

TITLE OF REPORT: BUILDING CONTROL – HERTFORDSHIRE AUTHORITIES PROJECT

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL
PORTFOLIO HOLDER: COUNCILLOR DAVID LEVETT

1. SUMMARY

1.1 This report provides an update on the progress of the Hertfordshire Building Control project. The project is a joint venture between seven District Councils in Hertfordshire.

2. RECOMMENDATIONS

2.1 That the report be noted and members agree in principle that the project should move forward and produce a full business case for approval in the autumn of 2014.

3. REASONS FOR RECOMMENDATIONS

3.1 To keep Cabinet informed of recent developments.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 Alternative options have been, and will continued to be considered alongside the evaluation of the proposal, which includes:

Shared service partnership working

Commercialisation with other NHDC services

Outsourcing

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

5.1 The Portfolio Holder for Planning and Enterprise, has been kept informed on the matters set out above.

6. FORWARD PLAN

6.1 This report does not contain a recommendation on a key decision and as such it has not been incorporated in the forward plan.

7. BACKGROUND

7.1 Local Authorities (LAs) have a statutory duty to provide a Building Control service. This means that if an application is submitted to the authority, it has a duty to ensure that the works comply with building regulations. Originally LAs were the sole supplier of this service. However, in 1997 the government gave powers that allowed Approved Inspectors (AIs) to also act in this capacity. This competitive environment has meant that it is more difficult for LAs to retain their market share and grow new commercial work. Consequently many LAs, including North Herts have struggled to ensure that the Building Control service they provide is both value for money and cost neutral. In order to sustain the service, new options for service delivery will need to be explored.

8. ISSUES

- 8.1 In July 2013 Three Rivers approached all District Councils in Hertfordshire with a proposal to explore a wider arrangement across the County. Six other authorities showed an interest in progressing this idea: Welwyn Hatfield, North Herts, Stevenage, East Herts, Hertsmere and Broxbourne.
- 8.2 Three Rivers took on the role of Project Sponsor and through the East of England Local Government Association (EoELGA) engaged consultants to support a mixed group of managers from across the seven authorities to form a “Solutions Centre” to generate ideas for different ways of delivering BC services within their joint area. The Solutions Centre highlighted the following common concerns regarding the current building control delivery:
- The majority of Hertfordshire LA Building Control services are run at a cost.
 - LAs find it difficult to market their services to commercial clients and are struggling to maintain the householder client base as AIs are seen as more flexible and value for money.
 - It is becoming increasingly difficult to recruit and retain high quality staff. Most LAs now have an ageing Building Control workforce.
 - It is difficult to run services efficiently with current resources and overheads.
- 8.3 In January 2014 a proposal was put forward by the Solutions Centre to create a separate company owned by the seven local authorities that would deliver building control across district boundaries. The proposal suggested that the company would be virtual rather than wholly office-based, allowing officers to work remotely from site using a single IT platform.
- 8.4 In order to take the model forward a project board was set up consisting of the seven Chief Executives or their nominated Directors and the EoELGA. The board appointed a Project Manager and a Project Officer from North Herts Council for 15 hours per week to progress the project. In addition it was decided that the model would need some funding to pay for initial set up costs, therefore all seven authorities contributed £12.5k to a central fund.
- 8.5 Expert legal advice for the project has now been procured and this has led to the board deciding that a holding company would be the most efficient way to set up and run the arrangement, offering maximum flexibility with minimum exposure to procurement regulations and Corporation Tax. The majority of technical staff would be TUPE'd into the new company, with a limited number retained within the LAs to undertake functions that cannot be legally delegated, such as the signing of enforcement notices.
- 8.6 This decision allows the project to move onto the next phase, which will involve putting together proposed timelines for implementation based on HR, legal and ICT advice. The Project Manager is also seeking commercial advice on the finance aspect, which will allow more accurate predictions on income, efficiencies and expenditure to feed into the model. The aim of this information and data collation is to produce a full business case for sign off by autumn 2014. It must be stressed that this is an ambitious timetable.
- 8.7 In addition to the Hertfordshire model, a number of other LAs have been exploring different vehicles for building control delivery beyond their own borders. Four authorities in Norfolk have a joint service delivery model for Building Control and are currently exploring the option of creating a separate Approved Inspector model and joining with other LAs across the East of England. This would allow the LAs involved to be able to operate in the building control market anywhere in the UK. The Hertfordshire

board are currently in discussions with the Norfolk authorities to explore this option further.

8.8 Forming an independent company (with an AI subsidiary) to provide building control services has a number of benefits and allows us to address the concerns raised at the Solutions Centre:

- It will create efficiencies in terms of back office costs such as ICT and building charges.
- It will allow for rationalisation of resources.
- There can be greater flexibility in the way that staff are deployed, based on market need.
- The set up will allow for greater flexibility in terms of incentives and training for staff, improving retention and job satisfaction.
- The model allows for any surplus to be re-invested in both the company and the Local Authorities.

8.9 This project aligns with the Priority of “Living Within Our Means”. It was specifically mentioned in the Priorities for the District 2014 which states “Continue exploration with other authorities to form a partnership arrangement for the delivery of Building Control services”. The Priorities for the District 2014/15 was agreed by Full Council on 9 April 2014.

9. LEGAL IMPLICATIONS

9.1 The potential operating models for a future building control service need to be considered in detail and involves the complexity of statutory functions that are not delegable to another type of body as well as the nature of a trading operation. Detailed legal advice is being procured as part of the project and will be a key feature in the final business case and proposed operating model.

10. FINANCIAL IMPLICATIONS

10.1 No direct financial implications arising from this report other than those listed in section 8, however, these will be established through the development of the detailed business case.

10.2 The business case will need to address the financial implications of the potential operating model and in particular of the structure of trading company chosen. Considerations will need to be:

- Objects and Governing document requirements
- Governance arrangements
- Shares & Liability requirements and arrangements
- TUPE staff requirements
- LGPS admittance restrictions
- Possible tax advantages
- Procurement restrictions
- Trading and profit restrictions

- Audit requirements

11. RISK IMPLICATIONS

- 11.1 No direct risk implications from this report however the general risks around the future provision of the service are set out in section 8. A risk log will be maintained by the Project Manager throughout the project

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The move to provide building control services in a more commercial/cost effective manner could positively impact the cost/service delivered to customers in the longer term; the proposals also create greater opportunity for development of staff within our existing building control service than would otherwise exist.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at Paragraph 12.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 The move to provide building control services in a more commercial/cost effective manner could positively impact the cost/service delivered to customers in the longer term; the proposals also create greater opportunity for development of staff within our existing building control service than may otherwise exist.

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16. APPENDICES

None.