

# Cabinet

9<sup>th</sup> July 2019

Report of: **Portfolio Holder for Environment  
and Regulatory Services**

## DELIVERY OF BUILDING CONTROL SERVICES

<b>1.0 Corporate Priority:</b>	<b>Decision Type:</b>
1.1 OG1 : Delivering quality services to business and residents; understanding what really matters to our customer	Non Key Decision
<b>2.0 Summary:</b>	
2.1 To seek approval to join the Building Control Partnership operating in Leicestershire hosted by Blaby District council comprising Blaby, Oadby and Wigston, Harborough and Hinckley and Bosworth.	
2.2 To note that the staffing establishment in the Building Control team will increase operational capacity and resilience, improve succession arrangements, and avoid duplication with the service provided by the Partnership	
<b>3.0 Recommendations</b>	
3.1 <b>That Cabinet approve entering into an agreement with Blaby District Council for the provision of Building Control Services with effect from 1st August 2019.</b>	
3.2 <b>That Cabinet delegate authority to the Director for Growth &amp; Regeneration in consultation with the Director of Law and Governance Services to negotiate and enter into an agreement with Blaby District Council for the provision of the Building Control service to Melton Borough Council.</b>	
3.3 <b>To note that the Chief Executive will exercise his delegation in relation to any changes required to the staffing structure within the Building Control Team providing the overall costs (including the partnership contributions) do not exceed current expenditure.</b>	
<b>4.0 Reason for Recommendation:</b>	
4.1 The provision of Building Control services in partnership with Blaby District Council and other partners will provide the opportunity to deliver a more robust, resilient	

and competitive commercial Building Control service, that is able to operate more effectively in an increasingly competitive environment.

- 4.2 The staffing arrangements will enable sufficient operating capacity locally, and assist in the resilience of the team and staff succession, with a possible reduction in operating costs.

## 5.0 **Alternative Options Considered**

5.1 A series of potential delivery options have been considered which are set out in Section 6 below:

- Provision of Building Control Services remaining with MBC
- Delegating/Outsourcing the Building Control Service, either by delegation to another Local Authority or outsourcing to a private sector provider
- Scaling back provision of Building Control Services to a statutory minimum level

5.2 The proposed Partnership approach is considered to be most realistic and available option that would effectively address the Service challenges relating to resilience, longer term sustainability and income generation.

## 6.0 **Report Detail**

6.1 The Building Control Services function is primarily to process applications for Building Regulations approval, inspecting building sites to ensure compliance with the Regulations, provide solutions to problems encountered on sites, provide guidance and enforce the Building Regulations. The workload is split into two areas as follows:

- Building Control fee earning work; and
- Statutory, non-fee earning services (such as attending to Dangerous structures)
- Other related services : street naming and numbering; Energy Performance Certificates for Council properties under right to buy and occasional peripheral work such as drafting plans for Disabled Facilities Grants and 'Clerk of Works' role for the supervision of MBC projects.

6.2 The introduction of Approved Inspectors (AIs) and private sector alternative service providers has created a challenging market for Building Control services resulting in local authorities across the Country experiencing a significant reduction in market share and therefore fee income.

6.3 The current position of the Council operating its own freestanding Building Control Service independently and in-house has significant sustainability challenges going forward, both in terms of the financial costs to the Council and also in terms of providing a consistent and reliable service to customers. It is particularly vulnerable to staff absence or departure due to the very small scale of the professional team which comprises 1 FTE Lead Officer (currently vacant) and 1.5 FTE professional Building Control Officers. As a result the Service lacks resilience and capacity required to attract significant fee earning work to the Service. The Service has significantly limited the ability to market its Service to attract new work and grow the service and to increase, or maintain, income levels.

6.4 A series of options have been investigated to identify the optimum approach for the future of the service:

## 6.5 Option 1: Partnership Arrangement

The Council has been offered the opportunity entering into a Building Control Partnership with Blaby District Council and the wider partners with whom they work.

### 6.6 The Partnership would;

- a) Provide management and leadership support to the Melton Building Control team;
- b) Assist in maintaining and increasing income levels;
- c) Provide resilience if the form of the temporary transfer of resources during times of staff absence, from the wider pool of staff in the overall partnership;
- d) Determine a potential future delivery model for shared working;
- e) Provide administrative and technical support and develop IT systems for
- f) The benefit of both parties and share best practice and learning; and
- g) Lead on taking forward a recruitment and retention plan which will see the partnership develop its own building surveyors.

### 6.7 The Agreement proposed will be for an initial 3 year period with the ability to extend for a further year and then a further year (3+1+1). Either party will be able to terminate the agreement with 6 month's notice. Blaby District Council will provide the Council with a Building Control Manager and Team Leader, including on site presence where required. The Council would retain its current Building Control Officers.

### 6.8 The Partnership will 'charge' a percentage of the Council's income from the Service to cover its costs of operating and managing the service. This will be at a rate of:

- 5% of income generated in year 1;
- 7.5% of income in year 2 and
- 10% of income in year 3 and thereafter.

The rising rate reflects Blaby District Council's intention that the shared service will enable an increased income for the Council over the initial few years as a result of the shared service being in place. Blaby District Council is well placed to do this as it is currently resourced and structured to operate a business model that allows it to market the Service to building contractors and large scale developers. This has led to its Building Control Service increasing its income by 40% over four years. Blaby District Council would apply this model in the Melton Borough with the aim of promoting the service and growing income for the Council at a similar rate. They would achieve this through the existing contacts that they already have in the industry and by developing new contacts with a presence in the District.

### 6.9 The Council would be represented on and report through an officer level Management Board which will meet quarterly and provide a quarterly report. This will be responsible for aligning and preparing corporate information including a Business Plan, Service Plan and Key Performance Indicators. These will be consistent across all shared service Councils in order to deliver the efficiencies expected of a shared service arrangement by avoiding duplication of work. The necessary key Performance Indicators will be incorporated into the Councils in-house Performance Management framework.

- 6.10 The Council will retain the Building Control staff that it already employs. Blaby District Council will provide operational line management support for all the services staff. They will also provide HR and training support for the staff employed by them when working for Melton. HR and training support will continue to be provided by MBC relating to staff employed by MBC and line management including appraisal, training, absence etc. would be retained. This line management support will offer enhanced operational and professional support which will benefit existing and new staff in terms of professional development and mentoring. This means that staff already employed by MBC would be line managed by managers provided by Blaby DC.
- 6.11 Through entering into this shared service arrangement the following benefits are expected
- Significantly improved officer capacity and resilience (e.g. out of hours cover);workers)
  - Potential to grow income and market share (market share currently estimated to be around 50%;
  - An opportunity to develop recruitment programmes (e.g. a future apprentice/graduate programme);
  - Benefits of different and innovative ways of working (e.g. customer access such as online applications and inspection booking and a stronger business focused marketing approach);
  - Ability to build on the good reputation held by Blaby District Council's Building Control Service to generate additional business growth;
  - Cross boundary benefits to working practices; and
  - Supports economic growth in the District.
- 6.12 The detail of the Building Control Partnership functions will be set out in the Agreement, but provides the following:
- Management and delivery of the Service;
  - Leadership
  - Marketing and branding;
  - Driving growth and income levels;
  - Preparation, implementation and review of Business/Service Plans;
  - Overseeing all Performance Management; and
  - Staff Recruitment.
- 6.13 Operation of this agreement will be reviewed on a quarterly basis by the relevant lead officers sitting on an officer Management Board. The quarterly review will cover issues such as: performance monitoring, contract management, marketing, business plans, service plans, key performance indicators, growth/income levels and staffing levels and any other related business. This will be supplemented by the operational monthly contract management meetings. Plan checking income for work outside the administrative boundaries of the respective Councils will be credited to the Council who undertake the work. The officer Management Board will also ensure that each respective partner Council retains all of their own income in relation to these types of activities.
- 6.14 The income generated will be retained by Melton Borough Council, however there will be an income share percentage for the Partnership. This is partly to account for their role in managing the service and to ensure that there is a clear incentive in growing the service. Details of projected income and the income share are

summarised in Section 6. It is expected that income levels will increase through the introduction of different working methods and seeking an increased market share.

6.15 **Option 2: Provision of Building Control Services Remaining with MBC**

Continuing to provide an in-house Building Control Service is not the recommended option. This option would present significant disadvantages to the Council if it were to continue. These disadvantages include;

- Lack of resilience;
- the difficulties in recruiting experienced Building Control surveyors within the Council's current pay structure and due to national skills shortages;
- income generation will remain difficult as effectively marketing the service with little staff resource is unstable with consequent potential reputational damage for the Council;
- There would be no opportunity to reduce operational costs

6.16 The Service operating on its own cannot generate sufficient levels of resilience and robustness required to enable the Service to get to the desired point of, firstly, fee receipt recovery to levels anticipated in budget setting and achieved in previous years, and subsequently generating an income for the Council to support wider service delivery.

6.17 Therefore, in the light of the above constraints and disadvantages that the current internal Council Building Control Service operating on its own has to contend with it can be concluded that that continuing to operate a Building Control Service on the current model is unlikely to be viable or sustainable in the longer term.

6.18 **Option 3; Delegating/Outsourcing the Building Control Service (not – preferred Option)**

An alternative to entering into a shared service would be for the Council to delegate its Building Control function to another Council or outsource the service to a third party provider. This would require staff currently employed being transferred under the TUPE regulations. They would wholly operate the Building Control Service and would also retain all the income from the Service. However, Melton BC would still need to budget for residual costs.

**(i) Delegating the service**

The following issues with this approach have been identified:

- All of the income generated by the Service in a delegated environment would be taken by the host Council and none would come to Melton
- all of the recharge and other associated service support costs would remain with Melton and would need to be redistributed across the other services of the Council, rendering those services more costly to operate;
- In order for this Option to work, an annual service delivery change in order to cover the host Council's costs in running the Building Control Service: this would need to be calculated and reported to members should this option be pursued;
- staff TUPE arrangements would need to be formulated whereby Building Control staff would need to be transferred under these arrangements to the Host Council.
- There is no host Council identified at present

## **(ii) Outsourcing the Service**

The option of outsourcing the Building Control Service (not a preferred option), has been considered, however the following disadvantages have been identified:

- Potentially complex staff TUPE arrangements would need to be formulated whereby Building Control staff would need to be transferred under these arrangements to an, as yet, undetermined third party Service provider. There could potentially be redundancy costs that the Council would be liable for.
- All of the income generated by the Service would be taken by the third party Service provider
- All of the recharge and other associated service support costs would remain with Melton BC and would need to be redistributed across the other services of the Council, rendering those services more costly to operate;
- There is no identified, capable, potential third party provider at present
- The need to undertake a comprehensive formal procurement exercise, with associated implications for resources and time required.

6.19 In order for this Option to work the selected third party Service provider would levy an annual service delivery charge in order to cover that providers costs and make a profit in running the Building Control Service: this would need to be calculated and reported to members should this option be pursued.

### **6.20 Option 4: Scaling back Provision of Building Control Services to a Statutory Minimum Level (not - preferred option)**

6.21 Since elements of the Building Control service are discretionary a further alternative would be for the Council not to provide a Building Control Service at all in which case builders and residents in the District would need to source and employ Approved Inspectors (i.e. the private sector) to provide Building Control services.

6.22 The research undertaken has not indicated any Council's that have scaled their Building Control operations back to a statutory minimum level. The trend appears to be that if a Council is finding it challenging to effectively operate a Building Control Service independently they seek to join a wider partnership network. There are a number of such networks in operation in the country including a partnership in operation between Councils in East Anglia and one in operation between Councils in the northern East Midlands.

6.23 Pursuing a 'statutory minimum' service level approach, would include functions relating to: enforcement, dangerous buildings and structures, initial Building Control notices, the maintenance of historic records and overseeing the safe demolition of buildings/structures. Even if this approach were to be it would be at significant disadvantage to the Council. Disadvantages of this option include:

- the inability to recruit competent and experienced Building Control officers
- the high cost of recruiting agency staff at premium hourly rates;
- the loss of most of the Building Control service from being able to support other parts of the Council, such as Planning and Assets for example;
- considerable reputational damage to the Council in the light of them not offering a local authority building control service with all Building Control customers being forced to use private sector Approved Inspectors (other than to access

the basic statutory functions that the Council must provide);

- one-off redundancy costs would likely arise relating to a number of the staff currently employed by the Council in the Building Control service;
- future fee earning potential would be entirely lost to the Council;
- opportunities for Cross Boundary working will also be lost;
- residents of the District will not have a choice of being able to use a publically accountable Building Control Service provider;

in-house recharge costs for the Finance Section, Human Resources, Performance, Communications, IT sections and other associated recharge costs would need to be redistributed onto other service budgets.

6.24 In recent years the cost of the Building Control Services has met, or slightly underspent, the approved budget. However, it has seen reduced levels of income and these have resulted in levels significantly below the approved budget.

6.25 The proposed staffing changes comprise the deletion of the post of 'Lead Professional' (currently vacant) and its replacement with a post of Apprentice or Technical Building Control Officer, following further discussion with the Partnership regarding the most advantageous approach. These options are intended to provide operational capacity, a degree of resilience at the local level and to assist with staff succession.

6.26 The agreement with Blaby District Council should provide Melton BC with improved service resilience and a critical mass which should provide opportunities to increase productivity and business growth in the light of ongoing intense competition from the private sector. The eventual aspiration would be to seek to provide a cost neutral Building Control Service for Melton Borough Council, with the fee earning elements sufficient to cover non fee earning.

## 7.0 Consultation and Feedback (including Scrutiny Committee)

7.1 None

## 8.0 Next Steps

8.1 The next steps are to complete the detailed negotiations on the Draft Agreement with a view to Melton BC joining the Partnership on 1<sup>st</sup> August 2019 or shortly thereafter,

## 9.0 Financial Implications

9.1 Blaby would seek retention of 5% of fee income (for statutory work only), rising to 10% in year 3. Based on 18/19 budget outturn this would be £4,435 rising to £9,000 in year 3 and beyond (though clearly we would hope these figures would increase as fee income increases). This can easily be met by the savings arising from staffing changes (see below)

9.2 At present the Council's service occupies approximately 50% 'market share' If this can be developed by successful marketing the following scenarios could be realised (based on 18/19 values):

Market share	Additional income	Additional income retained by Melton	Additional Partnership contribution (10%)
60%	£17,741	£15,967	£1,775
75%	£44,354	£39,919	£4,435
100%	£88,709	£79,838	£8,871

9.3 The proposed staffing changes comprise the deletion of the post of 'Lead Professional' (currently vacant) and its replacement with a post of Apprentice or Technical Building Control Officer, following further discussion with the Partnership regarding the most advantageous approach. The fact that the Lead Professional post is vacant negates any issues regarding redundancy and pension liability. Of the two approaches, the Technical Officer would be the most costly, but even this option would deliver sufficient surplus to contribute to the Partnership , i.e:

Salary of Lead Professional (Band 11): £37,849 (+ on costs)

Technical Building Control Officer (assumed Band 6): £21,116 (+ on costs)  
Partnership Contribution (max. , year 3) £9,000

Balance (cost reduction arising from these changes) : -£7,733 (+ savings from on costs)

## 10.0 Legal and Governance Implications:

10.1 In relation to Option 1: entering into a Building Control Partnership lead by Blaby District Council for the provision of Building Control Services to Melton Borough Council

10.2 The Local Government (Goods and Services) Act 1970 allows local authorities to enter into agreements to provide certain technical, professional or administrative services to other local authorities. It is proposed that Blaby District Council will provide Building Control Services to Melton Borough Council using this power, and by placing certain of its officers at the disposal of Melton Borough Council for this purpose when required as per the agreed agreement.

10.3 It is proposed that the agreement will remain in force for a period of three years from 1 August 2019 ; however there will be an option for the agreement to be extended for a year and then a further year (3+1+1) if both Blaby District Council and Melton agree. This would be subject to the Cabinet agreeing to an extension at the end of the initial period. Either party can terminate the agreement on giving six month's notice.

10.4 The agreement will set out the service to be provided by Blaby District Council and the officers that will be available to support Melton Borough Council. Performance indicators will need to be agreed and recorded in the Directorate performance

management arrangements and wider Corporate Performance Management system and included in any subsequent agreement.

10.5 The Chief Executive has delegated authority to make changes to the establishment under the Officer Scheme of Delegation.

10.6 Once a decision has been taken it will be necessary to consider the implications of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**11.0 Equality and Safeguarding Implications:**

11.1 Under Option 1, there will also be no adverse effect on the accessibility to customers and residents of the Borough to the Building Control Service, should the Council enter into this arrangement with Blaby District Council. Full Building Control Services will still be provided from Parkside and throughout Melton Borough.

**12.0 Community Safety Implications:**

12.1 None identified

**13.0 Other Implications (HR, Data Protection, Climate Change etc)**

13.1 Should Option 1 (the preferred option) be approved, there will be no adverse effect on any employees of Melton BC. Their existing employment terms and conditions will remain unchanged should the Council enter into this agreement with Blaby District Council. MBC staff terms and conditions will be no less favourable (e.g. time and expenses provided) for work activities as part of the partnership outside of Melton Borough. Their base of work will remain MBC. Further consultation will be required with staff affected prior to entering the Partnership.

**14.0 Risk & Mitigation:**

14.1

<b>L I K E L I H O O D</b>	<b>A</b>	<b>Very High</b>				
	<b>B</b>	<b>High</b>				
	<b>C</b>	<b>Significant</b>		2,4	1,3	
	<b>D</b>	<b>Low</b>				
	<b>E</b>	<b>Very Low</b>				
	<b>F</b>	<b>Almost Impossible</b>				
			<b>Negligible 1</b>	<b>Marginal 2</b>	<b>Critical 3</b>	<b>Catastrophic 4</b>

**IMPACT**

Risk No	Risk Description
1	Resilience issue: inability to deliver service at times of stress
2	Staff succession issues
3	Income generation: inability to market the service and attract market share with associated income; develop partnerships
4	Costs: driving efficiencies and delivering savings

### Background Papers:

None

### Appendices

None

### Report Timeline:

Director Approval : 2019

Deputy Chief Finance Officer Sign Off : 28.6.19

Deputy Monitoring Officer Sign Off: 01/07/2019

### Exempt Reports

Not applicable

### Date of Review to make public

Not applicable as public document

### Report Author

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