

Response to the Overview & Scrutiny Management Commission task-group report on the London Road Industrial Estate

Committee considering report:	Executive
Date of Committee:	15 October 2020
Portfolio Member:	Councillor Ross Mackinnon
Date Portfolio Member agreed report:	23 September 2020
Report Author:	Joseph Holmes
Forward Plan Ref:	EX3956

1 Purpose of the Report

To provide a response to the recommendations made in the report from the Overview & Scrutiny Management Commission (OSMC) task group on the London Road Industrial Estate (LRIE) that was presented to members of the OSMC in July 2020.

2 Recommendation

- 2.1 For the Executive to note the action plan in response to the recommendations raised by the LRIE task group

3 Implications and Impact Assessment

Implication	Commentary
Financial:	None
Human Resource:	None
Legal:	None
Risk Management:	It is noted that the purpose of the OSMC review was to review internal processes and procedures, with the intention of

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	ensuring that improvements, if required, could be made. It is considered that the proposals detailed in this report support that which should help to reduce the risk of successful challenge.			
Property:	None			
Policy:	None			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Environmental Impact:		X		
Health Impact:		X		
ICT Impact:		X		There are some proposals with ICT implications but these need to be assessed further to determine impact.

Digital Services Impact:		X		There are some proposals with digital implications, but these need to be assessed further to determine impact.
Council Strategy Priorities:		X		
Core Business:		X		
Data Impact:		X		
Consultation and Engagement:	Portfolio holder for Finance and Economic Development Portfolio holder for internal governance			

4 Executive Summary

- 4.1 The LRIE task group was created in April 2019 to review the LRIE project to 2018. The task group was to review what was learnt from this project and report to the OSMC.
- 4.2 The OSMC received the report in July 2020 and requested that this be referred to the Executive for consideration. An action plan has been developed against each of the 15 recommendations, where it is appropriate, to ensure that lessons are learnt from the project and incorporated into the Council's working, where they have not been so far.
- 4.3 It should be noted that the review undertaken by OSMC related to a project that was first envisaged more than ten years ago. Key decisions were taken between 2010 and 2015, and it is evident that the organisation has matured and developed since the time that the decisions under review were taken. This means that some of the recommendations, whilst valid, do not require any action as the Council has already implemented the measures necessary to comply with the recommendation.
- 4.4 Of the 15 recommendations, a number have already been addressed as part of the Council's ongoing review of its Project Management Methodology (PMM).

5 Supporting Information

Introduction

- 5.1 At its meeting on 9 April 2019, the Overview and Scrutiny Management Commission (OSMC) agreed to conduct a review to better understand the advice and guidance received in relation to the Council's decision making when procuring a preferred partner for the London Road Industrial Estate (LRIE) redevelopment Background.
- 5.2 The task group met a number of times over just over a year between April 2019 and July 2020. The task group had a terms of reference per the below:

“The Terms of Reference of the scrutiny review appear at Appendix A, and are as follows:

- (a) To review the governance arrangements put in place by the Council to manage the LRIE development.
- (b) To review the advice and guidance received by the Council which resulted in the Official Journal of the European Union (OJEU) commissioning rules not being followed.
- (c) To better understand the cost of the initial advice and the subsequent cost of defending the Council’s position in the High Court and Court of Appeal.
- (d) To review what lessons have been learnt from this case.

5.3 The output of the task group was a report considered by the OSMC on the 28th July 2020. The report was discussed and raised 15 recommendations based on the findings from the task group’s discussions, interviews and review of supporting information. Those recommendations can be found in the main report from July 2020 and are included in the action plan further below in this report.

Proposals

5.4 Following review of the recommendations, the below action plan has been compiled to respond to the points raised and has highlighted where any further actions are required to address the recommendations raised. The full list of recommendations is included in appendix A – a summarised version of some of these have been provided in the action plan for ease of use.

No.	Recommendation	Response	Action	Officer Lead	Completion date
1	OSMC should satisfy itself that the Council has in place appropriate project management methodology. This should be tested in order to provide assurance that this is now operating effectively and consistently across the organisation.	The Council has a PMM which is continually being updated and improved. Training is currently being rolled out to managers across the Council. Checks are undertaken by the corporate programme office to ensure compliance / exception reports are taken to Corporate Programme Board. Examples of the current PMM	No further action – in place	-	-

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		paperwork is attached at Appendix C.			
2	All projects should be supported by a clear business case.	All new projects are supported by a business case as included in the PMM and overseen by the corporate programme office.	No further action – included as part of the PMM	-	-
3	All projects should have a sufficient budget allocated to that project at the outset, including the cost of procuring external advice, and budgets should be monitored appropriately.	Where projects require a budget they request this through a bid via revenue (to the budget board) or capital (Capital Strategy Board) to be included in future budget allocations in March each year. The PMM highlights the need to consider types of budget e.g. legal, IT etc Any exceptions are brought in year to the Executive / delegated officer sign off where appropriate	No further action	-	-
4	A review should be undertaken to ensure that any group fulfilling a governance role understands its purpose and function.	The recent review by the Chief Executive of governance structures put in place terms of reference. The Corporate Programme Board has also undertaken a series of 'deep dive' reviews of	No further action	-	-

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		Governance Groups, including terms of reference review.			
5	Each Committee / Board should review its Terms of Reference on an annual basis, possibly after the Annual Council Meeting to ensure that the Terms of Reference remain up to date and appropriate.	See above – ToR review undertaken on each Board. For each committee a review should take place of terms of reference	No further action Democratic Services to schedule in at the start of each municipal year	Democratic Services Manager	July '21
6	The Council's Record Retention Policy should be reviewed to consider whether it is fit for purpose and being implemented uniformly across the organisation. It was considered that the Property Team, which appeared to have poor controls, could improve by establishing a formal document numbering system to reference and then store documents in a central repository. The current document was created for siloed services and is not ideal for long projects – in this era of relatively cheap electronic storage	Noted. This will be considered by the Finance and Governance Group.	To ensure that the Finance and Governance Group review the Council's Record Retention Policy and ensure that it is being implemented appropriately.	Finance and Governance Group	Mar. '21

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	consideration should be given to permanent storage of all documents and emails relating to major projects, and to the long-term availability of such data in the light of future changes to software and storage media.				
7	Project risks, including financial risks to the Council, need to be assessed and then recorded in a risk register for all projects. This risk register should document ownership of risks both at officer and Member level.	Noted and project risk registers are part of the overall PMM for delivering projects.	Governance Groups to ensure that there are regularly updated risk registers in place for projects in their remit and that the relevant members are updated.	Corporate Programme Management Board	Dec '20
8	There is no justification for the Council substantially extending its in-house legal team for large scale (one-off) projects; the Council should continue to procure external expert advice where in house expertise does not exist, or where there is insufficient capacity in the in-house team.	Agreed.	No further action	-	-

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9	External expert support for projects should be appropriately procured following a skills gap analysis at the start of the project. Procurement of external experts should be done transparently.	Agreed – the business case should highlight where there is a need for additional support and either a budget bid is made via the annual budget setting process or for transformation funds. External procurement is already completed in line with the Contract Rules of Procedure to ensure openness and transparency.	No further action	-	-
10	For future large scale projects OSMC should satisfy itself that the Council tests the market fully and assesses partners to ensure value for money.	This is an Executive function; OSMC has the ability to ‘call in’ projects or decisions. Extensive market testing, including advertising in the national press, was undertaken at points during the project	No further action	-	-
11	External advice should be procured on the basis of the anticipated full project, in stages if necessary, and on the basis that it may not proceed through each stage of the same.	Agreed – the PMM includes a series of gateways. There is a balance on projects though of over-spending by using advice earlier	To ensure that the Procurement Board considers wider procurement of services in the future	Procurement Board	On-going
12	All officers’ time should be recorded when	Time recording is not seen to be cost effective for	No further action	-	-

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	dealing with large scale projects.	<p>projects for cost of the system / officer time taken against the potential benefits that it would bring</p> <p>On the largest projects the Council is increasingly moving towards specific project resources enabling the capture of cost easier on new projects and the project manager can make an assessment of project resources expended.</p>			
13	The Council should review and improve how it consults and engages with those who may be affected by the Council's proposals. Significant projects such as this should have a clear communications plan with a list of key stakeholders.	<p>Agreed. Significant projects have a clear communications and engagement plan.</p> <p>The Council is also in the process of developing a new Communications and engagement strategy which is due to the Executive in Autumn 2020</p>	To approve a Communications and Engagement strategy to strengthen the Council's engagement with key stakeholders	Chief Executive	Dec. '20
14	Legal Officers should be reminded that the Council's Contract Rules of Procedure must be followed when appointing external advisers which should be done in	Officers do follow the rules as set out in legislation and as detailed in the Constitution approved by Members.	No further action.	Procurement Board	n/a

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	a uniform and standard process to ensure value and efficiency in accordance with those Rules.				
15	Future partners should be expected to assist in reviews such as this free of charge and consideration should be given to making this a contractual requirement under the terms of engagement.	This recommendation could have an impact on the cost of procured services as it is likely that the cost of this would be factored into tenders submitted. It is noted that OSMC already has the power to invite third parties to participate in any scrutiny review. Therefore, and having regard to the limited number of occasions that OSMC are likely to call contractors to participate in any review, this recommendation is not agreed as the cost is likely to outweigh any benefit. It is agreed however that such a provision will be considered for larger, long term contracts.	Procurement Board to consider whether such a term is appropriate for inclusion in contracts being considered by them.	Procurement Board	Dec. '20

6 Other options considered

- 6.1 The Executive could opt to do nothing with the report and leave it as is; however, it is important that lessons are learnt where action has not been taken already in respect of the issues raised.

7 Conclusion

- 7.1 The OSMC review conducted by the Task Group related to events that took place between five and ten years ago. The Council has clearly developed its practices in that time, and therefore many of the recommendations do not require any action as the measures recommended are already in place.
- 7.2 Where further action can be taken, that is detailed in the action plan, which Executive are asked to note.

Appendices

Appendix A – Full list of the 15 recommendations made

Appendix B – summary of the Council's Project Management Methodology

Appendix C – Project Management Methodology documentation

Background Papers:

July 2020 OSMC task group report (28.7.2020 OSMC meeting)

Subject to Call-In:

Yes: ☐ No: ☒

The item is due to be referred to Council for final approval	<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>
Delays in implementation could compromise the Council's position	<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>
Report is to note only	<input checked="" type="checkbox"/>

Wards affected: All

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Document Control

Document Ref:		Date Created:	
Version:		Date Modified:	
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Owning Service			

Change History

Version	Date	Description	Change ID
1			
2			

Appendix A – Full recommendations made by the LRIE task group

- (1) OSMC should satisfy itself that the Council has in place appropriate project management methodology. This should be tested in order to provide assurance that this is now operating effectively and consistently across the organisation. This should include standardised documentation such as a risk register, and project sponsors should ensure that project managers understand their role. This would also ensure that appropriate governance structures, including Project Groups and Governance Groups are formally constituted and are understood by all.
- (2) All projects should be supported by a clear business case.
- (3) All projects should have a sufficient budget allocated to that project at the outset, including the cost of procuring external advice, and budgets should be monitored appropriately.
- (4) Each Committee / Board should review its Terms of Reference on an annual basis, possibly after the Annual Council Meeting to ensure that the Terms of Reference remain up to date and appropriate.
- (5) A review should be undertaken to ensure that any group fulfilling a governance role understands its purpose and function. All bodies need to understand the role they play in the decision making process.
- (6) The Council's Record Retention Policy should be reviewed to consider whether it is fit for purpose and being implemented uniformly across the organisation. It was considered that the Property Team, which appeared to have poor controls, could improve by establishing a formal document numbering system to reference and then store documents in a central repository. The current document was created for siloed services and is not ideal for long projects – in this era of relatively cheap electronic storage consideration should be given to permanent storage of all documents and emails relating to major projects, and to the long-term availability of such data in the light of future changes to software and storage media.
- (7) Project risks, including financial risks to the Council, need to be assessed and then recorded in a risk register for all projects. This risk register should document ownership of risks both at officer and Member level.
- (8) There is no justification for the Council substantially extending its in-house legal team for large scale (one-off) projects; the Council should continue to procure external expert advice where in house expertise does not exist, or where there is insufficient capacity in the in-house team.
- (9) External expert support for projects should be appropriately procured following a skills gap analysis at the start of the project. Procurement of external experts should be done transparently.

- (10) For future large scale projects OSMC should satisfy itself that the Council tests the market fully and assesses partners to ensure value for money.
- (11) External advice should be procured on the basis of the anticipated full project, in stages if necessary, and on the basis that it may not proceed through each stage of the same.
- (12) All officers' time should be recorded when dealing with large scale projects.
- (13) The Council should review and improve how it consults and engages with those who may be affected by the Council's proposals. Significant projects such as this should have a clear communications plan with a list of key stakeholders.
- (14) Legal Officers should be reminded that the Council's Contract Rules of Procedure must be followed when appointing external advisers which should be done in a uniform and standard process to ensure value and efficiency in accordance with those Rules.
- (15) Future partners should be expected to assist in reviews such as this free of charge and consideration should be given to making this a contractual requirement under the terms of engagement.

Appendix B – West Berkshire Council Project Management Methodology (PMM v5) January 2020

