

NORTH HERTFORDSHIRE DISTRICT COUNCIL



13/12/2021

Our Ref Cabinet Sub-Committee (Local Authority
Trading Companies'
Shareholder)/21/12/21
Contact. Committee Services
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To: Members of the Committee: Councillor Ian Albert (Chair), Councillor Elizabeth Dennis-Harburg and Councillor Sam Collins

NOTICE IS HEREBY GIVEN OF A

**MEETING OF THE CABINET SUB-COMMITTEE (LOCAL
AUTHORITY TRADING COMPANIES' SHAREHOLDER)**

to be held in the

**COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
LETCHWORTH GARDEN CITY**

On

TUESDAY, 21ST DECEMBER, 2021 AT 9.00 AM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

****MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION ON YOUR TABLET BEFORE ATTENDING THE MEETING****

Agenda **Part I**

Item	Page
<p>1. NOTIFICATION OF OTHER BUSINESS Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.</p> <p>The Chair will decide whether any item(s) raised will be considered.</p>	
<p>2. CHAIR'S ANNOUNCEMENTS Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.</p>	
<p>3. PUBLIC PARTICIPATION To receive petitions, comments and questions from the public.</p>	
<p>4. EXCLUSION OF PRESS AND PUBLIC To consider passing the following resolution:</p> <p>That under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting on the grounds that the following report will involve the likely disclosure of exempt information as defined in Paragraphs 3 of Part 1 of Schedule 12A of the said Act (as amended).</p>	
<p>5. HERTFORDSHIRE BUILDING CONTROL CONSORTIUM - PART 2</p>	3 - 60
<p>6. HERTFORDSHIRE BUILDING CONTROL CONSORTIUM - PART 1</p>	(Pages 61 - 66)

Agenda Item 5

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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CABINET SUB-COMMITTEE
(Local Authority Trading Companies' Shareholder)
21 DECEMBER 2021

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: HERTFORDSHIRE BUILDING CONTROL CONSORTIUM

REPORT OF: SERVICE DIRECTOR: REGULATORY

EXECUTIVE MEMBER: PLANNING

COUNCIL PRIORITY: ENABLE AN ENTERPRISING AND CO-OPERATIVE ECONOMY /
SUPPORT THE DELIVERY OF GOOD QUALITY AND AFFORDABLE HOMES
PRIORITIES 2022-2027 SUSTAINABILITY / A BRIGHTER FUTURE TOGETHER

1. EXECUTIVE SUMMARY

To seek approval and delegation from the Cabinet Sub-Committee acting as the Council's shareholder representative in the Hertfordshire Building Control Consortium of companies for the Service Director: Regulatory to vote in favour of the acquisition of a group of companies to enhance the viability and development of the business.

2. RECOMMENDATIONS

That the Cabinet Sub-Committee:

- 2.1. considers the information in the Part 2 report; and having done so
- 2.2. approves the acquisition of the group of companies and delegates the Service Director: Regulatory to vote accordingly on behalf of the Council; and
- 2.3. delegates any action required to complete the acquisition to the Service Directors for Regulatory and Legal and Community on behalf of the Council as shareholder.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To seek to enable the acquisition of the group of companies to proceed subject to the support of the other 7 shareholders.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. Shareholder consent could not be given; however, it is considered that this goes against the principle of the original approved business case.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. Relevant Members have been briefed as the opportunity developed.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on the 31 August 2021.

7. BACKGROUND

- 7.1 Cabinet Sub-Committee members may be aware of much of the background to the initial collaboration of 7 Hertfordshire local authority building control services which began in 2013 (Stevenage, Hertsmere, Three Rivers, North Herts, East Herts, Welwyn Hatfield and Broxbourne). The 7 authorities deliver their statutory building control services through a single trading company known as Hertfordshire Building Control Limited. The company is a subsidiary of Broste Rivers Limited, as is The Building Control Company (Hertfordshire) Limited (TBCC) which delivers the commercial aspect of the building control service. Broste Rivers Limited is a wholly owned local authority company with each authority holding an equal share. All three companies were incorporated on 4 February 2016.
- 7.2 In September 2019 the Cabinet Sub-Committee approved Dacorum joining the collaboration as an eighth equal shareholder.
- 7.3 The Council is represented by the Service Director: Regulatory as the Shareholder representative.
- 7.4 Local Authorities 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 1984 the Building Act established the legal framework for private building control bodies or Approved Inspectors (AIs). The first AI to be approved and registered was the NHBC in 1985. Since 1997 the Approved Inspector Regulations etc. has enabled additional AIs to be registered. This competitive environment for all fee earning aspects of the building control service has meant that it is more difficult for LAs to retain their market share and grow new commercial and domestic work.
- 7.5 Approved Inspectors are independently monitored and regulated through The Construction Industry Council Approved Inspectors Register (CICAIR) as the body designated by the Secretary of State in England and Welsh Ministers in Wales. CICAIR Ltd is a wholly owned subsidiary of the Construction Industry Council (CIC) and the approval process it operates provides applicants with a route to registration as an Approved Inspector.

8. RELEVANT CONSIDERATIONS

- 8.1. The original building control business case outlined to Cabinet in August 2014 was a resilience model, with each of the local authorities recognising and seeking to overcome the numerous issues such as recruitment and retention, within their own small building control services by forming a collaboration to deliver the statutory service.
- 8.2. It was further recognised as work progressed that the resulting collaborative venture would also allow for commercial opportunities with regard the delivery of building control services to other local authorities and the private sector outside of the administrative

boundaries of the shareholders own authorities. These commercial opportunities were to be delivered through The Building Control (Hertfordshire) Company Limited.

- 8.3. The Part 2 report builds on the original recognised commercial opportunities.

9. LEGAL IMPLICATIONS

- 9.1. Under the Shareholder Agreement the day-to-day conduct of the company's affairs are vested in the Directors, save any Reserved matters. Reserved matters include the following and the company cannot undertake the following without the prior written consent of all the Shareholders:

7.1.6 Forming any Subsidiary Undertaking or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not);

7.1.7 Amalgamating or merging with any other company or business undertaking.

- 9.2 Under 14.6.10 (b) (i) of the Council's Constitution the Service Director – Regulatory has delegated powers with regard Building Control including client-side Building Control company operational matters as required under any agreements, in addition to all activities relating to discharge of the Council's function as the Local Building Regulation Authority.

- 9.3 Under 5.11 of the Council's Constitution the roles and functions of the Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder) are:

(a) To represent the Council's interests as shareholder in wholly owned and other companies.

(b) To undertake all functions of the Council as shareholder under the Company Act, unless delegated otherwise.

(c) To ensure that actions taken by the companies accord with the interests of the Council as shareholder and contribute to the Council's objectives.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no direct financial implications (either revenue or capital) arising from this report, as the share purchase would be made by Broste Rivers Limited.

- 10.2 The main direct benefit to the Council of owning Broste Rivers is that it delivers the building control services that the Council is required to provide at a lower cost than providing it directly. The Council also provided a start-up loan to the company of £107k, for which it receives interest at 4% per annum. The Council may also in the future (subject to profitability) receive dividends from the company.

11. RISK IMPLICATIONS

- 11.1 The acquisition of a further group of companies gives the potential for business growth and further spreading of costs, which should support resilience and profitability. However, even with the due diligence that has been carried out by the Board of Directors and the Councils as shareholders, there is some risk with any business growth.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2. 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. The Social Value Act and “go local” requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no direct human resource implications arising from this report for NHC.

16. APPENDICES

- 16.1 None.

17. CONTACT OFFICERS

- 17.1 **Report Author:**
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18. BACKGROUND PAPERS

18.1 None.

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