

**SUPPLEMENTARY REPORT FOR
CABINET
Thursday, 12 September 2024 at 7.00 pm
Council Chamber, Civic Centre**

The attached documents are due to be considered at the meeting listed above and were unavailable for circulation when the agenda for the meeting was published. The agenda items to which the documents relate is noted below.

AGENDA

14. Building Control Resourcing (Pages 2 - 9)

Building Control Resourcing



| | |
|---------------------------|--|
| Report to: | Cabinet |
| Date: | 12 September 2024 |
| Portfolio Holder: | Councillor Alastair Gunn, Portfolio Holder for Garden Town and Planning |
| Lead Officer: | Tanusha Waters, Assistant Director - Planning and Environment (01279) 446595 |
| Key Decision: | Yes |
| Forward Plan: | Forward Plan number I017327 |
| Call In: | This item is subject to call in procedures |
| Corporate Mission: | Rebuild our town |
| Wards Affected: | None specifically |

Executive Summary

- A** Over recent years, Harlow Council's Business Control (BC) service has suffered from a combination of reduced caseload and income as well as challenges in retaining a team of experienced, permanent BC officers. This has led to an increasing amount of work going to Approved Inspectors (AIs) from the private sector.
- B** The council is still unable to recruit permanent members of professional staff on the current pay structure. The market for BC Officers is very competitive, and as there are few qualified and experienced officers in the market, the salaries the council can offer are not competitive with a growing private sector and agencies employing professionals who are able to command high daily rates in the current market. This lack of permanent staff makes the continuity and resilience of the service fragile, relying on temporary members of staff to deliver our statutory functions, including dangerous structures.
- C** Over the last circa two years the Council has used Hertfordshire Building Control LTD (HBC LTD) to deliver its primary Building Control Service, this is supplemented by out of hours support provided from Uttlesford District Council. While the service provided has been of a good standard, viewing all options the before the Council it is currently

considered that Hertfordshire BC offered a more consolidated approach to the Councils wider needs. The proposal before members, therefore, seeks to formalise arrangements between HBC LTD and the council to include all building control services, plus out-of-hours services. This approach to a single provider in a resilient manner is considered to meet the council's corporate priority to improve Council Services

Recommended that:

- A** Cabinet agrees to the proposals set out in this report to award a Service Level Agreement for Building Control Services (including 'out of hours' service) to Hertfordshire Building Control Services for a term of 5 years

Reason for decision

- A** To set out the proposals to Cabinet for the future delivery of the District Council's Building Control Service for the next five years

Other Options

- A** Do not agree to the proposal as set out in the report and deliver Building Control Services in-house. The Council's statutory duty will then need to be provided by recruitment and staffing costs that fall outside the scope of existing budget profiles. This is not a recommended way forward.
- B** To continue in its current format with Hertfordshire Building Control Services. This is not recommended, as in its absence, there is no contract outlining the services to be provided, performance standards, or responsibilities.

Background

1. This report sets out proposals for the council's Building Control Department to be delivered by Hertfordshire Building Control (HBC) Company. The council has an existing arrangement with Uttlesford District Council to provide an out-of-hours service. The proposal seeks to end this agreement and bring all services into the SLA with HBC.
2. The Harlow Building Control service discharges the District Council's statutory function under the Building Act 1984 to consider the compliance of proposals for built construction works with the nationally set building regulations. It is a critical function to ensure that new buildings are constructed to standards that make sure they are safe for their users and members of the public, and that environmental performance standards, such as insulation and energy efficiency, are met. The council sets and collects fees for applications under the Building Regulations.

3. Building Control, though a statutory duty of the council, is one that can be provided by private sector operators – Approved Inspectors (AIs) – as well. The service must maintain records of all applications that are dealt with by other operators, and the Competent Persons’ Scheme, where work in such areas as electrical and gas installations and double glazing that would ordinarily require Building Regulations Consent can be carried out without express approval by accredited (‘Competent Persons’) contractors.
4. Harlow Building Control is currently managed through Hertfordshire Building Control Company. The operation has worked well and appears to be a good solution for the Local Authority. The arrangement came about because the competition from private sector competitors or Approved Inspectors in the Harlow area is high and has been growing over the past few years. Also, the supply of qualified and experienced professionals is low, creating vulnerabilities over sustaining income, cost pressures on staffing, and resilience in service delivery.
5. Approximately four years ago, the Building Control (BC) service suffered from most of its permanent professional Building Control Officers leaving. This resulted in reduced income and an increasing amount of work going to the private sector (Approved Inspectors). The council is still unable to recruit permanent members of professional staff on the current pay structure. The market for BC Officers is very competitive, and as there are few qualified and experienced officers in the market, the salaries the council can offer are not competitive with a growing private sector and agencies employing professionals who are able to command high daily rates in the current market. This lack of permanent staff makes the continuity and resilience of the service fragile, relying on temporary members of staff to deliver our statutory functions

Financials

6. Hertfordshire Building Control Company currently provides all Harlow BC services, excluding out-of-hours and support to safety advisory groups, at a cost of approximately £145,000 - £155,000 per annum.
7. Viewing the net costs of the service over the last five years, it becomes apparent that net costs have escalated year on year until Harlow engaged HBC over the last two years.

| Year | Net Costs £ |
|-------------|------------------------|
| 2023/24 | 123,070 |
| 2022/23 | 141,689 |
| 2021/22 | 166,020 |
| 2020/21 | 155,804 |
| 2019/20 | 164,492 |

8. Prior to using Hertfordshire Building Control Company, staffing costs (largely agency costs) varied between £104,000 - £126,000. The 2019/20 budget recorded an

unsustainable net staffing cost to the Council. Please see Appendix 1 for a financial breakdown of the last five years for completion

9. Uttlesford District Council has provided an 'out of hours' service to Harlow since 2016 at a flat rate of £12,000. While the service provided has been of a good standard, viewing all options the before the Council it is currently considered that Hertfordshire BC offered a more consolidated approach to the Councils wider needs.
10. HBC has been able to offer Harlow a service at a cost of £14,800 (excluding VAT) a year. These costs are broken down as:
 - a) Fixed Cost = Weekly Standby fee - £285 plus VAT per week.
 - b) Variable Cost = Call out fee outside office hours - £170 plus VAT for each call out.
 - c) Variable Cost = Hourly rate outside office hours for the time spent to carry out the inspection (including travel) and writing the report and issuing notices etc - £150 plus VAT per hour.
 - d) Variable Cost = Mileage at 45p/mile.

All call out fees and mileage will be recharged to call out client.

11. If Members are minded to include the 'out of hours' service in the wider SLA with HBC, the service will cost marginally more than the existing arrangement with Uttlesford (see para 10). However, owing to its size, its ability to attract and retain staff, and its existing partnership with Harlow, HBC is considered to offer a resilient service to Harlow. It is therefore recommended that the 'out of hours' service is added to the wider SLA with HBC

Options going forward

The following options have been reviewed and discounted including.

| | Option | Why Discounted |
|---|---|--|
| 1 | Reinstate inhouse service with increased salaries and investment to develop the services offered | Breaks the established pay structure, with the risk of leading to financially unsustainable salary cost pressures and inflation from other Council services. Risk also that resilience issues arising from professional shortages and competition from other providers will not be solved. |
| 2 | Reinstate service in house but on a reduced level | This option would see the Council provide a minimal service with the aim of reducing salary costs and accepting that significant |

| | | |
|---|--|---|
| | | workload and income would be lost to competitors. It would not deliver quality and would damage Harlow Council Building Control reputation in development industry, also an expensive option as need to retain minimum 3 temporary members of staff. |
| 3 | Form an arms-length Service organisation | Taking the form of either a local authority controlled company or a mutual organisation, this would provide greater freedoms for the service with the opportunity to make a profit and set salaries at market levels. It would not necessarily resolve the resilience issues of having a relatively small service in comparison to that of HBC or AI competitors. |
| 4 | Join Hertfordshire Building Control LTD as a 9th partner | The buy in costs are not currently financially viable to Harlow and existing partnership do not currently have an appetite to expand number of partners. |

Proposal

12. The recommended option is to enter into a Service Level Agreement for a term of five years with Hertfordshire Building Control LTD to allow the Harlow Building Control Service (including out-of-hours) to be delivered by Hertfordshire Building Control LTD (HBC LTD).
13. HBC LTD is owned by and carries out the function of the BC service on behalf of eight local authorities in Hertfordshire, namely the Borough of Dacorum, Broxbourne Council, Hertsmere Borough Council, Three Rivers District Council, East Herts District Council, Stevenage Borough Council, and Welwyn Hatfield District Council.
14. HBC LTD was set up by these councils (Dacorum was a later addition) to run their building control services, against a background of diminishing service resilience at district level and rising competition from private sector providers (Approved Inspectors (AIs)). Hence the original colloquial name of 'Herts 7'. Its website is <https://www.hertfordshirebc.co.uk/>.
15. The original seven councils established a holding company, Broste Rivers LA7 Ltd, which it wholly owns. This holding company operates Hertfordshire Building Control Ltd.
16. HBC LTD is effectively a consortium of local authority BC services that have joined to create savings and build resilience across each local authority. The consortium delivers a modern service that is competitive with AIs.

17. HBC offers a quality service to its customers as it has done for Harlow since 2022 and has a good reputation in the market. HBC LTD has provided Harlow with one consistent FTE and resilience staffing as and when required.
18. Members should note that under the proposals to enter into a service level agreement with HBC, or any other provider, the statutory responsibility to provide BC services remains with Harlow Council.

Procurement

19. As noted above the council, found itself in a skills deficiency that risked its ability to carry statutory duties. As a response, a partnership with HBC developed over time. This partnership was found to be beneficial both financially and by way of service delivery.
20. If progressed, HDC's statutory responsibility as a BC authority remains with the council. The council has explored all options available to it and has found the option to use HBC LTD presents the most efficient and effective approach to service delivery taking into account best value considerations. The services have been operating for some time now without issue, specifically no service complaints have been received in the last 12 months and all statutory duties have been discharged by the HBC without concern.

Next steps and timescales

21. If Cabinet agrees the afore mentioned recommendation the next steps would be:
 - a) Officers from the Legal, Procurement, Finance and Planning and Development services in conjunction with the portfolio holder to settle final terms of the Service Level Agreements and service specifications.

Conclusion

22. The advantage of Harlow entering into an SLA with HBC LTD is that business as usual will continue with a responsible partner that has a resilient workforce.
23. Financially, it would, at the present time eliminate the need for extra spend on agency employment.

Implications

Equalities and Diversity

There are no diversity and equalities issues arising from the content and recommendations in this report.

Climate Change

The report and decision do not impact negatively on Climate Change.

Finance

There is a small increase in fixed cost of £2,800 plus call out fees, by moving to HBC. The cost will be monitored as part of usual budget monitoring processes and highlighted as a pressure if it cannot be absorbed through service underspends.

Author: Jacqueline Van Mellaerts, Assistant Director – Finance (Deputy Section 151 Officer)

Governance

A robust contract with performance measures be required to support the outsourced service. Lead Officers have been advised of potential TUPE implications that may automatically arise.

Author: Julie Galvin, Legal Services Manager and Monitoring Officer

Appendices

Appendix A – Financial Cost of Building Control Service

Background Papers

None

Glossary of terms/abbreviations used

Service Level Agreement - A service-level agreement (SLA) is a contract between a service provider and its customer that documents what services the provider will furnish and defines the service standards the provider is obligated to meet

SLA – Service Level Agreement

HBC – Hertfordshire Building Control

TUPE – Transfer Undertakings (Protection of Employment)

BC – Building Control

HBC LTD - Hertfordshire Building Control LTD

Actual cost of Building Control Service (2019/20 - 2023/24)

Appendix A

| Year | Staffing | Agency staff | Herts | Uttlesford | Other running expenses | Total Expenditure | Building Control income | Covenant Control income | Dropped Crossings income | Total Income | NET COST OF SERVICE | Recharges | ACTUAL COST OF SERVICE |
|---------|----------|--------------|---------|------------|------------------------|-------------------|-------------------------|-------------------------|--------------------------|-----------------|---------------------|-----------|------------------------|
| | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| 2023/24 | 66,745 | 0 | 154,960 | 12,000 | 3,383 | 237,088 | -104,965 | -3,634 | -5,419 | -114,018 | 123,070 | 34,371 | 157,441 |
| 2022/23 | 76,723 | 0 | 145,281 | 12,000 | 2,005 | 236,009 | -85,069 | -4,559 | -4,692 | -94,320 | 141,689 | 87,968 | 229,657 |
| 2021/22 | 99,193 | 104,438 | 90,509 | 12,000 | 8,698 | 314,838 | -133,723 | -8,057 | -7,038 | -148,818 | 166,020 | 79,946 | 245,966 |
| 2020/21 | 115,061 | 143,576 | 0 | 10,000 | 13,454 | 282,091 | -108,795 | -10,155 | -7,337 | -126,287 | 155,804 | 77,167 | 232,971 |
| 2019/20 | 129,672 | 126,188 | 0 | 7,500 | 25,784 | 289,144 | -104,694 | -11,558 | -8,400 | -124,652 | 164,492 | 81,368 | 245,860 |