

# **Independent Review of Westminster City Council's Oxford St District Programme**

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**February 2023**

## **Section 1: Introduction**

### **Purpose**

The purpose of this report is to summarise the main findings of the independent review which was commissioned by the Chief Executive in the summer of 2022 to consider whether there are any lessons for the council that can be learnt from the last few years of its programme of work to develop the Oxford St district, particularly regarding its programme governance and programme processes. The primary intention behind the review was to assist the organisation to continue to learn and improve.

### **Background**

It is my understanding that part of the background to the review being commissioned is that there has been some concern and indeed disappointment about the progress and costs associated with the Oxford St District Programme over the last few years, at least until around the May 2022 period. Therefore, the terms of reference for the review specifically asked for the following to be considered:

- The process and governance in place for the procurement and letting of the MCJV contract with a view to establishing whether the proper processes and governance were followed, as well as to make recommendations on any changes or improvements that could be made for the future
- The spend on the project to date (from the point of the main contract being awarded) and the outputs achieved.
- Given the significant spend and limited progress on the project to date, assist in establishing the cause of this and recommending any lessons to be learnt on both the letting of Council contracts and governance for existing and future projects.
- In considering the lessons to be learnt from the Oxford Street District programme, consider whether the reforms undertaken following the Marble Arch Mound review are sufficient and robust enough.

I address these points in this report by first looking back to the time of the scoping and letting of the contract and considering the lessons from that period (section 2); I then consider the lessons from the years 2020 - May 2022 (section 3) before commenting on the current programme governance (section 4); I then comment on the project spending to date (section 5); and conclude with a summary of main themes and recommendations.

I have conducted this review by interviewing a number of Councillors and officers as well as reviewing past reports. I was impressed with the calibre of the people I have met. They all showed an impressive commitment to Westminster City Council and its ambitions. They

were keen to embrace the challenge of learning from this review in an open way and were keen to contribute to help make this review possible and hopefully beneficial.

### **Putting things into context**

There are a number of important 'health warnings' to set out at the start of this report. The first of these is that looking at events and decisions after they have taken place, especially after the passage of years, is not the same as living through these events and being able to spot issues as they emerge and then adapt and learn in the moment. In that sense, hindsight is a privilege that comes with the benefit of time and distance. It is very important therefore that we use such hindsight as an opportunity to both learn and to commit to applying that learning to current and future situations, rather than thinking of it as criticism of the past.

The next caveat is that an independent reviewer inevitably will miss some of the nuance and detail of what took place in the past. There is a risk that this means some of the reasons why things were done as they were are not fully understood; however, the aim in inviting an independent person to undertake such a review is to help bring a clear focus on the key strategic points and lessons.

When looking back with the expectation that there may be matters to be learned, there is a risk that we under emphasise where strong and significant progress has in fact been made. The reader is asked to bear the importance of balance in mind and the fact that the council has overseen a range of developments including important temporary works to parts of Oxford St.

At the outset I want to stress that the council has already refreshed its governance and approach to the Oxford St Programme and during the last nine months has placed a considerable amount of emphasis on bringing about change: it appears to be in a significantly different place in terms of process and governance.

### **Section 2: Looking Back - the letting of the contract**

The council has for many years been committed to the development of Oxford Street and its environs in order to "create a long term and ambitious vision for the whole of the district that will strengthen its world - renowned status as a great place to live, work and visit" (Feb 2019). There has been a continuous and important recognition of the critical roles that the Oxford St district can play in the economic development of London as well as in the lives of residents, visitors and also to the success of businesses.

At the same time proposals for the development of the Oxford St district have over many years been contentious. They are challenging to develop because of the complexity of the environment and the work itself, as well as the large number of partner organisations whose work directly affects Oxford St decisions.

In October 2018 the council agreed a draft Place Strategy and Delivery Plan for the Oxford St District. To its credit the council undertook extensive consultations about this place-based approach and refined its plans in response to the feedback it received. It was clear from this, amongst other comments, that there was support for a district wide approach, for a reduction

in traffic and for initiatives that would improve air quality and 'green' the district. However, it was also clear from the feedback that the public thought that there was a lack of detail, and more details were requested.

The council's officers at the time described the Plan as "complex", "multifaceted", "radical" and "ambitious" that would result in 97 projects. In April 2019, the Council then approved the allocation of £150m as the council's contribution to the funding required to deliver the ambitions and delivery plans.

At the same time as the above place shaping plans were being developed, a Cabinet Member decision was taken, based on the recommendation from officers, to commence the procurement of a 'design and build services' contract ( in essence a contract where responsibility for both designing and building the project is handed to a contractor) to deliver the Oxford St district projects. The report submitted to Cabinet Members in very summary form describe that there were two other options that the procurement strategy could take. In my opinion, the officers that were responsible for this report did not present a sufficiently comprehensive or detailed options analysis of the range of procurement strategy options.

I find it surprising that a significant procurement exercise for such a complex and ambitious project was begun before the consultation on the draft plans had finished and before the plans had been approved by Cabinet. It is clear from budgetary allocations already made that it was highly likely that the funding for the programme would be confirmed. But there was at this stage, arguably, insufficient detail on which to base a procurement. We certainly know from the public consultation that residents thought that some detail was lacking. By the time the procurement process was underway there was no agreement on the final packages of work to be undertaken. It is therefore likely that there was uncertainty within the market for this contract.

Following an almost 12-month procurement exercise, in October 2019 the contract was awarded as a design and build contract to the current joint venture partnership contractor, with final contract details resulting in the contract taking effect from early 2020.

To be clear, there were proper processes and governance followed in the letting of this contract, with clear member level decision making against the background of a Cabinet approved business case.

Looking back, there are lessons to be drawn from the procurement process, however. It appears that in 2018 at the time of setting the procurement strategy, the officers responsible for advising members directly at that time, believed that a design and build approach would be best; indeed, it seems as if they were wedded to this approach. However, there were in fact strong arguments for different contractual arrangements. At the very least Members should have had the benefit of a more comprehensive options appraisal.

The contract that was agreed did ensure that the council had some safeguards. In particular the contract ensures that the council must give its approval to all specific work packages. Whilst this approach to risk management is understandable for the council, it is likely to have slowed down the process of design flowing through to delivery and it also likely to have built in additional, non-specifiable overhead costs.

One of the advantages of a design and build contracts is that the client can hand over responsibility for a full supply chain rather than have to manage those interface risks itself. In this instance, given the amount of complex, cross partnership interfaces, there is an argument to be made for saying that the council had the necessary expertise and capability in managing such interfaces as well as the wider communications and engagement that this complex package of works would require.

The significance of this is partly that the council and indeed MCJV partner have been required to work with what appears to be a high complex and intricate contract, in which not everything was clear to begin with, and which has taken some time to ensure is working to best effect for all the parties. It is very possible that this has had an impact, either directly or indirectly, on the ability of the partnership to deliver on the programme of works in the way that people had hoped.

In addition, there are some important lessons for the council from what took place surrounding the procurement process. There appears to have been a sense of urgency about beginning the original procurement process, hence starting it before the place shaping plans had been approved. The adage of more haste and less speed comes to mind: sometimes taking time to carefully consider and plan can indeed bring about both improved decisions and in fact also reduce the overall time on programmes.

Furthermore, bearing in mind my comments about the perceived lack of comprehensive option appraisal about the procurement options, the organisation is advised to ensure appropriate “check and challenge” measures at key points. By “check and challenge” I mean an objective re-appraisal of key facts accompanied by a mindset that, if needs be, it is acceptable to change course. The process for such “check and challenge” can be adapted to fit the circumstances, including full scale “gateway reviews” for large, high cost and high-risk programmes or simply Executive Leadership Team challenge discussions. By the nature of the role, the Executive Director of Finances and Resources has a particularly important role to play in this regard given the post’s role as being the Council’s primary adviser on all financial matters (clearly the post holder can also exercise this through their team).

Such approaches are dependent on a culture of shared corporate responsibility for the success of major programmes, where there is a ‘duty to speak up’ when colleagues have concerns about how programmes and initiatives are developing or progressing.

### **Section 3: Looking Back - the 2020-22 period**

Almost as soon as the contract to deliver the Oxford St District Programme was signed, the Covid 19 pandemic took hold and very soon the country was moved into a “lockdown”. All organisations including councils found ways of responding to such a challenging operating environment, notably by the widespread implementation of remote working. Previously, this remote working was often part of how organisations operated but the scale of it was very new. Clearly it allowed organisations to continue to function and brought many benefits, but over time we also learned that remote working was not a full substitute for in-person team working.

So, when we consider the progress of the council's Oxford St programme, we should bear in mind this background and also how complex and difficult it was to get things done in this environment. In addition, key officers from the council's Executive Leadership Team were playing major roles in both ensuring the council's critical services were able to function and also in contributing to the pandemic management across London including with health partners. Clearly at that time there was uncertainty about how long the pandemic would persist and whether there would be more "lockdowns", so it was very difficult to plan ahead. However, looking back it appears that the council could have taken rapid stock of its Oxford St District Programme and decided to scale back and alter its timescales until a later point in the pandemic. This might have involved negotiating with MCJV a reduction in the programme running costs associated with any hiatus that was agreed.

Looking ahead we very much hope that there will never be such a national pandemic again, but in general terms there is a principle that can be applied to other scenarios, namely that reviewing, scanning the operating environment and deciding to alter course as a result of the new facts or the new analysis is not only a valid approach, it can be a recommended one. As it was, the programme continued in this very challenging environment as did the contractual operating costs to the contractor.

A further feature of 2020 was the fact that there were changes in personnel at the top of the officer organisation including the appointment of the Executive Director - Growth, Planning and Housing in July and the appointment of a new Oxford St Programme Director in October 2020. These new appointees need to be inducted into the council within the context of the pandemic and more remote working, described above, and it is likely that this period of officer leadership transition was a factor in the progress of the programme.

As has been well documented elsewhere, during 2021 the council decided to plan the opening of a visitor attraction at Marble Arch which became known as the Marble Arch Mound. The background to the Mound is out of scope of this review but it is important to highlight that as plans for the Marble Arch Mound were being developed from early in 2021, there were indirect effects on the wider Oxford St programme of work. The concerns that have subsequently come to light about what took place regarding the Mound at that time, are likely to have been a factor in also explaining the lack of progress on the work of the wider Oxford St District Programme.

Having interviewed a number of the Oxford St District Programme team of the time, it is clear that the council's own resource was moved from the wider programme in order to concentrate on first progressing the proposals for the Mound visitor attraction and then to deal with the well documented issues associated with it, that arose. This had a direct effect on the council's ability to progress wider works within the overall programme.

The staff involved were technically and professionally very experienced. They had been concerned about the analysis and detail behind the Mound proposals and apparently had advised the then Programme Director against the proposal. It now also seems that during that time the senior officer or officers with day-to-day responsibilities for the Oxford St District Programme failed to report comprehensively and accurately on the progress of the wider

Oxford St District programme which meant that the Executive Leadership Team were not aware of the scale of the lack of progress and the need for intervention.

The Oxford St programme staff are of the view that the programme governance arrangements at the time were very light touch; they pointed out that they were only rarely involved, with most of the reporting being undertaken by the Programme Director directly. They suggested to me that this was also a contributing factor in the relative lack of progress because there were fewer opportunities for full programme review than there should have been.

It follows that there are a number of lessons to be drawn from this:

- programme reporting needs to be clearly set out and agreed within a clear programme governance framework; but equally important is the need to ensure the arrangements are adhered to consistently and persistently.
- In reviewing programme progress, we can draw a distinction between “reassurance” and “assurance”. In programme terms the difference can be explained as being “Assurance is based on information, evidence and triangulation. Reassurance is based on opinion, professional expertise and trust.” Seeking assurance from close colleagues can be difficult because the seeking of evidence and the process of triangulation can appear to be challenging their professional expertise. The mindset that is required is one of everyone working to improve the programme of work with the process of assurance being an important and supportive contribution to that.
- It is critical for senior leaders to actively seek out the views of the staff undertaking the work, to listen to them and involve them in reviewing and improving the programme.
- A not unreasonable assumption is that during 2021 there were a number of senior officers within the council that had concerns about developments within and progress of the Oxford St programme. I therefore stress that it is vital to work to ensure there is a working environment where officers have a sense of duty to speak up whilst at the same time the Executive Leadership Team set the climate that is conducive to this by welcoming people speaking up and then acting on what is said.

#### **Section 4: The current programme arrangements**

The Chief Executive decided to change the officer leadership of the programme in May 2022 and in doing so he was following the principle that from time to time a change in the leadership of an area of work can bring a refreshed approach. He asked the deputy Chief Executive and bi Borough Executive Director for Adult Social Care to take on responsibility for the programme, bearing in mind that Executive Directors in most councils have corporate responsibilities and, in many cases, lead areas that do not fit within the professional and technical area they are responsible for. In other words, such a move was in keeping with practice in many councils.

This change to the programme coincided with a change in the political administration of the council last May and so clearly there needed to be a period of time for officers who were new to the programme to develop working arrangements with and support members who were new to the Cabinet.

Based on the information I have; the overall programme refresh appears to have developed strongly during 2022 and the programme arrangements and governance seem appropriate. I have been particularly impressed with the following:

- there has been a strong internal self-assessment of the programme and a clear willingness to apply the lessons from other programmes.
- The revised programme governance is clear and ensures both that Cabinet members should be involved in the programme oversight and also that officers have opportunities for internal reviews and the checking and challenging process I am advocating. Clearly how the programme governance is used will be the more important assessment that will need to be made after they have been in operation for some time. Ultimately the success of the governance arrangements will be judged by the success of the programme itself. However, among the key proxy indicators of effectiveness will be consistency/ regularity of meetings; a focus on outcomes; evidence of people 'telling it like it is' / a freedom to speak up; and a joint problem-solving environment.
- The essential wider engagement with the community, partners and stakeholders seems to have re-commenced.
- I am advised that there has been a refresh in the process and arrangements for working with MCJV and that these have been beneficial to the working relationship not least because a degree more clarity has been achieved.
- There has been a refresh of the programme vision and a re-focusing. Although I have not been asked to comment on the actual content of the programme, the focusing of the programme seems to me to be an eminently sensible response to the complexity of the whole place plan
- The prospect for appropriate, respectful and highly effective member / officer working appears to be good.
- Steps have been taken to reduce the overall programme overhead costs.

Having said the above, there are organisational risks (in addition to the many technical risks associated with a development programme of this kind) that the programme needs to continue to manage. In particular:

- the council's programme staff have experienced a considerable amount of change in the officer leadership of the programme since its inception. This could affect the confidence that the organisation and its key staff have in the future of the programme. The best way of managing this risk is to ensure there is continuity of leadership and consistency of message for the foreseeable future.
- Those staff who have worked on the programme for some time will have worked through some quite challenging times. Many will have been professionally and personally

committed to the work and will want it to succeed. Continuing to create an environment where they feel valued and listened to will be essential.

- There is a risk that there is a leadership 'stretch' at the top of the organisation, although the council is very aware of this risk and is managing it by ensuring there is appropriate dedicated programme leadership.
- There is a risk that the Oxford St Programme does not integrate effectively all areas of the council that are essential to the successful development of both Oxford St and the wider district.
- The development of organisations and their cultures takes time. There is therefore a risk that the devolvement of the corporate working, shared responsibility and the process of mutual support, check and challenge takes longer than is needed by this particular programme. The council's Executive Leadership Team is aware of this risk and appears committed to managing the risk and bringing about the development of the organisation.

## **Section 5: The spending to date**

The terms of reference for the review ask me to review the spend on the project to date from the letting of the MCJV contract.

Identifying the allocation of the costs between the various elements of the programme has proved to be very challenging for officers. There appears to have been an issue in the way the programme was set up such that cost allocations that have been used over the last few years were not cross referenced to the programme purpose. There is a clear lesson in terms of ensuring that for any significant programme there needs to be a clear link and trail between the programme allocations and the financial system.

It is known that until July of 2022, approx. £28m was spent by the council on the Oxford St district programme, excluding a further approx. £6m which was spent on the Marble Arch Mound. What officers have been able to establish is that the £28m falls into the following broad categories:

Costs associated with work completed (including permanent and temporary works):

£16m (£6.1m to the contractor and £9.8m incurred by the council)

Design and preparatory work not completed and likely to be useful in future\*:

£3.1m (£1.37m to the contractor and £1.73m incurred by the council)

Design and preparatory work not completed and unlikely to be used in future\*:

£0.86m

Contractual operating costs to the contractor (contractually agreed and charged monthly)

£ 8m

(\* NB This is officers' estimate of utility as at the time of writing which may be liable to change depending on future programme decisions.)



It can be seen that a high proportion of the spending has been in respect of completed works, specifically the Soho Photography Quarter and temporary changes on Oxford St west. However, it is likely to be the case that some of these 'completed works costs' include important indirect costs necessary to the completion of these works, such as communications and engagement costs (bearing in mind both the legal duties to consult on such developments and the criticality of consulting partners and residents). It has not proved possible to ascertain whether such elements could have been undertaken at a lower cost for the same benefit. Also, it may be the case that the unit costs of the work completed would have been lower had there been more delivery progress in terms of a higher number of projects delivered, by the overhead costs being spread over more projects.

It will be important that the council benefits from the £3.1m investment already made in design and preparatory work to date in regard to other schemes that are still in scope, namely:

Hill Street - Poland Street  
Berners Street  
Mortimer Street  
Davies Street  
Orchard Street - Holles Street  
Wigmore Street  
James Street.

The other significant headline figure above is the cumulative contractual operating cost incurred to date. The underlying issue here, in my view, goes back to the nature of the original contract, the complexity associated with it and the inherent dichotomy which was created by establishing a design and build contract (which inevitably will have overhead costs that need to be funded) and at the same time requiring a contractual 'brake' on the progress of the work to ensure that the council was ready to proceed with any planned works. To be clear, it is completely understandable that the council would indeed want to ensure that it retained the final controlling approvals for packages of work given the sensitivity associated with any development work on Oxford St and within the district.

The lessons from this have been picked up by the Cabinet and the programme team in partnership with MCJV and some practical solutions to cost drivers such as office and storage costs have been agreed to enable the contractual operating costs to be reduced.

## **Section 6: Summary of Themes and Recommendations**

I have stated that it is important to keep in mind that there have been some positive developments within the Oxford St district programme during the last few years. In this report I have attempted to summarise my views as to the reasons why there was less delivery progress in the programme than was expected and wanted whilst at the same time the programme was incurring significant expenditure.

I have pointed to one of the main underlying causes being the approach to the original procurement of a contractor. The procurement was entirely proper, but I have suggested that looking back, probably the timing was wrong; it would have benefited from a deeper

analysis of a wider range of options and potentially a different contractual arrangement may have been preferable.

The programme was then hit by the events of 2020, with the wider pandemic and a period of national emergency which will have slowed progress. It also seems to have been affected by the re-focusing of efforts and resources onto the development of the Marble Arch Mound “visitor attraction”. During this time there appears to have been a lack of transparency and failure to communicate from the senior officer(s) with the day-to-day responsibility for the programme as to the extent of the programme slippage.

In summary the main lessons I have pointed to can be categorised as being organisation developmental in nature. My work with the council during this review has given me the impression of an ambitious, effective and modern organisation that cares for its staff and a council that seeks to deliver quality services in partnership with its residents, businesses and communities. The officer leadership seems to already have a determination to continue to develop and improve and I hope that these additional reflections may assist in its journey:

- I have made a broad point that a careful, planned approach to programmes of work that considers not only ambitions but also plans the routes to delivery and the management of risk, often saves time and costs over approaches where speed is the primary focus. To be clear I am not suggesting that speed has been the main driver for the council in its Oxford St District Programme, but it is helpful to be reminded of the longer-term benefits of dedicating time to plan the approach that then can mean faster implementation.
- the organisation is advised to ensure there are appropriate “check and challenge” measures at key milestones within programmes (meaning an objective re-appraisal of progress, key facts and a review of future options), including for large procurements.
- This needs to be accompanied by a mindset that, if needs be, it is acceptable to change course. Flexibility and adaptability including the willingness to change an approach are important attributes with modern organisations.
- The success of programmes can also be attributed to a culture of shared corporate responsibility for their success. Part of this shared responsibility involves a ‘duty to speak up’ when colleagues have concerns about how programmes and initiatives are developing or progressing.
- Another element of the organisational development needs to be ensuring that there is an environment where staff are able to “tell it as it is” and where honest conversations about progress and challenges within programmes can take place. The sooner these conversations can be had the better in that this allows for remedies to be discussed and actions taken to limit any impacts. This clearly also involves allowing staff to speak up and be listened to and have their concerns acted upon or responded to.
- In terms of programme governance, the council has put in place new governance arrangements for what is now the Oxford St Programme. These appear to be appropriate and if implemented consistently, over time, should provide the framework for effective

programme oversight, risk management and programme control. I have outline in the report how it also needs to ensure there is a good habit of effective behaviours and activities that will enable full programme assurance.

To conclude, since May 2022 there has been a re-fresh of the internal programme arrangements for the Oxford St Programme and also a rescoping of the focus by the current Council administration. This refresh and refocusing appears to be being effective (including in reducing the programme overhead costs) and in my view appears to be an appropriate response. The programme will, I believe, be enhanced if it can apply the lessons as set out above.

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Mike Cooke  
February 2023

## **Appendix 1: Terms of Reference**

### **INDEPENDENT REVIEW OF THE OXFORD STREET DISTRICT PROGRAMME TERMS OF REFERENCE**

Undertake an independent review of the Oxford Street District project commencing from the procurement strategy formally approved in 2018 through to the current date.

The review to focus on the following areas:

- The process and governance in place for the procurement and letting of the MCJV contract with a view to establishing whether the proper processes and governance were followed, as well as to make recommendations on any changes or improvements that could be made for the future
- Review the spend on the project to date (from the point of the MCJV contract being awarded) and the outputs achieved.
- Given the significant spend and limited progress on the project to date, assist in establishing the cause of this and recommending any lessons to be learnt on both the letting of Council contracts and governance for existing and future projects.
- In considering the lessons to be learnt from the Oxford Street District programme, consider whether the reforms undertaken following the Marble Arch Mound review are sufficient and robust enough.

The review to be undertaken by an independent person. This should be a former local authority chief executive, or person of similar stature and independence. Legal support will be provided through the Council's legal team or independently. This will be decided by the independent person.

The independent person will have access to all necessary Council staff and documentation. The Chief Executive will commission the review with the outcomes being reported directly to the Leader of the Council and the Cabinet. The final report may also be considered by the relevant Scrutiny Committee of the Council. It is intended the findings of the review are published in full, subject to any commercial or other confidentiality issues.

## **Appendix 2**

### **About the Independent Reviewer**

Mike Cooke was chief executive of the London Borough of Camden between 2011 and 2019 during which time the council led significant 'place shaping' developments across Camden. Before then Mike had been the council's Director of Housing and Adult Social Care, its deputy CEO and its Director of Organisation Development. Although his career has been mainly in the public sector, he spent eight years working for a financial services group where amongst other things he refined his skills in programme management. Mike currently is the chair of one of the new integrated health and care systems in North London.

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