

CABINET

15 June 2021

BUILDING CONTROL CONTRACT AND CHANGE OF SERVICE PROVIDER

Report of the Strategic Director for Places and the Monitoring Officer

Strategic Aim:	Delivering sustainable development	
Key Decision: No	Forward Plan Reference: FP/210521	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr Ian Razzell, Cabinet Portfolio Holder for Planning	
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Ward Councillors	N/A	

DECISION RECOMMENDATIONS

That the Portfolio Holder, in consultation with Cabinet:

1. Authorises the Strategic Director for Places, to appoint Blaby District Council as the provider of the Building Control Services for an initial 3 year period.
2. Approves an increase in budget of £52,700.

1 PURPOSE OF THE REPORT

- 1.1 This report sets out the current position in relation to the Council's Building Control Service and seeks to gain Cabinet approval to secure Blaby District Council as the new service provider when the current contract ends in June 2021.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The Council's Building Control Service is currently provided by L Jones Surveying Ltd, the contract for this arrangement was extended by three months in order to enable further investigations into other providers. The contract ends on 30th June 2021.

- 2.2 L Jones Surveying Ltd currently provide two qualified Building Control Inspectors to cover all of the Council's Building Control work (approximately 1 FTE). The Council also have a separate contract with Blaby District Council to provide back-up cover in relation to Dangerous Structures in the event that L Jones Surveying Ltd are unable to attend.
- 2.3 Building Control currently process approximately 130 Full Plans Applications, 180 Building Notices, 40 Regularisations, 6 Dangerous Structures and 10 unauthorised works applications each year.
- 2.4 The cost of the current service provision amounts to 75% of the application fees received up to £150,000 and 70% after the £150,000 has been reached. The Cost of providing the service is budgeted at approximately £120,000 per annum. With the fee income budgeted at £159,500. In effect the current arrangements ensure that the Building Control Service operates on a cost recovery basis.
- 2.5 Officers have undertaken investigations over the last 12 month in order to establish potential options including:
- Extending the existing contract
 - Bringing the service back in house
 - Procurement
 - The service being provided by a neighbouring authority
- 2.6 Retaining the existing provider would not provide for the additional resource that will be required to deal with the changes that are likely to come into force in relation to Building Regulations legislation and the regulations surrounding the qualifications of Building Control Officers. This option also does not provide any resilience as it is a small two employee company. It is considered that it is no longer appropriate to extend this contract further as it will not provide the level of service required going forward.
- 2.7 The Government are currently proposing a number of changes to the way in which the Building Control system works as part of the Building Safety Bill which is currently going through parliament. This will result in additional pressures on all local authorities, with building control teams needing investment and additional learning so they can evidence their resourcing, competence, standards and resilience.
- 2.8 Bringing the service back in house would require significant investment in resource and staffing, particularly given the Government's proposals to make significant changes to the way in which Building Control work is undertaken and the training staff will require. There is also concern about the ability to recruit and retain suitably qualified members of staff given the limited application pool. This option has therefore been ruled out and it is not considered practical.
- 2.9 With regard to the procurement options, officers have looked at call off contracts and have not found any practical options. This therefore leaves a full procurement process which would take a significant amount of time and it is likely that any procurement process would still result in a significant increase to the cost of the service, due to the very preferable contract that we have with the current provider

where they take 70% of the fee income. Any new provider is likely to want a fixed cost to cover staffing and then take a smaller percentage of the fee income.

- 2.10 The final and preferred option is to have a Service Level Agreement (SLA) or Partnership with a neighbouring authority to provide the Building Control Service. Initial discussions have been held with South Kesteven District Council and Blaby District Council.
- 2.11 South Kesteven had raised concerns about TUPE arrangements with our current providers and indicated that whilst we have the current provider they would not be interested in entering into an agreement. Officers also contacted Peterborough City about providing the service and had no reply after several emails. Leicester City Council advised that whilst they were interested in strengthening the Local Authority Building Control function in the region they were not currently in a position to engage in the short term due to existing resource issues.
- 2.12 Blaby currently provide a similar service for four other local authorities (Melton Borough Council, Market Harborough, Hinckley & Bosworth and Oadby & Wigston) and this operates as a shared service provided by Blaby for the above Councils under the Leicestershire Building Control Partnership banner.
- 2.13 It is considered that moving to a shared service with Blaby would provide the most appropriate long term solution as this would address current resiliency issues, reduce work pressure on the Council's support team so that they can focus on the Planning and Land Charges functions, and provide expert management support to the Building Control Service.
- 2.14 Blaby providing the service would result in a budget pressure of £52,700. However the benefit would be that the service is significantly more resilient and we would have the resources necessary to implement the up-coming changes to the Building Control System. The financial implications are set out in more detail below.

3 SCOPE

- 3.1 The scope and duties for the service level agreement are set out below:
- 3.2 The Building Control Manager will carry out the following duties:
- a) Lead the delivery and development of the partnership
 - b) Provide part-time management of RCC Building Control Service
 - c) Management of the provision of staffing to deliver the Service, not to include the supervision or line management of RCC staff
 - d) To prepare and deliver a Business Plan and a Communications Plan.
 - e) To attend Senior Management Team meetings, Council or Committee meetings as and when required within the contracted times.

- f) To provide emergency cover for inspections purposes following sudden loss of staff as and when required within the contracted times. This cover may be provided by the Officer or delegated as necessary.
- g) Dangerous building call out cover. This cover may be provided by the Officer or delegated as necessary.
- h) Performance reporting and data collection.
- i) Provision of Operational Support for Surveyors

3.3 The Building Control Surveyor will carry out the following duties:-

- a) To examine deposited plans to ensure compliance with the Building Regulations and associated legislation and to approve, return for amendment or refuse such plans within statutory time limits and service standards.
- b) To undertake site inspections of building work in progress to ensure compliance with the building regulations and associated legislation and in accordance with the Council's policies and procedures.
- c) To keep detailed, comprehensive and up to date electronic records.
- d) To undertake necessary inspections on dangerous structures and to report back to the Building Control Manager in order that the appropriate action can be taken to ensure that the danger is removed (out of normal hours working may be required in cases of emergency).
- e) To inspect buildings intended to be demolished in accordance with agreed Council policies.
- f) To investigate and consider contraventions of the Building Regulations and associated legislation and to make recommendations regarding legal proceedings, including appearing in court as a professional witness on behalf of the Council.
- g) To assist the Building Control Manager in dealing with service related complaints.
- h) To report back to the Building Control Manager on all aspects relating to Building Control when requested to do so.
- i) To keep records of Continued Professional Development in accordance with the terms and conditions of membership of the relevant professional body.
- j) Promote and adhere to the Council's Equal Opportunities Policy.
- k) To comply with the Health and Safety at Work Act at all times as outlined in Blaby District Council's Health and Safety Policy.
- l) To help identify and assist on matters of continuous improvement within the Service.

- m) To undertake further training as and when required so as to help grow Building Control's market share and income levels.
- n) To work flexibly across all areas of South Leicestershire when asked to do so by the Building Control Manager.
- o) Dangerous building call out cover.

3.4 The Building Control Team Leader will carry out the following duties:

- a) Day to day management including appraisals and supervision of the RCC Building Control team, to include but not limited to approvals of claims, authorising absences.
- b) Performance reporting and data collection.
- c) Attendance at Corporate Management Team meetings, Council or Committees as required
- d) To keep detailed, comprehensive and up to date electronic records.
- e) To assist the Building Control Manager in dealing with service related complaints.
- f) To report back to the Building Control Manager on all aspects relating to Building Control when requested to do so.
- g) To keep records of Continued Professional Development in accordance with the terms and conditions of membership of the relevant professional body.
- h) Promote and adhere to the Council's Equal Opportunities Policy.
- i) To comply with the Health and Safety at Work Act at all times as outlined in Blaby District Council's Health and Safety Policy.
- j) To help identify and assist on matters of continuous improvement within the Service.
- k) To undertake further training as and when required so as to help grow Building Control's market share and income levels.
- l) To work flexibly across all areas of Leicestershire when asked to do so by the Building Control Manager.

4 CONSULTATION

4.1 The proposed process has been discussed with the relevant Council Officers and with the Portfolio Holder.

4.2 The proposed approach to the procurement process has also been discussed with the Council's Commissioning Manager and Welland Procurement Unit.

5 ALTERNATIVE OPTIONS

- 5.1 The alternative option would be to seek to directly employ two Building Control Officers. This option has been ruled out due to the limited supply of suitably qualified Building Control Officers in the market and as it would not provide suitable resilience should they leave or be taken ill for any period of time.

6 FINANCIAL IMPLICATIONS

- 6.1 The current Building Control Budget surplus is £37,500. The proposed SLA would result in an annual budget pressure of £52,700. This would be slightly reduced in the first year as the SLA for the first year is just 9 months and will be partly mitigated by the 25% income share c£10k from the current contract we have with L Jones Surveying.
- 6.2 The table below sets out the budget pressures the proposed changes would create.

Payment to Blaby assuming 5% income share based on average income over last 3 years	£142,500
Estimated mileage cost	£11,000
Total Cost	£153,500
Estimated Income based on average income over last 3 years	(£138,300)
Net position	£15,200
Current Budget (Surplus)	(£37,500)
Budget pressure	£52,700

- 6.3 The SLA also includes a review and extension clause which enables the arrangements to be reviewed every 12 months and for the parties to agree to extend the agreement for a further 1 year period. This is for a maximum contract length of 3 years. This enables the council to monitor and review the cost implications of the SLA.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

- 7.1 The procurement process will be managed by Welland Procurement Unit in order to ensure that it complies with the requirements of all relevant legislation including the Public Procurement Regulations 2015.
- 7.2 Legal advice will also be taken on the process and the precise wording of any contract.
- 7.3 As outlined in 2.11 of the report the existing arrangements are not without legal risk. A smaller more limited contract also means that there can be confusion about arrangements and whether the contractor is in fact an employee with the associated

liabilities. If this were to be the case then there can be significant historical liabilities. There is no indication that this risk would crystallise at this point however Councillors should be aware as this is material to ensuring that future arrangements do not carry such a risk.

8 DATA PROTECTION IMPLICATIONS

- 8.1 A Data Protection Impact Assessments (DPIA) has not been completed at this stage. If authorisation is given then a Data Protection Impact Assessment will need to be completed.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 The intention behind the procurement is to ensure that the Building Control Service is provided across the County. An Equality Impact Assessment will be undertaken against the new service structure developed.

10 COMMUNITY SAFETY IMPLICATIONS

- 10.1 Any development of services needs to take into account community safety implications as per Section 17 of the Crime & Disorder Act 1998. The commissioning of high quality services should contribute to the safety and reduction of risk of vulnerable people.

11 HEALTH AND WELLBEING IMPLICATIONS

- 11.1 The procurement will develop more coherent and higher quality services which support the good health and well-being of Rutland residents.

12 ORGANISATIONAL IMPLICATIONS

12.1 Environmental implications

- 12.1.1 The proposed procurement process will ensure that they Council is able to maintain an efficient and effective Building Control Service.

12.2 Human Resource implications

- 12.2.1 The contract with the existing provider is coming to it is therefore unlikely that the proposed procurement will result in any Human Resource Implications although this is currently been discussed with HR and the Council's Legal team.

12.3 Procurement Implications

- 12.3.1 The procurement process is being discussed with the Council's Commissioning Manager and the Welland Procurement Unit in order to ensure that all relevant legislation and guidance is followed.

13 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 13.1 The current provider's contract is due to end on 30th June 2021. It is therefore recommended that in order to ensure that Blaby can pick up the provision of the Building Control Services from 1st July 2021 that Cabinet authorises the Strategic Director for Places, in consultation with the Cabinet Member with portfolio for Economy, Infrastructure and Planning, to appoint Blaby District Council as the provider for the Building Control Services for an initial 3 year period.

14 BACKGROUND PAPERS

- 14.1 There are no additional background papers to the report.

15 APPENDICES

- 15.1 There are no appendices to the report

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