield with national responsibilities privately and publicly expressed growing concern to the Council, pressurising them to find a solution.

Amey paused the tree replacement programme for the final time on 26 March 2018. They could and should have done that earlier: pressure from the Council to keep going deterred them for too long.

In early May 2018, after local elections, a new cabinet member was appointed to handle the issues. Through dialogue, the Council was then able to agree with the campaigners to enter mediation. The mediation, conducted on all sides with skill, sensitivity and patience over a period of months, was successful in facilitating progress towards resolving the dispute.

As part of a new approach, Sheffield launched the Street Tree Partnership in July 2019. The partnership has been successful in developing a new, more consultative approach, to the extent that Sheffield has now earned external plaudits for its approach. But the Council and Amey have yet to resolve a number of issues hanging over from the dispute for streets not so far covered by the Streets Ahead

programme, some of which are in an unsatisfactory state. These issues need to be addressed more energetically.

The contract for the Streets Ahead programme has another 14 years to run. The financial consequences for all parties of early termination mean that it is likely to be seen through. New problems – and opportunities – will probably arise. A spirit of partnership on all sides will need to be sustained if they are to be dealt with effectively.

The dispute did significant harm. Thousands of healthy and much loved trees were lost. Many more could have been. Sheffield's reputation was damaged. Public trust and confidence in the Council was undermined. It has not been fully rebuilt.

And people on all sides suffered anxiety, stress, injuries, wider physical and mental health problems and other harms which some continue to carry. This would have been evident to anyone who watched the Inquiry's public hearings and was even clearer from our private discussions,.

I am, in the light of all this, making three sets of recommendations.

The first set relates to reconciliation. Reconciliation is supported by recognition of errors when they have been established, and the issuing of apologies. The report therefore makes a number of suggestions on that.

The second set of recommendations relates to future risks. The Streets Ahead contract still has fourteen years to run. The condition of a small number of roads and pavements which have not so far been addressed by the programme is unsatisfactory. It is also likely that new problems – and new opportunities – will emerge. So I have made a number of suggestions here too.

Third, the work of the Inquiry has exposed problems in the Council that go beyond the handling of the street trees dispute. Some relate to issues the Council was already aware of and addressing, and my recommendations here to a significant degree go with the flow of what I understand already to be intended.

In conclusion, the Inquiry has identified a number of lessons from the dispute. Identifying a lesson is not the same as learning it. If the lessons are to be learned, they will need to be fully discussed by the Council and others, and then acted upon.

The dispute was a dark episode in Sheffield. Much has been done to recover from it, and all involved deserve credit for that. But there is still more to do, as the report describes.

Thank you. I hope you can now see the report online, and that concludes my statement.