



Cabinet

23 November 2021

Report of: Councillor Rob Bindloss
Portfolio Holder for Growth and
Regeneration

Building Control: Proposals for a Delegated Service

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	All
Date of consultation with Ward Member(s):	N/A
Exempt Information:	No
Key Decision:	No – recommendation to Council
Subject to call-in:	No – recommendation to Council

Summary

- 1.1 The purpose of this report is to consider a proposal for the Council's Building Control service to be delivered by means of delegation under the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 ('a delegated service') to Blaby District Council.
- 1.2 The report considers the benefits of such an approach and addresses the alternatives should the proposals not be taken up. There are financial implications which are addressed in detail in section 8 and Appendix A.

Recommendations

- 2.1 **That Cabinet approve the delegation of the statutory Building Control function to Blaby District Council with effect from 1st April 2022 for an initial period of 3 years and recommend to Council that:**
- 2.1.1 **Council endorse and authorise the delegation of the statutory Building Control function to Blaby District Council with effect from 1st April 2022 for an initial period of 3 years;**
 - 2.1.2 **The Council approves a contribution of £25,114 to the initial implementation costs of the delegated service.**
 - 2.1.3 **Council delegates authority to the Director for Growth & Regeneration and/or Assistant Director for Planning Delivery to:**
 - a) **negotiate and finalise the terms of the Delegation and Service Level Agreements to facilitate the delegation of the service and**
 - b) **make any in-year variations to the delegation agreement as deemed appropriate.**

Reason for Recommendations

- 3.1 The recommendations will support the delivery of a delegated service across the six Local Authority areas that currently form the Leicestershire Building Control Partnership, to take effect from the 1st April 2022.
- 3.2 Delegation of the service alongside the five other partner Authorities is considered the most sustainable, long term, model for the future delivery and development of the service from the options available.
- 3.3 It will, in particular, address the resilience issues faced by the current 'in house' operating arrangement and is considered to be the only realistic alternative approach available which would allow development of the service in the longer term. It is considered the best option in order to be able to provide efficient and reliable service, and to meet future expectations and statutory obligations.

Background

- 4.1 Building Control is unusual amongst the Council's services in that it combines a number of statutory functions but is also subject to competition from alternative suppliers ('Approved Inspectors') on a competitive basis. It therefore necessary to retain an efficient functioning service, but also to deliver efficient and good quality service in order to remain competitive in the marketplace. However, there is no requirement limiting the way in which the service can be delivered.
- 4.2 The Council's current arrangement is a small 'in house' team comprising 1.5 FTE Building Control Officers supported by 0.5 FTE Admin support.
- 4.3 The service currently forms part of the Leicestershire Building Control Partnership (LBSP) with four other Council and the recent addition of Rutland. The Partnership

provides management support for the service and provides quantitative and qualitative (technical) capacity support through a funding mechanism with the 'host' Authority, Blaby. These are based upon fixed sums for the management costs and a 'draw down' arrangement for capacity support.

- 4.4 The Leicestershire Building Control Partnership (LBCP) initially started between Blaby District Council and Harborough District Council in April 2018. A further four Councils have now subsequently joined the partnership, Oadby and Wigston Borough Council, Hinckley and Bosworth Borough Council, Melton Borough Council and Rutland County Council.
- 4.5 The current purpose of the Partnership is to deliver a high-quality Building Control Service that is responsive to the needs of customers, provides efficiency savings to all partners and can compete with the private sector. The partnership currently provides:
- management and leadership support to the six local authorities involved in the partnership.
 - Assists partners in reaching a point where they are continually reducing operating costs to cost neutrality levels for fee earning works.
 - Provides administrative and technical support and develop IT systems for the benefit of all parties and share best practice and learning.
- 4.6 The strategic management of the Partnership is undertaken via a Management Board comprising of appropriate senior officers from each of the partner Councils and meets on a quarterly basis. The Council is represented at this meeting by the Assistant Director for Planning and Delivery.
- 4.7 Substantial cost savings associated from working in partnership have already been achieved. The six partner Councils have benefited by successfully operating with a single Partnership Manager and a Team Leader, therefore significantly reducing management costs. The Council's former 'Lead Building Control Officer' post was removed from the establishment upon joining the Partnership in 2019 delivering cost savings.
- 4.8 In addition, and from the 1st April 2021, the Partnership has been operating with joint and aligned fee charges which bring about efficiency savings and help to reduce the cost of running the service for all partners. The LBCP has been able to negotiate with larger developers to gain agreement for the Partnership to secure building control inspections (and thus income) for several development sites spanning several Local Authority areas.
- 4.9 A joint marketing plan, logo and branding has been developed for the partnership and this is used across all the partners.
- 4.10 Recent discussions have explored the possibility and desirability of a fully delegated service to Blaby whereby the service responsibilities of all participating Councils would be amalgamated into a single service operated and managed entirely by Blaby District Council on behalf of all Partners. This would involve the transfer of all aspects of the service, including expenditure and receipt of income. The Council's role in such an arrangement would be reduced to participating in its Governance in the form of quarterly Board meetings.
- 4.11 The business case developed by an external consultant sets out the case for the Partnership moving to this next stage of development. It proposes a fully delegated

service that is operated by Blaby District Council, with all staff transferred to Blaby, with one IT system and one set of service standards that operates flexibly across the partnership area.

4.12 The main aspects of the Business case are:

- A full integrated service hosted by Blaby for all 6 partners (now includes Rutland)
- Objective of full recovery of the cost of all fee-earning work for all authorities
- Reduction of total costs (from 'year 1 baseline') over time
- A range of benefits by developing the existing Partnership arrangements regarding resilience, efficiencies and economies of scale, staff recruitment and retention, staff development and training (the latter an important aspect as new duties are anticipated through the Regulations);
- Distribution of costs (or profit, if it becomes applicable) on a proportionate basis based on actual measured workload, reviewed annually;
- An implementation/transformation plan involving harmonisation and integration of systems, including core IT systems;
- Governance arrangements (Management Board)

4.13 The business case is modelled over a three-year period covering the financial years 2022/23 through to 2024/25 and has been produced in consultation with the LBCP Management Board and finance teams within partner Authorities.

4.14 The expenditure is based on, predominately, the current staff resourcing being amalgamated into a single structure, with only an additional part-time team leader post and a trainee surveyor, from the start of year 1. There are no further staff changes assumed across the business case period, but it is envisaged that, through being one single service, there will be efficiency savings, either through increased operational efficiency or staff cost savings. It is on this basis that the forecasted market share growth is assumed to be met within the current costs set out in the business case.

4.15 Other costs have been included to help move to a more professional and business focussed service, such as increased training budget in anticipation of new legislation, marketing and a technical library resource, all of which will help ensure that the service meets statutory requirements, customer expectations and can grow in a competitive market. These are added in year two to allow a year of financial stability for the new service. However, it should be noted that this comes at a risk, as there will need to be additional marketing expenditure because new businesses need increased marketing to establish themselves, or in the case of LBCP to develop its branding in the market and grow its current market share. Each Council's communications teams will support this in year 1 mainly through free at source social media and press opportunities.

4.16 Income projections reflect the aspiration to increase market share to around 65% and an increase in fees by 3.75% in 2022/23. From the Council's perspective this is a modest increase based on current market share, but there are clear opportunities for growth amongst partners where market share is currently weaker.

4.17 The integration into a single 'delegated service' would require the transfer of staff as employees of Blaby DC under TUPE regulations, but there would be a continued presence in Melton (and within Parkside) in order to fulfil duties in the local area such as site inspections. This will be facilitated through the management of workload in the most efficient manner, and also because staff from all partners are already operating on a

remote and homeworking basis and are able to access facilities and systems within Parkside.

Main Considerations

- 5.1 The key issues in evaluating the 'delegated service' proposition are considered to be:
- Capacity, capability and, especially, resilience within the team
 - Value for money
 - Potential for future increase in income generation
 - Cost recovery aspiration and implication
 - Comparison to other available options for service delivery
- 5.2 It is considered that the most significant threat to the Council's Building Control service is its future capacity and resilience, owing principally to the small scale of the 'in house' team and a combination of unpredictable workload and future expectations of Government through the Building Regulations regime, such as the forthcoming Building Safety Act.
- 5.3 The delegated service provides very strong assurance on questions of capacity and resilience. It is also much stronger in terms of the scope for ongoing efficiencies due to its wider scale and opportunities for marketing with a view to increasing income. However, it would require investment in the short term, though costs would reduce over time if the business model projections were realised and are considered to represent good value for money especially in the longer term. Details of cost implications are set out in section 7 below and in greater detail in Appendix A.
- 5.4 The Business Case sets out how it would seek to increase income through increasing market share and an increase in the levels of fees (see paragraph 4.16 above). This would be achieved by marketing of the service especially within areas of the partnership where market share is low. It is considered that there is a good prospect of this being achievable not least because of the 'benchmark' market share displayed in Melton. The increase in fees is considered modest in the context of the fees charged and particularly the wider context of their very small contribution to the overall cost of building projects.
- 5.5 The only realistic alternative approach available at this time would be to revert to a small in house service (see section 6 : 'Options Considered' below). However, this would not address the capacity and resilience issues nor offer scope for the development of the service.

Options Considered

- 6.1 Various options for the delivery of the service have been investigated and evaluated, including any opportunity to join (other) existing Partnerships and outsourcing. However, none appear realistic at present and the options available are limited to reverting to a small, in house, service, or joining the proposed delegated service.
- 6.2 **Continued Shared Service**, i.e. Building Control continues to operate on a shared service arrangement as the Leicestershire Building Control Partnership. It is considered that this would not provide partners with any further revenue savings, continued

efficiencies, resilience in respect of resources and would reduce our opportunity to be able to compete with private businesses. In any event, existing partners have indicated that they are likely to move towards the 'delegated service' model and the existing Partnership will therefore be dissolved as a result.

- 6.3 **Reversion to single 'in house' building control service** - The existing service (in its streamlined form, since joining the Partnership in 2019) has relied substantially on the resources of the Partnership for capacity and technical support. It is considered it would be unsustainable going forward in its present form if/when the Partnership dissolves (to be replaced by delegated service) and would require investment in order to retain workable capacity and any aspiration to develop the service or for effective marketing (to increase income). This would require, minimally, the addition of a senior level additional post to provide capacity and operational management. Costs presented in section 7 below and Appendix A compare this scenario with the proposed delegated service.
- 6.4 The partnership currently shares the costs of the two management posts and each partner has also benefited significantly from increased resilience and capacity support, financial savings and organisational efficiencies. The cost of converting from the current Partnership arrangement and reverting to a small in house service would be approximately equal (this because the costs of the Partnership would approximately equate to the cost of developing the in house provision to a workable capacity).
- 6.5 Nationally there is a shortage of skilled building control staff, and it is considered likely that we would struggle to individually recruit to posts. Agency staff would likely to be needed to fill any vacancies, the cost of which would be higher and there is no guarantee of securing agency personnel due to the national skills shortage.
- 6.6 **Alternative Partnership/delegated Opportunities:** there are examples of such arrangements in the surrounding region and approach has been made. However the existing locally based partnership is itself in early stages of establishment and is unable to consider further partners at this time.

Consultation

- 7.1 All the Local Authorities involved in the Partnership have been consulted on the business case and they will be required to take this through their own governance structures. Alongside this, consultation has taken place with each Authority's Finance, Legal and HR teams.
- 7.2 Each Council will at the relevant point consult with unions regarding the Transfer of Undertakings (protection of employees) Regulations (TUPE) for those affected staff transferring to Blaby District Council.
- 7.3 Affected staff are aware of the proposals and the implications for their roles under TUPE provisions.

Next Steps – Implementation and Communication

- 8.1 The following table sets out the envisage timetable towards implementation in April 2022.

8.2 TUPE will apply to all staff from authorities apart from Blaby District Council and, a multi authority legal agreement will be in place from the 1st April 2022 which will underpin the delivery of the delegated service model.

Key pieces of work	Anticipated Timescale
Business case and reports taken to all partners governance	End November 2021
Subject to approvals	
Move all partners on to one IT system	December 2021 - June 2022
Deliver the TUPE action plan	December 2021 - May 2022
Development of one website and one set of online forms	December 2021- March 2022
Legal agreement signed by all partners	31st March 2022
New delegated service commences	1 st April 2022

Financial Implications

9.1 The cost of the service in recent years is as follows;

	Costs (direct)	Income	(Surplus) / Deficit
2018/19	£127k	£95k	£32k
2019/20	£97k	£112k	(£15k)
2020/21	£114k	£116k	(£2k)
2021/22 (budget)	£125k	£139k	(£14k)

9.2 Financial Implications of the proposed delegated service are set out in greater detail in Appendix A and are summarised as follows:

	Net costs per annum			
	2022/23	2023/24	2024/25	TOTAL over 3 years
Option 1: In house service	£9,100	£9,100	£9,100	£27,300
Option 2: Delegated service	£14,087	£11,974	£5,814	£31,875

- 9.3 In addition to the revenue costs associated with the delegated services, one off implementation costs would be required for a series of transitional activities such as alignment and amalgamation of IT, TUPE issues etc. The result is an additional one off cost to MBC of £25,114. The total implementation costs, to be met by all partners, are expected to be in the region of £153,500, this is to cover such costs as bringing the six separate IT systems into the one Blaby Uniform system. The costs for implementation are detailed on page 18-19 of the business case at (Appendix B). Costs vary between the partners reflecting the magnitude and complexity of work to be undertaken and Melton would pay £25,114 for implementation costs.
- 9.4 The delegated service would have an initial cost higher than existing budget and the alternative option of an in-house service. However, a medium term view of costs shows this beginning to reverse such that the accumulated cost over several years converges to a closer position (see above).
- 9.5 The proposal represents a further demand on the budget at a time when resources are under pressure. A comparison of the current (2021/22) budget to 'year 1' of the proposed delegated service shows an increase in cost of from a surplus of £14,000 to a cost of £14,000 – and immediate increase of £28,000. Plus, the additional one off set up cost of £25,114. There was also an income target with the MTFs of £25k that was hoped to be achieved from moving into the building control partnership which won't now be achieved and adds a further financial pressure.
- 9.6 This report proposes that the decision regarding the future of the Building Control service is taken in isolation from the wider budget setting process. If approved on this basis, it will be necessary to secure further efficiencies from the budget setting process to cover this movement.

Financial Implications reviewed by: Director for Corporate Services.

Legal and Governance Implications

- 10.1 Section 91 of the Building Act 1984 (the Act) states that local authorities (defined as District and Borough councils) are responsible for carrying into effect the requirements of the Act within their areas.
- 10.2 Local authorities are required to provide 'chargeable functions' and 'chargeable advice' in accordance with Building (Local Authority Charges) Regulations 2010. Section 5 defines that these include the passing or rejection of plans of proposed building works, the inspection of building work for which plans have been deposited and the consideration of building notices given to the local authority or reverted from an approved inspector. Section 6(3) asserts that the overriding objective is that the income derived from performing such functions and advice as nearly as possible equates to the costs incurred from doing so.
- 10.3 The transfer of statutory functions will be pursuant to Regulation 5 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Regulation 5 deals with the discharge of an executive's functions to another relevant authority or another relevant executive and section (2)(a) allows a person with power to make such arrangements to discharge functions which are the responsibility of this Council's executive (namely building control) to another relevant authority's executive

- 10.4 The arrangements will be underpinned by Delegation Agreement incorporating Service Level Agreement between the Council and Blaby District Council which will set out the expected service levels.

Legal Implications reviewed by: Monitoring Officer

Equality and Safeguarding Implications

- 11.1 An Equalities Impact Assessment has been carried out by Blaby DC on behalf of all prospective partners, which concludes that there would be no equalities issues arising from the change to the model of service delivery.
- 11.2 No safeguarding issues are considered to arise from this report.

Community Safety Implications

- 12.1 No community safety issues are considered to arise from this report.

Environmental and Climate Change Implications

- 13.1 There are no Environmental and Climate Change Implications arising from this report.
- 13.2 It is worthy of note that all Partners operate remote and homeworking systems of working and as travel distances can be optimised through the organisation of workload relation to staff resident and place of work.

Other Implications (where significant)

- 14.1 Human Resource Implications: the proposals involve the transfer of staff to the employment of Balby DC under TUPE procedures.
- 14.2 More widely, the delegation arrangement would reduce the demand on management and support structures within the Council as these would mostly transfer to Blaby as the 'host' authority, e.g. staff management responsibility and complaints, HR issues, customer services, financial transactions etc.

Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Income levels are not achieved: The business case is founded in the proposition of income above current levels (from across the Partnership) of £60,000 in year 2023/24 and onward.	Low	Marginal	Low Risk
2	Competitiveness of the service will be reduced by an increase in fees across the board by 3.75% -	Low	Negligible	Low Risk
3	Costs may not be contained to those indicated in the business case:	Low	Marginal	Low Risk
4	Share of costs is unpredictable and may exceed the assumption in the business case.	Low	Marginal	Low Risk

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				
	3 Low	2	1,3,4		
	2 Very Low				
	1 Almost impossible				

Risk No	Mitigation
1	<p>All members of the Partnership have agreed to increase fees by 3.5% from the 1st April 2022 in line with inflation.</p> <p>A marketing plan is in place supported by a dedicated officer to bring in new business.</p> <p>The Partnership Manager will focus on bringing in business from large developers covering several geographical areas. Marketing Campaigns will be run to attract business from all potential sources.</p>

	Financial performance will be monitored against weekly and monthly targets.
2	Fees for Building Control plans and inspections are modest sums and the 3.75% indicated would not represent significant increase in absolute terms in most instances. Ability remains to negotiate fees outside the published fee structure in exceptional cases.
3	Costs are directly related to workload, and therefore income, and the service could 'cut its cloth' accordingly
4	The initial apportionment has been calculated using a 2 year average of workload, which has been broadly consistent over the years concerned (2019/20 and 2020/21). The cost apportionment would be revised at the end of each year based on the actual pattern of demand.

Background Papers

16.1 None applicable

Appendices

17.1 A: Financial implications for Melton

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