

Body: Cabinet

Date: 4 February 2015

Subject: Future arrangements for the Council's Building Control service

Report of: Senior Head of Community & EHL MD

Ward(s) All

Purpose To consider the proposal for the future of the Building Control Partnership

Decision type: Key Decision

Recommendation: Cabinet is recommended to:

- a) Endorse the principle of setting up a wholly owned Local Authority Company for Building Control services subject to a business case, legal advice and proposed governance arrangements
- b) Delegate the Senior Head of Community Authority to work with Wealden District Council to develop the business case, for consideration at a future Cabinet meeting

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1.0 Introduction

- 1.1 In November 1985 Central Government enacted the Building Act 1984 that *inter alia* introduced competition (e.g. in the form of Approved Inspectors (A/I's)) into the Building Control market, NHBC was the first body to emerge following the opening of the market. This followed the charges legislation this was introduced and adopted in 1981.
- 1.2 Since the late 1980's a number of these A/I's (both companies and individuals) entered the Building Control market. Some of these companies were set up as subsidiaries of large development companies, initially with the purpose of ensuring compliance with the Building Regulations in the developments of their parent companies.
- 1.3 In April 2011 Eastbourne Borough Council and Wealden District Council entered into a 5 year partnership agreement for the joint provision of building control services across the respective districts.
- 1.4 The partnership has worked successfully for the past 4 years, however the building control market has grown rapidly and with increased competition and pressures on budgets, Councils are facing a reduction of their market

share as well as increasing costs. It is not possible for Local Authority Building Control (LABC) to cross subsidise or stop delivery on its non-chargeable statutory duties.

1.5 To assist in reducing current and future financial pressures (i.e. the non chargeable works), it is proposed that the partnership set up a wholly owned Local Authority Company. Taking advantage of recent developments in public procurement law, this company will then be able to operate more fully in the building control market by offering additional service that partnership is currently unable to offer and joined-up approach in the delivery of its services. These could include:-

- a) New house warranties - The local plan has paved the way for a significant amount of residential development within the district and the majority of new houses built require a warranty to be provided for the purposes of obtaining a mortgage. The market leader in this area is currently the NHBC, although there a number of other companies that offers these services. A competitive warranty 'finders' fee will be paid for officer time; however, as the officer is already on site carrying out the chargeable part of the service (i.e. one of our statutory notification is to inspect the foundations which is also a warranty visit), it is anticipated that the majority of this money will be 'returned' to the board i.e. shown as a reduction in the management fee to the Building Control Partnership.
- b) Warranties for extensions and other works – this is similar to above and operates in a manner not to dissimilar to an extended warranty on an appliance.
- c) Sound testing, both internal and environmental: 2 officers have recently qualified to undertake these types of tests. Sound testing is charged out at a daily rate. Environmental testing is charged out at a higher rate.
- d) Fire risk assessments – The Building Control Partnership has identified a further opportunity for expansion in terms of fire risk assessments. External and internal customers have expressed interest in this service. The advantage of providing this service is that in addition to the monetary benefits, it also provides a "one stop shop" for customers. It would be the Building Control section's intention to offer this service to both Councils housing sections and to the private sector, where there are indications that currently there are a number of landlords/owners who are unaware of the legal obligation to have a fire risk assessment carried out.
- e) Access audits: Together with WDC's equalities officer, joint access audits and at a charge to service providers for they have a duty under the equalities legislation to have an audit carried out. It is anticipated that a small income will be obtained by providing this service.
- f) Energy Performance Certificates (EPC's): every property that is sold or let must have an EPC provided. Although the market is very competitively priced, this service would be offered for a small additional charge as part of the warranty provision service.

g) Standard Assessment Procedure (SAP's): a SAP is generally needed to prove and establish that energy use will not exceed Government targets. Whilst a conventional dwelling design will meet these targets, there are a number of customers that prefer an 'unusual design' (e.g. lots of glazing). In order to prove the energy use is less than the targets laid down by law, the agent will have a SAP calculation performed for an additional charge. In addition, in providing this service the Building Control team will be a step closer to providing that "one stop shop" approach.

The revenue raised by offering these additional services can be used to offset the increasing financial burden of the chargeable works.

2.0 Proposal

- 2.1 There have been various options previously considered in the past by the BC Partnership Board which has now been operating successfully for almost 4 years. These included working in partnership with an Approved Inspector, a wholly owned employee company, the formation and setting up of an arms length jointly owned company and renewal of the existing partnership agreement.
- 2.2 The concept of a wholly owned local authority trading company has been discussed by and agreed in principle by the Building Control Partnership.
- 2.3 The next step is to establish a joint project team to develop a detailed business case.

3.0 Financial implications

- 3.1 Current costs of delivering the non chargeable aspects of the service are in the realms of £199K split (£127K/£72K Wealden/Eastbourne).
- 3.2 Without mitigating the threats coming from the private sector, both Councils are at risk from increased costs in performing statutory building control duties. This objective would be for costs to remain at the current level and a reduction over time.

4.0 Legal implications

- 4.1 The legal implications will be considered in the business case.

5.0 Conclusion

- 5.1 The introduction of greater competition within the building control market through the expansion of A/I's is having a significant impact on the Building Control service. Rising costs, reduced budgets and an erosion of its market share means that the costs of delivering the service (if service levels are to be maintained) are likely to increase year-on-year unless the partnership considers alternative ways of delivering the service. This can be realised through the setting up of a wholly owned local authority trading company,

and this in turn will give the company the opportunity of offering other related services for a financial return. Although savings have been made by the setting up of the Building Control Partnership and using resources and technology more efficiently, there is a finite limit to the extent that this can continue and the concern is that the non chargeable demands on the service will shortly out pace the innovations that are taking place within the service.

- 5.2 This report is seeking formal agreement for a project team to be set up with the objective of pursuing the concept of a wholly owned local authority company.

Melanie Thompson
Head of Customer First

Background papers

The background papers used in compiling this report were as follows:

- Business case for alternative service delivery models for the Building Control service – Wealden District Council
- Business report on the Viability of a wholly owned Local Authority Company – Wealden District Council
- Future Direction of BCP – WDC Report to BCP 5 November 2014

To inspect or obtain copies of background papers please refer to the contact officer listed above.