

Business and Children's Policy and Scrutiny Committee

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Title:	Internal Review – Marble Arch Mound Report (Part 1)
Report of:	Stuart Love, Chief Executive
Cabinet Member Portfolio	Business, Licensing and Planning
Wards Involved:	All
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Purpose and approach of this Review

Purpose

1. This Review (the Review) was commissioned by the Chief Executive of Westminster City Council (WCC) to establish the facts surrounding the Marble Arch Mound project. The reasons for the Review are:
 - The premature opening of the Marble Arch Mound (the Mound) leading to a negative experience for visitors,
 - Concerns over the high and escalating costs, and
 - The damage to the Council's reputation as a result of the mismanagement of this project.
2. The findings of the Review lead to the recommendations contained in this report. The recommendations are intended to ensure that valuable lessons are learnt and that the failings identified by the Review are not repeated.
3. Please see **Appendix A** for the detailed scope of the Review.

Approach

4. The Review commenced on 19 August 2021. The Review Team had full access to the information and people required to ensure the Review was a full and transparent assessment of the failures in the Marble Arch Mound project. This included access to email accounts, information provided by suppliers as well as a large amount of internal and external documentation.
5. Fact-finding interviews totalling approximately 40 hours were conducted with 35 individuals associated with the Marble Arch Mound project. Over 100 hours were spent on interview administration and collation of notes. The Review Team considered over 1,125 documents amounting to thousands of pages of information.
6. In order to provide those who wished to make a confidential disclosure to the Review Team the ability to do so, the option of using the Council's whistleblowing process was communicated to all council officers either directly involved in or on the periphery of the Marble Arch Mound project. Two officers came forward as a result.
7. The Review was conducted by a team of staff unconnected with the Mound project. The Review Team consisted of:
 - Sponsor - Bi-borough Executive Director of Adult Social Care and Health
 - Lead for Phase 1 of the Review – Director of Commercial Partnerships (Procurement)
 - Lead for Phase 2 of the Review – Principal Solicitor (Housing and General Litigation)

- Finance lead - Head of Corporate Finance
- Co-ordination and drafting – Head of Governance and Councillor Liaison, Cabinet Manager, and a Commercial and Procurement Specialist.

Executive Summary

8. The Mound opened before the project was completed because of insufficient rigour in managing the project. It ran significantly over the agreed budget for the project. The Review has found no evidence to suggest that the problems associated with the Mound have occurred or are occurring elsewhere in the Council.
9. The Council has the appropriate checks and balances in place that you would expect in an organisation of our size and complexity. In the case of the Marble Arch Mound project many of these checks and balances were circumvented to facilitate the timetable and in order to obscure the actual costs for delivering the Mound. It is also clear that, outside of these formal checks and balances, opportunities were missed for more informal challenge of the Marble Arch Mound project's deliverability and cost. The lack of appropriate oversight of the Marble Arch Mound project meant that costs escalated without the Council's knowledge.
10. Whilst the issues identified by the Review appear to be unique to the Marble Arch Mound project, action should be taken to avoid opportunities for this to happen again. The Council is committed to learning the lessons from the management of the Marble Arch Mound project as set out in the five recommendations of this report, as well as any which may follow from the Business and Children's Policy and Scrutiny Committee's consideration of the Review.

Summary of Key Findings

11. There are three key reasons why the Mound opened too early and has run significantly over budget. These can broadly be summarised as:
 - a) a failure of project management on the Marble Arch Mound project which meant risks were not effectively captured or escalated;
 - b) project finances were mismanaged and misrepresented by the senior officers responsible for the Marble Arch Mound project; and
 - c) a lack of effective governance, grip and oversight on the Marble Arch Mound project.

Background and reasons to build Marble Arch Mound

12. The Council was clear that, in preparing for the end of lockdown and considering the damage done by the Pandemic to the economy of the West End in particular, we had to act, as doing nothing was not an option. This meant that we would try new things, operate at a quicker pace than we had previously and be prepared to make mistakes and learn from those mistakes.

13. The Marble Arch Mound project was initiated with a brief to bring a renewed emphasis on delivery and to bring focus and ambition to the Oxford Street District (OSD) programme and specifically to bring much needed footfall back to the West End following the Pandemic.
14. The basic concept was a viewing platform at an iconic central London location. As lockdown restrictions began to ease the intention was to draw visitors to the West End who would begin to invigorate the local economy by visiting retail and hospitality venues.
15. It was clearly stated at the time that the *“proposed Marble Arch Hill temporary visitor attraction at Marble Arch signifies our ambitious approach to the District. It will be important for bringing in visitors to support the local economy. However, it will offer so much more. We hope it will give people an opportunity to look afresh and with wonder at this well known, but sadly increasingly overlooked, area to recognise its beauty and importance. We want visitors to appreciate the wider context of this iconic location and its close connections to Oxford Street and Hyde Park, as well as other key destinations in the West End and beyond.”*
16. Therefore, the failures highlighted in this report, which were avoidable, are particularly devastating.

Key Findings

17. There was a breakdown of project management of the Mound which, amongst other issues, led to confusion over roles and responsibilities, a lack of communication between staff and contractors working on different elements of the Marble Arch Mound project and a basic lack of project coordination and documentation.
18. This fundamental project failure meant that the Cabinet Members and other senior officers were unaware of project progress. This contributed to the mismanagement of costs and the lack of control over cost increases significantly beyond those approved.
19. It was known that there were significant additional costs associated with the build of the Mound. These costs were not covered by the May 2021 Cabinet Member Report and instead these were either reintroduced at a later date or disbursed across other budgets and not attributed to the cost of the Mound.
20. In order to meet the cost expectation, set by the responsible Cabinet Member, the Review Team found evidence that the senior officers responsible for the project descope and omitted critical elements of the Marble Arch Mound project. At the same time income estimates were revised upwards with no evidence provided to support these assumptions. These actions were taken in the run up to the publication of the May 2021 Cabinet Member Report.

21. Many of the descoped items were added back into the project scope after the May 2021 Cabinet Member Report had been approved thereby escalating the costs. This was done without the approval of the Cabinet Member and without further formal authorisation for the increased total project cost.
22. Decisions were also taken to fund various elements of the Marble Arch Mound project separate to the £150 million budget assigned to the OSD Programme. This was contrary to the instructions of the Executive Director of Finance and Resources and included “legacy” costs as well as contractor fees. The contractor fees were omitted from the May 2021 Cabinet Member Report and were to be charged to the main Highways contract.
23. Despite clear and repeated warnings around the likely cost of undertaking such a project from experienced officers and the suppliers tasked with building the Mound, overly optimistic financial updates were given to senior leaders.
24. The Marble Arch Mound project did not go to the Capital Review Group (CRG), which exists to prioritise capital spend, challenge project finances robustly and ensure investments are backed up with a rigorous and regularly updated business case. The Marble Arch Mound project did not go to CRG as it was classified as a Highways project; the Highways Capital programme is only reviewed as a collective due to the small-scale nature of many of its projects. The fact that the Marble Arch Mound project was not taken through the CRG process meant circumventing a key check and balance within the Council.
25. The lack of effective governance and oversight of the Marble Arch Mound project was caused in part by the breakdown of project management. The Executive Director of Growth, Planning and Housing was limited in their ability to intervene by a lack of accurate project information. However, the Executive Director of Growth, Planning and Housing did not proactively seek an appropriate level of assurance and therefore could not and did not brief upwards. This led to missed opportunities for robust challenge of the officers leading the Marble Arch Mound project to better understand deliverability and costs.
26. The intended approach to the governance was set out in reports on the OSD programme to Cabinet in April 2021 and the Finance, Smart City and City Management Policy and Scrutiny Committee in May 2021. This was in line with established governance processes within the Council. The Review has found that the agreed governance arrangements were not fully implemented and key project actions and decisions were not recorded. This led to a lack of transparency on progress, finances and risk. Decisions were also often made in informal settings and without adequate documentation.
27. Corporate Services were engaged in an inconsistent and sometimes late or chaotic manner. At times these services, whose role is to support and facilitate delivery

and to act as a critical check and balance on projects, were held at arm's length or brought in extremely late in the process.

28. Suppliers were appointed to deliver the Marble Arch Mound project in line with the Council's Procurement Code. However, the Council's Procurement Team was engaged late in the process missing the opportunity to explore alternative delivery options. Opportunities for an objective challenge of the way the Mound could be procured and the risks associated with the recommended option, were therefore extremely limited given the timetable associated with the Marble Arch Mound project.
29. There are several failings within the Marble Arch Mound project which are found to be strongly linked with one another. Many of the checks and balances which the Council has in place were circumvented in an attempt to deliver the Marble Arch Mound project at high speed and in order to obscure the actual costs.

Recommendations

30. Progress against these recommendations and related actions will be reviewed by the Council's Cabinet and the Executive Leadership Team and reported back to the relevant Scrutiny Committee within four months of the date of this report.
31. Westminster City Council's capital programme is significant, with a gross budget for the general fund of £2.86 billion over 15 years. Within that programme are a wide array of major projects, strategic investments, operational and maintenance projects and a range of smaller scale projects designed to produce revenue savings. In 2021/22 capital budgets for the Council are £493 million.
32. The Council delivers on average 15 construction and public realm schemes of this size in any given year. In the past five years, the Council has an excellent record of delivering to a high standard and within the agreed budget.

Recommendation 1

Enhance the oversight arrangements for high profile projects to minimise the risks identified in this report (i.e., significant project-overspend, circumvention of existing governance processes and lack of robust project management).

33. We propose to strengthen the Corporate Portfolio Management Office with business partners assigned to high-profile, high-risk projects. Business partners would ensure objectivity of reporting back to the Corporate Portfolio Management Office, the Council's Change Board, Executive Directors and the Executive Leadership Team as an independent check and balance.
34. Business partners will also assure project initiation and project plans, including adherence to governance structures.

Recommendation 2

Strengthen the terms of reference to the Capital Review Group and introduce a new commercial project assurance gateway.

35. The terms of reference of the Capital Review Group will be strengthened and where necessary clarified to avoid a project of this nature not being considered by the Capital Review Group in future. Clarification will include the fact that large projects which are temporary in nature and therefore revenue funded should still be considered by the Capital Review Group.
36. A new commercial project assurance gateway to be introduced which will review income assumptions. Cabinet Member Reports with new income streams proposed will in future require evidence of assurance given by appropriately skilled parts of the organisation on commercial assumptions.

Recommendation 3

Explore and recommend options for senior level resourcing (Director and above) to ensure appropriate capacity and capability.

37. The Chief Executive to review the Council's senior level structure (Director and above) to ensure appropriate levels of resourcing, skills and capability and make any appropriate recommendations on changes to the Leader and Cabinet within three months of the date of this report.

Recommendation 4

The Standards Committee prioritise the review of the Member/Officer Protocol. This should be with a view to strengthening the role of officers and members in giving and receiving clear and independent advice.

38. We want to retain the benefits of Members and officers working together to innovate.
39. While there is no evidence that there is a problem in all areas of the Council relating to cabinet member / senior officer relationships and governance, this Review represents a good opportunity to revisit the existing provisions in the member / officer protocol.
40. Annual Code of Conduct training for all elected members to include restatement of the protocol on member / officer relations. The Governance and Councillor Liaison Team, together with the Chief Executive, to provide 'how to work with Members' briefings to all senior officers, in particular new starters.

Recommendation 5

Undertake an audit of the Council's Highways contract management function in order to ensure that the contract management issues identified by the Review are not repeated.

41. Our Highways contracts are independently assessed to ensure value for money. There is no suggestion that there are issues with how the Council's Highways contracts are managed. However, it is prudent for the Council to consider its contract management arrangements in light of the findings of this Review.

Reporting

42. The Review Report (the Report) is in two parts. This is Part 1 and is a summary of the background, findings and recommendations.
43. Part 2 of the Report is confidential and includes more detailed information which could identify individuals and contractors. Part 2 of the Report needs to remain confidential on these grounds.
44. Both Parts 1 and 2 have been or will be shared with Members of the Scrutiny Panel, Leader of the Council and the Leader of the Opposition and key senior officers and legal advisers.

Stuart Love
Chief Executive
City of Westminster

Appendices

Appendix A: **Scope of Marble Arch Mound Internal Review (August 2021)**

Scope

The Chief Executive has commissioned an internal review into the Marble Arch Mound Project. This will include an end-to-end review of all stages of the project in line with a standard project assurance approach. This will include but not be limited to:

1. Planning and Preparation
2. Governance, Structure and Decision Making
3. Controls, Quality and Culture
4. Risk Management
5. Financial Management and Controls
6. Reporting and Communication
7. Implementation & Deliverables
8. Programme Closure

The review will include:

- An overview of the project, including establishing the facts and developing a chronology of events across all stages of the project. This will include the key decision and review points, including evidence of how they were documented and communicated in line with the Council's governance framework.
- Identify the shortcomings and errors in the project and where further action may be required both for the project and wider Council.
- Make recommendations based on the findings for the project and wider council, including identifying learning and improvement areas for the Council.

Amongst our lines of enquiry, the review will focus on:

- The decision to progress with the project, including the value for money assessment at the project initiation stage
- The quality of the design and specification of the project, including the views, vegetation, and planning for the overall visitor experience
- The Programme and Directorate project controls and oversight
- The financial management and cost control for the project, and the communication and approval of changes as the project progressed
- The appreciation, communication and management of risks associated with this project
- Corporate oversight and monitoring of the project
- Implementation of the project, including the decision to open ahead of the attraction being ready
- Identifying learning and improvement areas for the Council.

The review will establish the facts relating to the project which will include the responsibility and actions of individuals involved in the project and the extent to which they complied with the Council's requirements. This is not a HR process and investigation, however this review may result in further action in line with the HR policies of the Council.

Approach

The review will be undertaken during August and September 2021. This will include a review of relevant documents, including electronic information, and undertaking a series of fact-finding interviews.

The review will have two phases:

- The first phase will be fact finding where the interviews will take place, the evidence will be gathered and reviewed, and the facts and chronology of the project confirmed.
- The second phase will include development of the findings, recommendations, and production of the report.

Internal Review – Project Team

The review will be supported by a review team, including:

- Lead for Phase 1 review – Director of Commercial Partnerships (Procurement)
- Lead for Phase 2 review – Principal Solicitor (Litigation)
- Sponsor – Bi-borough Executive Director Adult Social Care
- Audit – Director of Audit and Risk
- Finance leads – Director of Corporate Finance and Head of Corporate Finance
- Coordination and drafting – Cabinet and Committee Services

Deliverables

The review will conclude in a written report supported by evidence gathered through the review, including notes taken from the fact-finding interviews.

The report will be signed off by the Chief Executive and in turn presented to a Scrutiny Committee in October 2021.