



Reigate & Banstead
BOROUGH COUNCIL
Banstead | Horley | Redhill | Reigate

REPORT OF:	HEAD OF CORPORATE POLICY & PERFORMANCE
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TO:	EXECUTIVE
DATE:	27 OCTOBER 2016
EXECUTIVE MEMBER:	COUNCILLOR J. DURRANT

KEY DECISION REQUIRED:	YES
WARD (S) AFFECTED:	ALL

SUBJECT:	BUILDING CONTROL SHARED SERVICE
<p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> (i) the proposal to create a new shared Building Control service with Tandridge District Council, Mole Valley District Council and Reigate and Banstead Borough Council be approved; (ii) the Head of Corporate Policy & Performance be authorised to agree the detail of, and enter into, an Inter Authority Agreement under section 101 Local Government Act 1972 (and Regulations made thereunder) for the joint provision of a Building Control service with Tandridge District Council, Mole Valley District Council and Reigate and Banstead Borough Council; (iii) the Head of Corporate Policy & Performance be authorised to agree other related issues for the shared service, including the detailed business plan; (iv) Staff currently employed by Reigate & Banstead Borough Council wholly or mainly in the delivery of the Building Control service transfer to the employment of Tandridge District Council at the start of the new shared service in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (TUPE) with effect from such date as the Agreement to carry out those service is entered into and that formal consultation pursuant to TUPE commence immediately; (v) That the Head of Legal Services be authorised to implement any actions necessary to reflect the changes arising from this report, including changes to the Council's constitution; (vi) That the functions of the Council, which are within the remit of the Building Control service, shall be transferred to Tandridge District Council as Host Authority under the Agreement and shall be overseen by a newly constituted Joint Partnership Board to be established with Tandridge District Council, Mole Valley District Council and Reigate and Banstead Borough Council with effect from the date of the Agreement; and (vii) That once the Joint Partnership Board is constituted, the Executive Member for Enforcement be appointed as the Council's representative for the remainder of 	

the 2016/17 Municipal Year, and that this appointment be incorporated into the appointments made at the Annual Council meeting for the future.

REASONS FOR RECOMMENDATIONS:

The creation of a new shared service will provide greater resilience to enable the services of three councils to better compete with private sector competition. It will position the service better to maintain and increase market share as well as provide enhanced staff development opportunities. It will enable the shared service to position itself for the potential creation of a future company model.

EXECUTIVE SUMMARY:

In July 2015, the Executive gave in principle support for the creation of an East Surrey Building Control shared service. This report sets out detailed proposals for approval.

The creation of a new shared service will provide greater resilience to enable the services of three councils to better compete with private sector competition. It will position the service better to maintain and increase market share as well as provide enhanced staff development opportunities. It will enable the shared service to position itself for the potential creation of a future company model.

The vision is for the creation of a modern, resilient commercial service delivering high quality customer focused building control services for the 21st century. The alternative is the threat of service failure as councils struggle to attract staff in the context of a national shortage of qualified staff and the potential for further loss of business to Approved Inspectors.

The service will be branded with the logos of all three councils and be known as the 'Southern Building Control Partnership'. It is proposed that staff will be employed by Tandridge District Council as the host authority and that surveyors work remotely as far as possible but with local presence across the area.

The arrangements will be governed by an Inter Authority Agreement (IAA). This sets out how the contributions, costs, future income will be split between partners in a fair way based on the principle of 'no authority being worse off' and without undue risk to compliance by each partner Council with the Charges Regulations that apply to local authority Building Control services.

A business plan is developing which sets out the detailed arrangements for the operational running of the new joint service.

Executive has authority to approve recommendations (i)-(iv). Recommendations (v)-(vii) are subject to approval by Full Council.

STATUTORY POWERS

1. The Council provides Building Control services, including statutory duties, in accordance with the Building Act 1984 and regulations made thereunder).
2. The Council can enter into an Inter Authority Agreement under section 101 of the Local Government Act 1972 for the joint provision of a service.

BACKGROUND

3. In July 2015, the Executive gave in principle support for the creation of an East Surrey Building Control shared service. Various different options for the delivery of the service including status quo, outsourcing and creation of a separate legal entity have been considered. The outline business case concluded that the shared service model was the most appropriate model for delivery of a joint service in the short term. Since the earlier report, development work has progressed across all councils and this report sets out a summary of the proposed arrangements for approval.

Business Need

4. The Building Control service is a statutory function responsible for delivery of safe, healthy, accessible and sustainable buildings. The service exists in a trading environment whereby the costs of the service are recharged to users. The service is unique as a local authority service in that it is in direct competition with private sector Approved Inspectors (AIs).
5. The Council faces a number of challenges within the building control service in delivering a high quality service and competing in a competitive market that does not present an 'even playing field'. The drivers for change are building resilience, creating efficiencies and ensuring survival of a more efficient, larger service over a wider geographic area. Options for efficiency savings by each Council have been exhausted and the present climate of rising competition and need for increased efficiencies mean that new opportunities and new models of delivery need to be explored.
6. A strong element of the business model is to provide an attractive work model for staff giving a high level of flexibility and giving opportunities to be engaged in a wider range of work. This is considered to be imperative to improving recruitment and retention so that the business can operate in a resilient and customer focused manner.

Development work to date

7. Following the in principle support of each of the councils to progress development of a shared service, a joint Project Board and Implementation Team were established. The Project Board has been led by Heads of Service from each Council and involved Chief Executives and appointed Members at every stage. The Board has provided strategic direction and monitored progress. An Implementation Team comprising officers from a range of disciplines (including Building Control, Legal, ICT, Finance and HR) has led the development of the business model and business planning. Although involved in discussions Epsom & Ewell Borough Council has decided not to be part of the partnership at this stage.
8. Through this governance arrangement a draft business plan for the shared service has been developed together with an Inter Authority Agreement underpinning the arrangements between the councils for partnership working.
9. Anticipated benefits include income generation opportunities, service efficiencies, resilience and service enhancements.

10. In the short term the service is projected to maintain market share and then grow this through a more focused approach to marketing and account management. Opportunities will be exploited to pursue specialist areas not currently possible with small workforces.
11. Service efficiencies will develop through adoption of common practices and systems including a move towards paperless working, which Reigate & Banstead has been utilising over the last few years. Services to customers will be standardised and benefit from a consistent approach to marketing and business development.

GOVERNANCE ARRANGEMENTS

12. It is proposed that the Building Control services of the councils be delegated to Tandridge District Council to run on their behalf. It is proposed that a Joint Partnership Board, involving elected Members from each Council, oversees the new service. It is recommended that initially the Board acts in an advisory capacity and meets 2/3 times a year. It will comprise one Member from each partner Council and its remit will be to:
 - a. Oversee and provide advice on strategic direction for the development, implementation and ongoing operation of the building control shared service on behalf of the constituent authorities
 - b. Advice on key policy for the shared service
 - c. Advice on business plans and investment proposals
 - d. Advice on the annual budget and make recommendations to the constituent authorities if appropriate;
 - e. Act in an advisory capacity to ensure the effective delivery of the shared service including:
 - i. Financial performance
 - ii. Performance against agreed key indicators
 - f. Consider any other matters referred to it by the constituent authorities.
13. Executive decisions including future changes to agreed percentage financial apportionment, budget or any future changes to the direction of the service shall remain with the constituent councils. The Board would be supported by a Joint Management team responsible for day to day operational running of the shared service and progress reporting to the Board. The proposed terms of reference of the Board and Team are set out in **Annex 1**.

Inter Authority Agreement (IAA)

14. The partnership will be underpinned by an IAA which sets out the delegation of functions and the main terms of the partnership. It sets out how risks and liabilities will be shared across partners. It proposes a fair financial model that seeks to achieve the principle of 'no authority being worse off'. It also sets out how for example any disputes would be resolved, arrangements for termination and monitoring of performance.

BUSINESS PLAN

15. A business plan has been drawn up for the shared service. The vision for the new service is a modern, resilient, commercial service delivering high quality customer focused services for the 21st century. It sets out four aims which support the corporate priorities of each Council, namely:
 - Improved value for customers;
 - Great place to work;
 - Efficient ways of working;
 - Income generation.
16. At the heart of the business operating model are agile working methods. This includes ICT enabled remote working with less reliance on static office accommodation and working towards a paperless environment. Customers will be encouraged to interact with the service online, simplifying all transactions including online payment. Improved marketing as well as managing relationships with existing and potentially new customers will be key to growth as well as using the larger workforce to specialise in demand areas.
17. ICT proposals provide for a single supplier cloud based system to replace systems currently operated by the three councils and operating a single, agreed process flow together with a single document management system and case management capability. Portal operation through a website will enhance engagement with customers. Hardware will enable home, mobile or office working. Live files will be scanned into the new system and it is anticipated that a working system would be fully operational within 6 months of placing relevant orders with suppliers, including the supply of necessary information to other Council functions such as Land Charge services.
18. Performance indicators will focus on increasing market share and number of partners, meeting income targets, improving satisfaction levels and target turnaround times and not exceeding specified vacancy and turnover rates.
19. The diagram in **Annex 2** shows how the joint vision will translate through objectives and activity into improved outcomes.

STAFFING

20. The business plan provides for administrative staff to be based at Tandridge District Council offices and surveyors to work from one of two hubs at Oxted and Dorking. Detailed consideration has been given to the most appropriate staffing model. The business plan provides that staff employed wholly or mainly in the building control services of Mole Valley and Reigate & Banstead transfer to Tandridge District Council (TDC) by way of a TUPE transfer.
21. This will enable greater integration of the team with all staff sharing the same employer and one common set of processes and support service provided by TDC as the host authority. The TUPE pool of staff has been agreed across the Councils and staff have been kept up to date through joint workshops and regular newsletters. Although TDC would be the employing authority the shared service would be

operated as a partnership with key decision making powers retained by the partner Councils.

22. Following decisions by each Council to join the shared service a formal TUPE process of consultation by TDC would commence prior to staff transfer from the non-host Councils to TDC with their existing terms and conditions of employment. Following such a transfer future changes to terms and conditions would be permitted only if there is an 'economic, technical or organisation reason' to justify change and subject to appropriate consultation with staff.
23. The proposed staffing structure is set out in the IAA and business plan. The structure includes posts for all staff in the TUPE pool. A recruitment campaign through Jobsgopublic would seek to recruit to appropriate vacancies. In order to provide capacity during the initial set up period the structure provides for the appointment of an Interim Implementation Manager and an initial ICT support post but these posts are not intended to be part of the permanent establishment.
24. The structure provides for two Area Managers based in Tandridge and Mole Valley offices and a Business Support Manager. These posts would be the subject of a ring fenced recruitment exercise prior to the TUPE transfer providing career opportunities for senior staff and ensuring management was in place to play a key role in facilitating the transfer of staff into the shared service from the outset. In the event that managers choose not to apply or are unsuccessful they would transfer to their substantive roles on existing terms and conditions.

Transferring Staff – Pensions

25. Surrey County Pension scheme have advised that it is assumed staff will transfer to TDC on a fully-funded basis in line with standard practice with net assets/liabilities remaining with transferor authorities. There are no additional pension implications arising from the staff transfer, as staff are already part of the pension scheme at Reigate & Banstead.

FINANCIAL BUSINESS CASE

26. There are restrictions on how local authority building control services must be provided and at what cost. Various service elements must be contained within a scheme of charges. That scheme must ensure that taking one year with another the income derived from providing core functions under the scheme does not exceed the cost in performing the functions. The proposed financial model developed by finance officers from all three councils seeks to achieve the overriding financial principle of 'no authority being worse off' without undue risk of failure to comply with the charges restrictions.
27. The first year of the new shared service would be a base year to ensure compliance with the charging regulations. Longer term the move to a company model would release councils from the charging constraints and enable the distribution of profit. Moving to a company model as soon as practicable is a key financial objective.
28. The financial model being proposed is based on the following principles:
 - an agreed percentage financial apportionment for future net income (or net cost) between the three participating Councils, which is over and above the

current level. The agreed split is MVDC 30%, TDC 35%, RBBC 35% and this has been calculated based on the average current split of employee and transport costs, and income.

- Support services to be provided by TDC at reasonable cost. A reasonable cost has been determined to equate to the current support service cost that TDC charges its own Building Control service. The new shared service will therefore receive a substantially lower charge for support services than hitherto. Instead of being charged the equivalent of the total of all the three authorities support services costs, it will only be charged the current cost of the TDC support services. TDC will provide the support services required to the partnership within this estimated cost envelope.
- MVDC will make a support service charge for the provision of accommodation for broadly half the staffing establishment.
- Other than as set out above, authorities will therefore have to retain as a cost, the value of the support services which it had previously charged to its own Building Control service. Each authority will determine the implication on itself of this approach. The financial model however ensures that this retained support service cost is offset by the resulting reduced cost of the new shared Building Control service.

Shared service initial budget

29. The proposed first three years' budgets for the shared service are shown in the table in **Annex 3**.
30. In 2016/17 the RBBC Building Control budget is also shown in **Annex 3**. As per the financial principle of 'no authority being worse off', the shared service budget has no net change for RBBC under the shared service arrangement. The shared service will improve the resilience of the service, and as set out below, a move to a company structure offers the potential to grow the Building Control income to all Council partners.
31. Implementation and on-going costs will be incurred in relation to IT hardware/software/web design/data migration, which will be funded by the shared service from the outset. The estimate for these costs is £140k in the first year, and this sum is included in the first full year budget discussed above.

Moving to a company model

32. Following an initial base year as a shared service the creation of a separate legal entity may be appropriate in order to enable the service to trade on a commercial footing and release future profit. This is a decision that would need to be taken in the light of the track record in the first year as a shared service. But in principle the move to a more commercial footing is a key financial objective and the intention of the Council partners.
33. There are various options for the setup of a company model, each with its own advantages and disadvantages. It is proposed that the Board oversee a workstream to develop a detailed option appraisal to assess the various models and implement a clear action plan. A decision on the detail of a future company model should be taken

as soon as practicable and before the end of the financial year 16/17 to ensure its early implementation.

34. Implementation would need to ensure:

- Councils and the Company are clear on the objectives and vision including how the company will grow;
- Effective engagement of people;
- Professional advice is taken in specialist areas where appropriate including finance, legal and taxation;
- Business leadership is commercial and market facing with appropriate cultural change and trust between the company and the Councils.

35. Whilst it is not the purpose of this report to undertake the detailed assessment of options there are essentially three broad approaches for a Local Authority Trading Company:

- **Delivery of services to a Council(s).** Councils may set up a wholly owned subsidiary company solely concerned with delivery of a service(s) back to the Councils but the company does not trade with other organisations. The aim of such a company would be to operate the shared arrangements with a view to reducing costs and increasing efficiency but its primary motive could not be making profit. This type of company may qualify for what is known as a Teckal exemption from procurement rules. This means that Councils can pass work to the company without having to put it out to competitive tender. To qualify as a Teckal company certain conditions need to be met including tests as to control and function. The owning Councils must have decisive influence over the strategic objectives and decisions of the company and over 80% of total turnover must be for the company's public sector owners.
- **Delivery of service to a Council(s) and some commercial services.** This is similar to the above model but the company also undertakes a level of additional trading. The Teckal exemption will apply to some work but work outside those limits will be subject to procurement legislation.
- **Delivery of services on a commercial basis.** A trading for profit company accredited with Approved Inspector status providing building control services to anyone anywhere could generate profit over time if successful. A trading company formed for a commercial purpose would be able to act in the same way as other private sector companies and would not be subject to local authority legislation. It would not be exempt from procurement legislation and the Councils could not therefore pass work to it without putting it out to competitive tender. A mutual or spin out owned and controlled by employees that are providing the service is a further option.

36. Various models have been implemented across the country. Those that have taken a company route include Birmingham Council which has set up a multi-service company (Acivico) which provides Building Control services. Initially this was established as a Teckal company with five year protected contracts with the Council; East Cheshire has a wholly owned Council company known as Civicance; 7 district Councils in Hertfordshire have established three corporate vehicles (a Teckal company, a profit making company limited by shares and a holding company).

37. Future decision making would need to assess the strategic fit between the Councils and the various models, appraise each options and develop a robust business case.

Consequential costs to non-host authorities (including Reigate & Banstead)

38. Future decision making would need to assess the strategic fit between the Councils and the various models, appraise each options and develop a robust business case.
39. Reigate & Banstead will incur minor ICT costs in relation to the need for access to the shared service data by other council functions (e.g. Local Land Charges) and consequential costs such as termination of existing licenses. These costs have been estimated to be in the region of £10k for each authority.

Timescale

40. The following timetable is proposed for the implementation of the shared service:
- Executive/committee approval by all partner Councils: October 2016
 - TUPE consultation with staff; recruitment to manager and vacant posts: October – January 2016
 - Procurement and implementation of ICT: October 2016 –March 2017
 - Council approval - IAA in place and TUPE transfer of staff: February 2017
 - Launch of new shared service: February 2017

Withdrawal from the shared service

41. The Council would enter into the shared service arrangement through the approval of the Inter-Agency Agreement. Statutory responsibility for delivering the service would remain with Reigate & Banstead, and the Council would be able to withdraw from the shared service by revoking the Inter-Agency Agreement (with 12 months notice). Further details are set out in the Inter-Authority Agreement.

OPTIONS

42. The Executive is asked to approve the recommendations set out in this report. The creation of a new shared service will provide greater resilience to enable the services of three councils to better compete with private sector competition. It will position the service better to maintain and increase market share as well as provide enhanced staff development opportunities. It will enable the shared service to position itself for the potential creation of a future company model.
43. Alternatively, the Executive could opt to:
- Maintain the existing Building Control service within Reigate & Banstead. This would leave the Council at risk of the challenges facing Building Control set out within the report, and limit the Council's options to offer a better service and increase market share;

- Request further work be undertaken on the proposals. This would, however, delay the establishment of the shared service, and realisation of the benefits set out within this report. It would also create uncertainty for Building Control staff.

LEGAL IMPLICATIONS

44. The legal implications are set out within the report.

FINANCIAL IMPLICATIONS

45. The financial implications are set out within the report and **Annex 3**.

EQUALITIES IMPLICATIONS

46. An Equalities Impact Assessment has been undertaken and considered in the development of the Business Plan.

RISK MANAGEMENT CONSIDERATIONS

47. All shared service proposals carry risks .A detailed risk register has been maintained throughout the development stage as part of the project management approach. Where appropriate, risks were reported to the Project Board for resolution or mitigation action. The Joint Partnership Board will be responsible for overseeing the future operation of the shared service including assessment of risk.

48. The headline risks going forward are likely to include:

- reputational risk to Councils of future operation of shared service;
- implementation of TUPE transfer of staff : failure to effectively engage with staff resulting in staff resistance ;
- withdrawal of one or more participating councils resulting in a weakened joint service and negative impact on existing relationships and staff morale/retention; viability of the shared service requires at least TDC and MV to work jointly;
- ICT slippage, unforeseen complexities or requirement for additional investment;
- Ensuring compliance with the charging regulations whilst developing a service capable of moving to a company model

49. These risks are to be mitigated through strong managerial and political leadership, effective staff consultation and engagement and good project management.

POLICY FRAMEWORK

50. There are no policy framework considerations resulting from this report.

Background Papers:

1. Business Plan for Building Control Shared Service
2. Inter Authority Agreement for Building Control (Draft)

Annex 1: Terms of reference of the Building Control Joint Partnership Board and the Joint Management Team

Joint Partnership Board	Joint Management Team
Purpose: Advisory	Purpose: Delivery & Operational Decisions
Meeting frequency: as necessary	Meeting frequency: Monthly
Led by: Senior Officers	Led by: Head of Service
Comprises: 1 member per partner Council plus Head of Service and Interim Implementation Manager	Comprises: Head of Service; BC Area Managers; Interim Implementation Manager
To act as an informal sounding board for the Service. The Board shall be a forum for consultation, discussion and resolution of issues on all aspects of delivery of the Service, To oversee performance	Day to day management of the Service, including providing statutory returns; monitoring day to day performance of the Service and teams; responding to information needs identified by the Joint Partnership Board
To review reports from the Joint Management Team to work collaboratively with the Service to improve overall performance, helping ensure links are made to other Council Services and helping to break down barriers that inhibit performance.	Production of reports to be considered by Joint Management Board including: An annual report on delivery of the Business Plan; Proposed charges; Performance against key measures (which may include statutory returns); HR issues; and resource issues where relevant
To be consulted on the draft Business Plan, including priorities and measures	Production of a draft Business Plan for the coming financial year, including service priorities and anticipated performance measures
To quarterly review the budget monitoring information	Monitor the budget, approve spend in accordance with Standing Orders for financial processes. Provide budget monitoring reports to the Joint Partnership Board.
To provide support and guidance to the Joint Management Team to assist achievement of delivering the Business Case	To provide annual reports to the Joint Partnership Board on delivery of the business case.
To suggest alternatives for the Joint Management Team to develop and to provide constructive challenge to ideas	To provide comprehensive information on possible ways to spend any additional surplus income / savings or underspend, including a consideration of the impact of any such spend.
To identify defaults against the Inter Authority Agreement and resolve these to the satisfaction of all Councils.	

Annex 2: Shared Service vision, objectives and outcomes

Vision : modern, resilient commercial service delivering high quality customer focussed building control services for the 21st century.

Objectives

Improved value for customers

Great place to work

Efficient ways of working

Income generation

Activity

Implement new operating model

Staff development and structures
Agile working

Client relationship management
Process and ICT review

Marketing and branding
Specialist offers

Outcomes

Modern, resilient, commercial Building Control service

Attract and retain staff with right skills

Manage risks, deliver safe, healthy, accessible and sustainable buildings

Increase market share
Good forecast for additional income

Annex 3: Shared Service Budget (first three years)

	First Full Year	Chargeable	Non-Chargeable	Second Full Year	Chargeable	Non-Chargeable	Third Full Year	Chargeable	Non-Chargeable
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Employee costs	1,185	888	297	1,241	929	312	1,207	904	303
Running expenses	242	216	26	183	157	26	186	159	27
Central services charge (Tandridge and Mole)	215	161	54	218	164	54	222	167	55
Total Expenditure	1,642	1,265	377	1,642	1,250	392	1,615	1,230	385
Building control fees	(1,528)	(1,528)	0	(1,528)	(1,528)	0	(1,528)	(1,528)	0
Total income	(1,528)	(1,528)	0	(1,528)	(1,528)	0	(1,528)	(1,528)	0
Net cost	114	(263)	377	114	(278)	392	87	(298)	385

Note: it is the intention of the Council partners to establish the shared service as a trading company within the first two years.