

<b>TITLE</b>	<b>Building Control Partnership</b>
<b>FOR CONSIDERATION BY</b>	The Executive on Thursday, 14 March 2024
<b>WARD</b>	(All Wards);
<b>LEAD OFFICER</b>	Director, Place and Growth - Giorgio Framallicco
<b>LEAD MEMBER</b>	Executive Member for Planning and Local Plan - Lindsay Ferris

## **PURPOSE OF REPORT (INC STRATEGIC OUTCOMES)**

To agree the principle of entering a new shared service agreement and continuation of the existing partnership with West Berkshire Council to deliver the building control functions, ensuring that the service is delivered on a cost recovery basis to meet the statutory obligations of the Council.

## **RECOMMENDATION**

That Executive approves the Council entering into new shared service agreement for building control services under Section 101 of the Local Government Act 1972 with West Berkshire Council to come into effect from 1st April 2024.

That delegated authority be given to the Director of Place & Growth to finalise and sign the new agreement in consultation with the Executive Member for Planning and Local Plan.

## **EXECUTIVE SUMMARY**

Building Control Solutions (BCS) was originally established in April 2015, as a two-way shared service with the Royal Borough of Windsor & Maidenhead (RBWM) to deliver the building control function across those two authorities.

In July 2016 West Berkshire District Council (WBDC) joined the shared service, under a new agreement. In September 2019, RBWM announced its intention to leave the shared service on the expiry of the original agreement. Since that time, BCS has continued to operate the shared service with WBDC based on the established principles of the agreement which formally expired in June 2021, whilst officers investigated options for moving forward.

Wokingham Borough Council are the host authority for the shared service with staff transferring under the TUPE process to WBC.

Following a peer review and discussions with West Berkshire Council, it has been agreed to enter into a new shared service agreement with them under Section 101 of the Local Government Act 1972 for a period of 5 years commencing on 1st April 2024.

Reports recommending support for each of the partners to enter into a new agreement for continued deliver of a shared building control service are being presented to the Executives of Wokingham Borough and West Berkshire Councils respectively, during March 2024.

## BACKGROUND

Building Control Solutions (BCS) was originally established in April 2015, as a two-way shared service with the Royal Borough of Windsor & Maidenhead (RBWM) to deliver the building control function across those two authorities.

In July 2016 West Berkshire District Council (WBDC) joined the shared service, under a new agreement. In September 2019, RBWM announced its intention to leave the shared service on the expiry of the original agreement. Since that time, BCS has continued to operate the shared service with WBDC based on the established principles of the agreement which formally expired in June 2021, whilst officers investigated options for moving forward.

The original agreement for the shared service was made under Section 101 of the Local Government Act 1972 and ran for a five-year period. Wokingham Borough Council are the host authority for the shared service with staff transferring under the TUPE process to WBC.

Whilst officers considered renewal of the agreement with West Berkshire Council, Reading Borough Council approached the shared service in April 2022 with a request to consider joining the partnership. It was agreed by the three authorities lead officers that it would be advantageous to undertake a peer review of both services with a view to considering available options.

LABC (Local Authority Building Control) the national body representing all local authority building control teams was engaged to undertake a peer review of both the Building Control Solutions team and Reading Borough Council team and consider a case for business change. Terms of Reference for the peer review were drawn up and agreed by all parties.

LABC completed this work and produced two reports on the existing BCS service and a case for business change (background documents). These have been presented to both authorities lead officers for their consideration.

A third report was written and presented to Reading Borough Council by LABC.

Following lengthy discussions with West Berkshire Council, it has been agreed to enter into a new shared service agreement with them under Section 101 of the Local Government Act 1972 for a period of 5 years commencing on 1st April 2024.

The shared service agreement between WBC, West Berks and RBWM was made under Section 101 of the Local Government Act 1972 and expired on 30th June 2021. RBWM withdrew from the shared service on its expiry. Since July 2021, WBC has continued to provide the service on behalf of West Berkshire based on the original agreement.

The Building Control service operates primarily within two main activity areas, trading, and non-trading:

- The trading activity is a statutory one assessing development proposals against the Building Regulations. All applications are subject to fees and charges, and the trading activity must be implemented on a legally self-financing basis. This

element of the business currently accounts for about 83% of the total service output.

- The non-trading is also a statutory activity and relates to the application of the Building Act and includes work to make safe dangerous structures, the consideration of demolitions, Competent Person Schemes and Approved Inspector Registers along with other activities which are statutory but cannot be charged for which currently accounts for the other 17% of the service.

## **BUSINESS CASE**

The local authority building control service is in direct competition with private sector building control bodies (Approved Inspectors) offering similar services. Maintaining a sufficient market share to retain its self-financing status as well as the ongoing difficulty with the recruitment and retention of staff makes the operation of small, single authority teams difficult. The primary benefit of a shared service is that it helps to safeguard the future resilience of the statutory service by maintaining the skill and capacity of the team to discharge all its statutory requirements. A larger team also has a stronger basis from which to maintain market share, in an increasingly competitive market.

The formation of the shared service in 2015 delivered savings to each partner authority regarding management posts through the creation of one team with a single Building Control Manager post and a single Support Team Manager post.

In addition, there continues to be savings from efficiency within the surveying and support teams through economies of scale and efficiency delivered by flexibility within a larger team dealing with workload. This has been hindered by a difficult recruitment and retention market in recent years, but overall, the shared service remains cost-effective with some 83% of costs covered by commercial revenue earned from delivering commercial building control services. In addition, the shared service has managed to build up a small, ring-fenced reserve to help with business improvement and managing ongoing income fluctuation. The non-trading activities account for 17% and are apportioned appropriately to each Council based on workload. The benefits of the arrangements are equally shared in respect of service lead and support management costs.

The shared service since its inception in 2015 has regularly delivered a self-financing service on a consistent annual basis achieving small surpluses where possible. These surpluses have accumulated into a BC Reserve currently standing at £92k. In addition to this figure, it should also be acknowledged that the service has delivered a comprehensive Transformation Project including a new single IT system across the partnership along with its hardware at no-cost to the partner authorities. The cost of this project was also financed fully by the Building Control Reserve.

The BCS shared service has developed itself well into a single team since its inception and all staff operate flexibly across the two authority areas. The shared service also continues to operate a successful Quality Management System, which is externally audited to ISO:9001 standard every year.

The LABC service review concluded that the shared service was operating well and was well-regarded.

Since its inception, the shared service has implemented a commitment to continuous business improvement, has implemented a single IT system across the partnership allowing mobile working and continues to identify both business opportunities to maintain market share along with customer service improvements.

In its review findings, LABC reflected and commented “Mystery shopping exercises showed a good level of customer service across both the support and surveying teams. This is encouraging and will continue to be built up in response to the intensive competitive environment that the service operates within”.

Increased local competition for experienced building surveyors locally has unfortunately resulted in several experienced team members leaving the shared service for increased salary and benefits in the past few years as well as taking valuable business contacts with them. The LABC review acknowledged this however, despite the intense competition for skilled resource and the effects of the ‘cost of living’ crisis, the service has increased its market share from 48% to 52% during 2023 with an increased focus on marketing. It aims to maintain this success during 2024.

In recognition of the staff recruitment and retention difficulties, the service has maintained an ongoing commitment to ‘grow its own’ with a training commitment through apprenticeships, staff development and securing government funding for a Trainee Building Control Surveyor post. It is hoped that the shared service will secure the opportunity for a further trainee through government funding for 2024. This commitment will remain moving forward; along with the training commitment to maintain the Registered Building Inspector status for all our surveyors.

The strong effort made by the shared service to prepare for the incoming changes resulting from implementation of the Building Safety Act in April 2024 were also recognised by the LABC Review.

The success of the shared service in service delivery was similarly recognised by the LABC Review noting that “BCS is delivering a good service for the partner authorities, performing well compared to other local authority services, whilst its processes and procedures are good” and helpfully advising that some further work on branding may be advantageous and its governance and identity as a local authority service could be sharpened.

In conclusion, the LABC team indicated their opinion that the shared service delivered by BCS was a top-quartile performing service nationally.

In this context, the LABC Review highlights a strong basis for continued delivery of the shared service.

Several of the recommendations and opportunities for improvement highlighted in the LABC review have already been implemented and addressed; whilst others will be addressed over the coming months once the long-term future of the service is secured through a new agreement.

Following the conclusion of the LABC Peer Review, the Case for Business Change undertaken by LABC considered several aspects within its terms of reference: -

- Future operating models, including the continuation of the current shared service model under the Local Government Act 1972 or other models that may be appropriate and associated governance structures.
- Financial and operational viability of extending the shared service into a three-way service with Reading Borough Council.
- Branding and positioning.
- Recommendations on next steps

The Case for Business Change identified several key findings: -

- The current governance model is considered acceptable, but the current arrangements need to be reinvigorated to ensure both parties feel fully invested in the partnership.
- It was not possible to provide an opinion on the financial viability of a three-way shared service to include Reading because of the lack of financial data from Reading.
- While increasing the number of authorities included in the partnership would usually be considered a sensible approach, to increase capacity and resilience. The situation at Reading in terms of establishment staff means this would not currently be the case and the associated agency costs could adversely impact on financial viability of the existing shared service.
- Branding is not considered a significant issue; however, it is recommended that further work is done around clear messaging that BCS is a local authority building control partnership.
- The balance between commerciality and public protection should continue to be kept under review to ensure all parties involved in the partnership are happy with how the service positions itself.
- In the short term the costs to include Reading in the partnership may well outweigh the benefits, however a future merger should not be dismissed.
- To support Reading, it is suggested guidance and advice could be provided on an on-going basis, in conjunction with undertaking further work on extending the partnership to include Reading, providing Reading commits to the process.

Since the LABC Peer Review and Case for Business Change processes were completed in 2023, Reading has decided to remain as a single service for the foreseeable future, with its service continuing to rely heavily on agency staff. Contact will be maintained with Reading to see if future opportunity may arise to review their position and the expansion of the partnership.

Discussions have continued with officers at West Berkshire Council over the last year and agreement has been reached in principle to maintain the existing partnership with a new shared service agreement put in place from 1st April 2024.

It has been agreed that this period will be for a further five years with an opportunity for either partner to give adequate notice of no-fault termination of the agreement. This period will provide a secure future for the shared service and the ability to prepare a longer-term business plan. The proposed agreement will also allow for the possibility of an extension period. A review would be undertaken before the initial agreement expired. This review would decide if the partnership was working well or whether it is best for

WBC to consider further options. Legal advisers Bevan Brittan have been engaged to develop the draft agreement on behalf of both authorities with input from both legal services teams. This work is continuing to take place to meet the 1<sup>st</sup> April deadline.

Significant changes come into effect from April 2024 with the implementation of the Building Safety Act and the introduction of the Building Safety Regulator's powers requiring all practising Building Control Surveyors to become Registered Building Inspectors. The implications of these changes require Building Control services operating as a shared service to formalise their arrangements through an agreement under the Local Government Act 1972 by 1<sup>st</sup> April 2024.

It is intended that this work will be completed and signed off by both legal teams in time for the new agreement to be signed by both authorities and to take effect from 1st April 2024.

The key principles of the new agreement will be based upon the main principles in the original agreement, but noting the findings of the LABC Peer Review, will ensure:

- An improvement in governance and reporting to the two shared service partners monthly.
- Clarity on the calculation of respective partner contributions to the non-trading account.
- Clarity of partners' internal re-charging arrangements to the shared service budget.
- Finance lead officer roles are designated within both partner authorities.

Once the agreement is in place, it is the intention of the service to fully consider any new business opportunities resulting to the eventual changes brought in by the Building Safety Act. The Building Safety Regulator's view of the future role of Building Control is one of enforcement activity, which may limit opportunities to offer additional services, but this will be considered in due course.

Long-term service planning will focus on continuing to deliver an upturn in market share whilst also developing staffing skillsets to offer additional services to our customers where opportunity allows.

## **FINANCIAL IMPLICATIONS OF THE RECOMMENDATION**

***The Council faces unprecedented financial pressures as a result of; the longer term impact of the COVID-19 crisis, Brexit, the war in Ukraine and the general economic climate of rising prices and the increasing cost of debt. It is therefore imperative that Council resources are optimised and are focused on the vulnerable and on its highest priorities.***

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0		Revenue
Next Financial Year (Year 2)	£0		Revenue
Following Financial Year (Year 3)	£0		Revenue

### **Other Financial Information**

Much of this arrangement (83%) operates under a ringfence that means all income and expenditure remain within the ringfence and don't have any financial impact on either authority in the partnership. This includes an allocation of corporate recharges from both authorities and all other costs associated with operating the service are included and recovered. These costs are to be reviewed on an ongoing basis under the new arrangement to ensure that they reflect the true cost of providing the service.

There is a legal requirement for the ringfence element of the service to operate on a cost neutral basis. This means that if costs increase income will also need to increase to cover these costs with any yearend variances passed through the Building Control reserve.

It is possible that a one-off additional cost, such as a purchase of new software may exceed the available funds in the reserve. In this case the two authorities may need to provide financial assistance although the aim would be to recover the outlay through the ringfence by setting an income budget that exceed expenditure for future years to recover such costs.

The other 17% is predominantly funded by the two councils in the partnership, currently split one third WBDC and two thirds WBC based on the level of income generated through the arrangement. This split will need to be agreed as well as the overall split of workload in the new arrangement. This will be relevant to the allocation of one-off costs if the individual councils had to contribute additional funds and the allocation of any reserves at the end of the agreement. The same principle applies in the current arrangement.

If the joint arrangement were to end and WBC operate the service on its own the same principle of the ringfence would apply. The cost of operating the service outside of the shared service has however not been calculated.

The building control service in its entirety is budgeted to cost WBC £160k in 2023/24 reducing to £150k in 2024/25 due to a reduction in staff numbers. The new arrangement is not expected to have any significant impact on this unless the split of the agreement mentioned above is significantly different to the current arrangement.

Risks exist around the service failing to generate sufficient income to cover the cost of the service. If this were to happen charges would need to be increased or costs reviewed to bring income and expenditure back in line with one another. This risk exists under the current arrangement and will be no different under the new one. A similar risk would remain should the service operate as a single service.



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<b>Legal Implications arising from the Recommendation(s)</b>
None

<b>Stakeholder Considerations and Consultation</b>
None

<b>Public Sector Equality Duty</b>
Not relevant

<b>Climate Emergency – <i>This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030</i></b>
Continued ability of the service to secure national building control sustainability requirement on a cost neutral basis.

<b>Reasons for considering the report in Closed Session</b>

<b>List of Background Papers</b>
LABC Consultative Peer Review Report – October 2022 and LABC Business Case Change Report – April 2023

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