



Report to: Cabinet

Subject: Proposal to establish a Local Authority Building Control Company

Date: 7th August 2008

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1. Purpose of Report

To provide an update on the proposals to merge the Building Control services of Gedling Borough Council and Newark and Sherwood District Council, and to seek agreement to develop a business plan for the establishment of a Local Authority Building Control company.

2. Background

Members will be aware that the future provision of Building Control services has been under consideration for a significant period of time. This has been prompted by an increasingly competitive market and the current economic climate only serves to create additional pressures.

Various shared service options have been considered, most recently a formal merger involving Gedling and Newark. Legal advice has confirmed that it would not be possible to enter into such an arrangement without undertaking an EU procurement exercise, which would be expensive and time consuming. An alternative option – the creation of a Local Authority Building Control Company - has been identified and it is proposed to develop a business case to assess this option in greater detail.

At the time of preparing this report, Nottingham City Council have expressed their interest in participating with Gedling and Newark in the preparation of a business plan. Confirmation about the City Council's position will be given at the meeting.

The Building Control Service fulfils an essential role in ensuring compliance with minimum building standards and securing health and safety in the construction and alteration of buildings, as well as dealing with dangerous structures. It is accordingly important for the economic, social and environmental well being of the area that steps are taken to ensure that the Council is able in the future to continue to secure the provision of a high quality, cost effective, efficient and flexible service capable of attracting, retaining and training staff of sufficient calibre. This being the case, the establishment of a Local Authority Building Control Company would enable us-

- To improve the competitiveness and flexibility of Building Control services, for example, through the retention of trading surpluses and ability to trade with new customers.
- To generate greater robustness and resilience of service as a result of having a larger operating base.
- To benefit from efficiencies and economies of scale that can be realised through shared services and a company set up.
- To ensure that clients continue to have a choice with regard to plan approvals and building inspections between approved inspectors and the traditional local authority based service.

3. Proposals

Based on the initial work that has already been carried out to date, it is suggested that the establishment of a local authority company is the best way forward for providing Building Control services.

Before making this commitment, it is proposed to develop a Business Plan that takes full account of financial, legal and service delivery matters.

Blue Marble Business Services Ltd have been supporting Gedling and Newark with the work to date and it is proposed to retain their services to undertake the Business Plan. It is anticipated that this will cover the period until 31 October 2008 and that there will be a requirement to engage external legal and financial advisers given the complexities surrounding the establishment of a new company.

The estimated cost of producing the business case is £50,000 and it is proposed that this sum be split equally between Gedling, Newark and Nottingham City.

4. Financial Implications

Accounts have been scrutinised from Officers of both Authorities and a full breakdown of costs will be included in the business case. This also includes a financial breakdown for the implications of a 20% downturn in income created by a static construction industry. The £28,000 cost of the work to date has been shared equally between the two Authorities and paid out of the Building Control trading account. Estimated costings to implement the Local Authority Company have yet to be defined. A full analysis will be presented for approval in a later report derived from the outcome of the next phase of the project. The cost of undertaking this phase is estimated in the region of £50,000 to engage Blue Marble's continued involvement with the project and external Legal advice on the creation of Heads of Agreement for the proposed company and independent accountancy advice. These costs are to be shared between Authorities taking part.

Representatives from Finance in both authorities have been involved in the discussions and work to develop the proposals.

Under accounting regulations, building control operates as a ring-fenced account. Any surplus can only be used for building control purposes.

Professional advice has been taken on procurement issues and this is a key factor in the proposal to set up a local authority company. It will be necessary for procurement issues to continue to be considered carefully as the proposal progresses to ensure that the proposed solution follows public procurement rules. It will also be necessary to consider procurements aspects when appointing any consultants or advisers to facilitate the process.

It will be necessary for the costs incurred in setting up a local authority company to be shared between the participating authorities on an agreed basis. As far as is possible, any set up costs should be charged to the Building Control Reserve. In the event of the Building Control Reserve not being sufficient to cover the set up costs, any excess will be charged to the building control account for the current financial year.

In considering the business case and Heads of Agreement covering the creation of a local authority company, it will be necessary to consider a wide range of issues with financial implications including:

- Pension arrangements, including future arrangements for staff pensions and treatment of past service costs;
- Accommodation;
- Impact on the Councils, including remaining support services, of the new arrangements;
- Insurance, particularly the need for the Company to have its own insurance arrangements in place at the start of its operations;
- Customer contact arrangements;
- Inter authority arrangements for allocation of risk and benefits; and
- The potential for additional partner authorities to participate.

5. Human Resources

Briefing sessions for Gedling and Newark staff have already taken place to keep them informed about developments. Ongoing discussions with staff and unions will take place as the project progresses. Discussions with Personnel sections are being undertaken to ensure that pensions are unaffected by the proposal and at this stage, it is expected that all staff would TUPE transfer to the Local Government Company.

6. Legal Implications

Advice sought from Browne Jacobson confirms that the establishment of a Local Government Company would not require EU procurement.

7. Recommendations

Cabinet is recommended to:-

- i) Agree the development of a Business Case for the establishment of a Local Government Building Control Company as set out in the report;
- ii) Agree to receive a further report once the Business Case has been produced.