

Report to: Cabinet

Date of Meeting: 9 January 2017

Report Title: East Sussex Building Control Shared Service

Report By: Andrew Palmer, Assistant Director Housing and Built Environment

Purpose of Report

The Councils Building Control functions are presently being delivered through contract by Rother District Council. The Rother / Hastings Shared Building Control Contract is due to end on the 31 March 2017 and this report sets out options for a wider East Sussex Shared Service provided by Wealden District Council.

Recommendation(s)

- 1. Subject to final negotiations to delegate to the Assistant Director Housing & Built Environment and the Assistant Director Financial Services & Revenues in consultation with the Deputy Leader of the Council to enter into a legal agreement for the delivery of Building Control Services with Wealden District Council.**

Reasons for Recommendations

Under Section 101 of the LGA 1972 one local authority may arrange for its functions to be discharged by another authority. In order to be part of an East Sussex Shared Building Control Service Members are asked to delegate negotiation of contract terms to officers.

Introduction

Existing Rother Hastings Building Control Partnership

1. In August 2011 the Council entered into an agreement with Rother District Council for Rother to provide building control services on behalf of both authorities.
2. The existing contract ends in March 2017 and officers have been discussing options with Rother District Council for continuing the service for 2017/18 and beyond. Following the loss of key staff, including the Building Control Manager, consideration has been given to the enlargement of the partnership including the possible future establishment of an arms length company that competes for commercial work and which would partly offset council costs associated with delivery of its statutory functions.
3. Parallel discussions have been taking place between officers at Wealden District Council who have been considering the future of the Wealden and Eastbourne Building Control Partnership following the introduction of the shared corporate management provision across Eastbourne Borough Council and Lewes District Council. This has presented an opportunity to look at a wider East Sussex Building Control Partnership.

Proposed East Sussex Building Control Partnership

4. The proposed East Sussex Building Control Partnership would be administered by Wealden District Council and provide building control services for all the District and Borough Councils in East Sussex. The wider shared service will achieve a number of benefits namely:
 - Increase savings due to economies of scale of service delivery.
 - Improved customer satisfaction due to consistency across a wider Local Authority area.
 - Improved resilience of staffing resources due to an increased pool of surveyors/expertise.
 - Improved staff development leading to improved retention and recruitment.
 - Better marketing and resilience to competition from the private sector.
 - Improved safety for residents/businesses due to a more stable inspection and checking regime.
5. Such an enlarged shared service, once up and running can also act as a potential first step to the objective of an arms-length wholly owned Local Authority Company, which in turn could provide more opportunities for income generation in the future.

6. In terms of staffing the current combined Local Authority staffing numbers are already below the suggested combined Shared Service due to staff losses, previous difficulties in recruitment and currently agreed/temporary working relationship between the existing Wealden and Rother Shared Services. It is envisaged therefore there will be very limited TUPE staffing risks relevant to this proposal.

Options Appraisal

7. There are 4 potential options for the provision of Building Control in Hastings going forward:
- i. Maintain the existing Shared Service with Rother – this may not be possible given that Rother has already taken the decision to join the East Sussex Shared Service.
 - ii. Bring the Building Control Service back in-house with loss of scale – this will result in increased costs and potential reduced quality of service delivery. There are also significant set up costs to this as expertise would need to be brought in set up the service and competition for Building Control staff is keen, with many skilled officers already lost to the private sector.
 - iii. Join the enlarged East Sussex Shared Building Control Service – this will facilitate improved service to customers and may in subsequent years lead to budgetary savings. This model would contain an explicit commitment to further investigate an option to move towards an arms-length company during the life of the contract
 - iv. Move directly with other East Sussex authorities to a wholly or jointly owned company. This option has effectively been ruled out by Wealden on the basis that it would be difficult in the short/medium term as there is a need for better understanding across the Shared Service authorities in relation to the further benefits, operating arrangements, legal considerations and governance of a Local Authority trading company.
8. With regard to the above option (iii) is considered to have the most cost/service benefits. Therefore officers would recommend to members option (iii) is progressed.

Financial provisions

9. The existing Rother Hastings Shared Building Control Service has varied in cost over the lifetime of the contract due to differing levels of fee earning work being secured by the partnership.

Year	Budget (inc. Recharges)	Actual Expenditure
2013/14	£56,350	£42,946
2014/15	£38,710	£36,057
2015/16	£48,310	£91,966
2016/17	£66,510	£66,510 (forecast)
2017/18	£66,590	-

10. The proposed East Sussex Shared Building Control Service proposes to operate its core (chargeable activities) function on a cost recovery basis and then non-chargeable and other building control services will be funded, at least in part, by way of a Management Fee chargeable to partner authorities. Appendix 1 sets out what are considered *chargeable services* and *non-chargeable / other services*.
11. The initial Management Fee for each partner is based on activity undertaken in 2016/17 (in the case of Hastings this is work undertaken by the Rother Hastings Partnership). At the beginning of the second year of the new East Sussex Partnership the management fees will be reviewed based on the first full year of operation of the East Sussex Partnership.
12. Any non-chargeable work undertaken will be time recorded by the partnership and the cost of this calculated based on an hourly rate. The management fee includes any of these costs up to £ 5,000. Over and above this initial £ 5,000 limit work is then directly chargeable to the respective local authority partner on a per hourly basis.
13. The proposed management fee for Hastings for 2017/18 is initially estimated to be £54,000. However, this figure is subject to final negotiation and based on activity in the present financial year (to the end of December 2016). It is proposed therefore to establish a budget for 2017/18 of £66,590. This figure includes contingencies for any increase in the management fee when finally agreed and also any additional non fee earning work carried out over and above that allowed for within the proposed management fee at set out in paragraph 12. The budget also allows for necessary partnership set up costs such as data migration costs from the Council's existing property information systems.

Timescales and next steps

14. Subject to Member approval it is envisaged that a revised Shared Service would be up and running based in Wealden with the relevant TUPE staff transferred by April 2017, together with a revised Shared Service board, new structures, job descriptions, financial arrangements agreed and published Building Regulation fees etc. The reporting lines regarding the new Shared Service would remain with the Head of Planning and Environmental Services at Wealden to ensure continuity, with any revised Shared Service still using its operating base at Wealden District Council (Hailsham).

15. A business plan has been developed by Wealden District Council which identifies how the new wider shared service will ensure it delivers cost neutral chargeable building control services. Other non-chargeable services will be delivered through a Management Fee from the other District and Borough Councils in the partnership. A breakdown of the services delivered by the service are listed in Appendix 1.

Conclusion

16. The previous success of the Wealden/Eastbourne and Rother/Hastings Shared Services suggests that an enlarged Building Control Shared Service (Option iii) will provide the most stable, cost effective and customer focused approach in the short term and helps build the foundation for a potentially next step towards an arms-length company.

Risk Management

17. Strategic management and monitoring of service delivery will be undertaken through a Shared Services Board made up of the Portfolio Holder and senior officer having responsibility for the building control function from each local authority and the Shared Services Building Control Manager. This board will maintain a risk register for the wider service.

Organisational Consequences

18. Following the commencement of the previous shared service between Rother and Hastings the Hastings Borough Council Building Control staff at that time transferred to Rother District Council. It is now proposed that these staff who are now Rother employees will be transferred to Wealden District Council.
19. Should Hastings Borough Council not join the East Sussex Building Control Partnership the staff previously transferred to Rother would not be transferred back to Hastings Borough Council. As with other professions within local government recruitment of experienced building control officers is difficult; this alongside the fact that the authority has not had any expertise in running building control services for a number of years means that commencement of a new service in Hastings would be complex and potentially costly to establish and deliver.

Wards Affected

All

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues	No
Economic/Financial Implications	Yes
Human Rights Act	No

Organisational Consequences	Yes
Local People's Views	No
Anti-Poverty	No

Additional Information

Appendix 1 – CIPFA Guidance on chargeable Building Control Services

Officer to Contact

Matthew China
mchina@hastings.gov.uk
07967 058984

Establishing the building regulations chargeable costs CIPFA Guidance

Building Regulations Chargeable Activities

- Passing or rejecting plans of proposed building work deposited in accordance with section 16 of the Building Act 1984.
- Site inspections of building work in connection with plans which have been deposited in accordance with the Building Regulations 2000 (SI 2000/2531) as amended and with section 16 of the Building Act 1984.
- Site inspections in connection with building work for which a building notice has been given to the local authority in accordance with the Building Regulations 2000.
- Consideration of building work reverting to local authority control from an approved inspector.
- Consideration of an application for regularisation certificates for work carried out without the benefit of an approval under regulation 21 of the Building Regulations 2000, and the inspection of any building work to which that application applied.
- Giving substantive pre-building regulation application advice on specific chargeable functions regarding the requirements of the building regulations and associated legislation (note: the first hour of an officer's time in respect of pre-building regulation application advice is non-chargeable).

Non-chargeable Activities

- Liaison with the fire authority and other statutory authorities on a goodwill basis.
- The enforcement of those national and local acts relating to the building regulations that approved inspectors cannot undertake.
- Inspections carried out to identify unauthorised building work (excluding regularization applications), either on specific properties or on a geographical basis.
- Giving general advice on council matters to members of the public, their representatives and other council departments on any matters either by telephone or in person, including advice relating to questions asked of the need to apply for building/planning consents and on the provisions of the building regulations.
- Carrying out building regulation functions in relation to work which is aimed to provide facilities designed to secure the greater health, safety, welfare or convenience for disabled people in accordance with regulation 4 of the Building (Local Authority Charges) Regulations 2010.
- The first hour of officer's time in giving pre-building regulation application advice on specific chargeable functions regarding the requirements of the building regulations and associated legislation.

All Other Building Control Services

- Dealing with dangerous buildings
- Administration of the approved inspectors regulations (excluding work resulting from reversions).
- Issuing conditions relating to the demolition of buildings.
- Street naming and numbering.
- The provision of advice to other authorities.
- Providing advice to other council departments regarding the suitability for issuing grant payments.
- Carrying out audits in relation to fire, energy, access for disabled people or public safety issues.
- Administration/enforcement of safety at sports grounds legislation.
- Work associated with the administration and enforcement of a competent persons scheme.
- Providing information as part of local land charges searches.
- Monitoring of planning conditions.
- The enforcement of local or national legislation.
- Providing a service under the provisions of the Construction (Design and Management) Regulations 2007 (SI 2007/320).
- The administration of overlapping duties with other council services, eg development control, highways, environmental health, trading standards.
- Carrying out administrative procedures required (by statute) of local authorities only.
- Work to satisfy the Citizens Charter expectations.*
- Responding to ombudsman requirements and recommendations in relation to the administration of building control activities, including liaison with other professional disciplines within the authority to respond to public expectation of a greater all-encompassing service.*
- The preparation of committee reports and liaison with councillors.*
- Responding to the requirements and recommendations of the Audit Commission of the Wales Audit Office.*

* Unless directly relevant to the building regulations service, in which case these will be treated as non-chargeable activities.