

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	16 October 2019
Subject:	Building Control Shared Service
Report of:	Head of Development Services
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Built Environment
Number of Appendices:	One

Executive Summary:

Cheltenham and Tewkesbury Building Control currently operates as part of a shared service agreement which commenced on 1 November 2009 for an initial period of 10 years.

Under the Building Act 1984, local authorities have a duty to enforce the requirements of the Act and the Building Regulations to ensure buildings meet at least the minimum health, safety, welfare, convenience and sustainability standards. In addition to the statutory duties required, the service has been in direct competition with Approved Inspectors (the private sector) since January 1997. Councils have been required to set their own charges since April 1999 and The Building (Local Authority Charges) Regulations 2010 state that costs can be recovered based on officers' hourly rate for undertaking a chargeable function or providing chargeable advice. Taking one financial year with another, the regulations require a review of the charges scheme to ensure the chargeable income as near as possible equates to the chargeable costs.

An efficient and effective Building Control service helps to minimise the possibility, or likelihood, that the Council will have to subsidise non-fee earning elements of the service from general funds.

This report recommends the continuation of the shared services arrangement for a further 10 years.

Recommendation:

EXECUTIVE RESOLVE:

- a) **To approve maintaining the shared service between Cheltenham Borough Council and Tewkesbury Borough Council for a ten year period from expiry of the current agreement.**
- b) **To continue with the delegation of Tewkesbury Borough Council's building Control functions to Cheltenham Borough Council, as host authority, in accordance with section 101 (1) of the Local Government Act 1972 and under Part 1A Chapter 2 section 9EA of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.**
- c) **To delegate authority to the Deputy Chief Executive, in consultation with the Lead Member for the Built Environment and the s151 Officer, to enter into an appropriate agreement under the above mentioned legislation ('the s101 Agreement), other legal documentation and to take all necessary steps to implement the above mentioned resolutions.**

Reasons for Recommendation:

To agree the continuation of the Cheltenham and Tewkesbury Building Control service which is operating as part of a shared service agreement.

Resource Implications:

Building Control fee earning work is funded through charges that each authority charge and is expected to cover the cost of providing the service. In addition, the Council should fund the statutory non fee earning building control functions.

An efficient and effective Building Control service will help to minimise the possibility or likelihood that the Council will have to subsidise non-fee earning elements of the service from general funds. In line with the legislation, the service can be separated as chargeable functions, non-chargeable functions and statutory duties.

In addition to the statutory duties required to be undertaken by the Local Authority Building Control, the service has been in direct competition with Approved Inspectors since January 1997. Councils have been required to set their own charges since April 1999 and The Building (Local Authority Charges) Regulations 2010 state that costs can be recovered based on officers' hourly rate for undertaking a chargeable function or providing chargeable advice. Taking one financial year with another, the regulations require a review of the charges scheme to ensure the chargeable income as near as possible equates to the chargeable costs. In summary, Building Control should not make 'profit or surplus' instead any income should be reinvested for the good of the service.

Legal Implications:

The expiry of the current s101 Agreement on 31 October 2019 means that the partner Councils will be required to decide on the future delivery of the service. If the recommendations are agreed, the Councils will need to enter into a new agreement in accordance with sections 101 (1) of the Local Government Act 1972 and under Part 1A Chapter 2 section 9EA of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 ('the s101 Agreement').

Risk Management Implications:

Service risks are monitored by the Joint Monitoring Liaison Group (JMLG) on a regular basis.

Performance Management Follow-up:

The service performance is managed via regular management meetings between Cheltenham Borough Council and Tewkesbury Borough Council.

Environmental Implications:

The shared Building Control service between Cheltenham and Tewkesbury Borough Council has now been operating successfully and in competition with the private sector for 10 years. It aims to ensure that, within practical limits, buildings now being constructed or altered are in compliance with the Regulations and that they provide a safe, healthy, convenient, accessible and efficient environment for all residents, workers and visitors to both Cheltenham and Tewkesbury.

The energy efficiency of new and existing buildings will be an important component of future actions to address both partner authorities and the government's ambitions for reducing carbon emissions, in response to the identified climate emergency.

1.0 INTRODUCTION/BACKGROUND

1.1 Cheltenham and Tewkesbury Building Control currently operate as part of a shared service agreement which commenced on 1 November 2009 for a period of 10 years. As that agreement is due to expire Officers have been reviewing the existing agreement and considering options moving forward for both Councils. A small officer task and finish group was set up involving finance officers from both authorities and representatives from One Legal. This group has considered a number of options. The Joint Monitoring Liaison Group (which is made up of Officers and Members from both authorities) has also been kept abreast of option development and has received reports and presentations on the options moving forward.

In line with the legislation mentioned above, the service can be separated as follows:

Chargeable function:

- ◆ Substantive pre-application advice.
- ◆ Receipt / validation and registration of Full Plans, Building Notice and Regularisation applications.
- ◆ Vetting applications, undertaking statutory consultations, seeking additional information and checking amendments.
- ◆ Accepting, rejecting or approving applications.
- ◆ Undertaking site inspections and the issue of completion certificates on satisfactory completion of the work.
- ◆ Reversion applications – where work being undertaken under the supervision of an Approved Inspector reverts back to the local authority.

Non-chargeable function:

- ◆ Local land charge responses and search enquiries from solicitors.
- ◆ Advice to other local authority services and Councillors.
- ◆ Involvement in corporate initiatives and reports.
- ◆ Surveying and inspection work to assist other Council services e.g. Housing, Education, Trading Standards, Environmental Health, Property and Planning.
- ◆ Liaison with Planning Officers and Planning Enforcement team.
- ◆ Access Auditing Services.

Statutory activities:

- ◆ Building Control enforcement – taking formal enforcement action for contraventions of the Building Regulations.
- ◆ Investigating reports of unauthorised works.
- ◆ Approved Inspector legislation – Registration of Initial Notices, Final Certificates.
- ◆ Applications involving works undertaken for disabled people.
- ◆ Control of demolition work.
- ◆ Taking action in respect of incidents involving reported dangerous structures.
- ◆ Competent Person Scheme administration.
- ◆ General enquiries from the public.

These are statutory functions which a Council has to provide and fund even if the service is outsourced.

Appendix 1 one sets out the categories of functions in diagrammatic form.

2.0 CURRENT POSITION

2.1 The building control team is made up of a team of 7 officers - 1 Building Control Manager, 1 Building Control Principal Officer, 2 Officers and 3 technicians. In the last financial year they dealt with 1,354 Building Control applications across both local planning authorities. The income for the last four years is as set out below.

District	2015/16	2016/17	2017/18	2018/19
Paid to Cheltenham BC	£23,345	£2,789	£22,804	£14,612
Computer costs	£11,888	£12,406	£14,581	£12,297
Total	£35,233	£15,195	£37,385	£26,909

2.2 During the 2018/19 year the team have implemented a number of service improvements these include:

- ◆ £6,500 invested on street naming and numbering idox module to improve service, create staffing efficiencies.
- ◆ Staff costs reduced by £45,000 against budget by introducing 'grow your own' staff training development.
- ◆ Standalone Building Control website developed with the assistance of Tewkesbury Borough IT Service and launched September 2018.
- ◆ Staff time recording developed to demonstrate cost recovery per application and allow effective analysis of time spent on chargeable/non chargeable works in either Borough.
- ◆ Developed branding through website and site signage boards.
- ◆ The shared service is currently undertaking activities to gain ISO 9001 certification.

3.0 OPTIONS APPRAISAL

3.1 The objective for the Cheltenham and Tewkesbury Building Control Service has always been to deliver the most appropriate, cost effective and efficient service for both authorities. It is however always beneficial to review options available. Alternative service delivery options have been considered as set out below:

1. Continue to deliver the shared service without change.
2. Maintain the existing shared service model but adapt and change service provision methods, to reflect market forces and competition.
3. Link shared service to an existing Local Authority Teckal company (Publica / Ubico).
4. Set-up the shared service as a new standalone Local Authority Teckal company.

5. Set-up as standalone Approved Inspector.
6. Outsource to another service provider (Approved Inspector or Local Authority).
7. Each authority to terminate the shared working agreement and take the service back in-house.
8. Expand shared service to include other local authority Building Control teams.

Following detailed consideration by officers and the JMLG, the recommendation is that Option 2 is pursued, which will allow the partner Councils to maintain the existing shared service model, but adapt and change service provision methods, to reflect market forces and competition. To that end, a business case detailing the opportunity of the service has been produced and objectives identified. These are set out in the business plan (in background papers) split into high and medium priority.

4.0 KEY PROVISIONS IN THE S101 AGREEMENT

4.1 The key provisions in the s101 are:

- Term: 10 year period that can be terminated by either Party upon the fifth anniversary or by serving not less than 12 months' notice thereafter.
- The Services: the services comprise:
 - Statutory functions.
 - Street naming and numbering.
 - The new services as set out in the 101 agreement following the production of the Business Case and Options appraisal.
- Service Delivery [KPIs] and service monitoring.
- Location: Cheltenham Borough Council Offices.

Financial Arrangements:

- CBC to operate a chargeable account for the partnership.
- CBC to operate a non-chargeable account for the partnership.
- CBC to operate a third party income account for the partnership.
- The chargeable account is to be funded by fees payable with any surplus/deficit being retained by CBC for reinvestment into the service.
- CBC to ensure that the chargeable account breaks even on a rolling basis.
- CBC to charge TBC 50% of the cost (excluding recharges) for the non-chargeable account.
- CBC to charge / pay TBC 50% of the cost (excluding recharges) / net income (excluding recharges) for the third party income account.
- Governance: The existing Joint Monitoring and Liaison Group will continue.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Existing 101 Agreement.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 Building Control Regulations.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 Approving the continuation of the existing agreement.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 The Building regulations are concerned with the sustainable use of resources in building. There are no sustainability implications as a direct result of this report.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 The options considered have been analysed in consideration of the impact upon value for money.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 November 2009 – 101 Agreement.

Background Papers:

1. Service delivery options report-Exempt.
2. Business plan for agreed option-Exempt.
3. Draft S101 Agreement.

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Appendices: 1. Diagram – Building Control Chargeable Functions.

Figure 3.1: Establishing the building regulations chargeable costs

