

Decision Maker: EXECUTIVE

For pre decision scrutiny by the Renewal, Recreation and Housing Policy, Development and Scrutiny Committee on 13 November 2018

Date: 28 November 2018

Decision Type: Non Urgent Executive Non-Key

Title: BUILDING CONTROL – SERVICE REVIEW

Contact Officer: Alicia Munday, Strategic Commissioning Manager
Tel: 020 8313 4559 E-mail: Alicia.Munday@bromley.gov.uk

Chief Officer: Colin Brand, Director of Regeneration

Ward: (All Wards);

1. Reason for report

- 1.1 This report seeks permission from the Executive to review the current Building Control Service.
- 1.2 As part of the agreed Gateway process for determining the method that offers best value and quality for delivering Services (in accordance with the Council's Corporate Operating principles), this report provides a high level options appraisal of the Building Control service.
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2. RECOMMENDATION(S)

The Renewal, Recreation and Housing PDS Committee are asked to note and comment on the content of this report, prior to the Executive being asked to:

- 2.1 approve that officers review the Building Control service, as set out in para 5, which includes consideration of a shared service with the LB Bexley.

Corporate Policy

1. Policy Status: Existing Policy: Further Details
 2. BBB Priority: Excellent Council Supporting Independence:
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Financial

1. Cost of proposal : Not known at this time
 2. Ongoing costs: £81.5k
 3. Budget head/performance centre: Building Control
 4. Total current budget for this head: £81.5k
 5. Source of funding: Existing controllable revenue budget 2018/19
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Staff

1. Number of staff (current and additional): 15.4 ftes
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1. Under the Building Act 1984, Local authorities have a duty to make provision for Building Controlled activities. Building Control is a service, which encompasses a legal requirement with which owners, builders and designers are obliged to comply with the Building Regulations in respect of building works. However it is important to recognise that there are many other significant service provisions which also form part of the overall Building Control service. Whilst residents must comply with Building Control, they do not have to utilise Council Building Control services in the same way they have to utilise the Local Authority planning department. Residents, developers and business may use private organisations that provide Building Control services.
- 3.2 The Building Regulations (Local Authority Charges) 2010, introduced a new flexible charging regime. The prescribed building regulation functions and advice relating to those factors for which charges should be levied as specified in the Charges Regulations 2010 are as follows: -
- Checking full plans applications
 - Inspecting work associated with full plans applications
 - Checking/inspecting work associated with building notices
 - Checking/inspecting work reverting to Local Authority control
 - Checking/inspecting work associated with regularisation applications
- 3.3 Building Regulation Charges should relate to the costs of carrying out the Building Regulations Chargeable Service (BRCS) (i.e. the chargeable functions and chargeable advice described above). However, there are other significant non-chargeable services which also form part of the Building Control service. The regulations allow Authorities to isolate those costs which are attributable to the chargeable service from the other Building Control functions.
- 3.4 The overarching principles under the Building Regulations 2010 are full cost recovery and that users only pay for the service they receive. For this reason the Building Control services are required to be split into Chargeable and Non Chargeable costs.
- 3.5 The Chartered Institute of Public Finance & Accountancy (CIPFA) has issued formal guidance to Local Authorities on how to account for Building Control expenditure and at the end of each year authorities are required to produce a financial statement for the building regulation chargeable and non-chargeable account.

Service Challenges

- 3.6 The Building Control service within Bromley faces a number of challenges. Seven of the fifteen posts are vacant and the Head of Building Control post is currently being filled by a secondment arrangement with London Borough of Bexley.
- 3.7 . Activity volumes are down which has resulted in a shortfall of income being received for the last few years and projected for the current year. This has created further pressure on the limited Building Control resources, which has resulted in more customers utilising other services, and a spiralling effect on staff time and resources. Building Control has suffered from the impact of an ageing workforce in many Local authorities as the budgetary pressures have continued to impact on training and development programmes
- 3.8 There is a national shortage of qualified Building Control surveyors, which has been exacerbated by the increase in building activity, particularly in and around London.
- 3.9 As a consequence of this, the Council has been significantly limited in its ability to provide an out of hours Building Control service. Whilst there is no statutory requirement to provide an

out of hours service, it is a reputational risk to the Council in not being able to respond to potential emergencies, and putting undue pressure on emergency services that may have to respond in the Council's absence.

- 3.10 Given the current staffing position, there is an urgent need to review the service with a view to modernise the service using better technology and to undertake a review of the fees and charges. Officers are seeking approval to review this service, as set out below.
- 3.11 The interim secondment of the Head of Building Control from the LB Bexley on a part time basis providing the service with the managerial expertise required during the service review period. Bexley have also agreed to support Bromley with an out of hour's service during this period.
- 3.12 The approach outlined in para 3.11 is in effect a stop gap measure to allow officers time to look at all of the options available in order to meet the Council's statutory duty to provide a Building Control service.

4. **OPTIONS APPRAISAL**

The key options that could be considered include:

- 4.1 *Option 1 – Undertake a review of the service with the intention of continuing an improved internal service*
 - 4.1.1. The current staffing structure is not fit for purpose; there are insufficient resources to meet current demand, which is compounded by the national and local shortage of Building Control staff, as well as the age profile of the existing workforce.
 - 4.1.2. Currently the shortage of income is being offset by the under spend in staffing as a result of the large number of vacancies; this is not a sustainable delivery model in order for the Council to meet its obligations to deliver its statutory responsibilities which reflect the non-fee earning elements of the service. There has been insufficient investment made in the service in relation to agile working, and insufficient use of technology, which is likely to present even more challenges in the future in terms of sustainability. This option will be considered as part of the service review; however this could result in significant costs which may be able to be funded from the surplus held in the earmarked reserve.
- 4.2. *Option 2 - Stop providing Building Control Services*
 - 4.2.1. Whilst the Council could discharge its function for regulated Building Control to a third party, the Council has a statutory duty to provide the non-fee earning elements of the service. There are also likely to be recommendations from the Hackett Review, (following the Grenfell tragedy) that will require a far greater involvement of Local Authority Building Control departments in the near future. This option is therefore being discounted.
- 4.3. *Option 3 – Commission Building Control Services*
 - 4.3.1. The Building (Local Authorities Charging) Regulations 2010 prohibit a Local Authority or a contracting provider to make profit on the chargeable services within Building Control. Charges can only be based on actual costs. This option is therefore not likely to attract external providers. In addition, as highlighted in Options 1 and 2, Building Control also provides a number of non-chargeable activities, such as advice for internal services within the Council, enforcement notices et al.
 - 4.3.2. The current service is also under achieving on income, and not sustainable from a resource perspective. It is therefore important that the service is streamlined prior to any future

consideration for commissioning to ensure it is fit for purpose, and that any real savings that could potentially be achieved by the Council are identified. Given the Council's financial position it is also important that consideration is given to protecting income streams and as such, this option at this stage, is also being discounted.

4.4. *Option 4- Enter into a Shared Service with another Local Authority*

- 4.4.1. The proposals around shared services have at their heart the principle that by combining services across the two boroughs, there is a better prospect to reduce management costs and other overheads, in a manner which retains the delivery of the frontline service. Bromley and Bexley have existing and have successfully shared services, including libraries and parking services. Given the close proximity and the current financial position of both Local Authorities the option of a shared service should be considered, in addition to the review of the service.
- 4.4.2. There are several stand-alone activities within the Building Control service that could operate on a shared basis, such as the out of hour's operation. Bromley officers typically attend circa 15-20 call outs per annum, given the unlikelihood of 2 emergencies occurring in both Boroughs simultaneously, it makes sense for the two Councils to share this resource. There are also likely to be managerial efficiencies achieved through a shared service such as a joint Head of Building Control post.

5. **PREFERRED OPTIONS**

5.1 Given the information set out in Section 4 above, it is recommended that a full review of the service (Option 1) is carried out which includes the potential to operate a Shared Service Model (Option 4). This would include updating and improving the service by using better technology. When considering the shared service option, the following areas will be examined:

- shared service staffing structure
- costs for delivering a shared service
- IT and line of business applications for a shared service
- fees and charging within a shared service
- benefits and risks of a shared service
- staff and stakeholder feedback
- governance arrangements

6. **STAKEHOLDER ENGAGEMENT**

6.1 There has been staff engagement with the Building Control teams at both Bromley and Bexley, as well as engagement with staff representatives for both boroughs about the recommendation to review the service, which would include the option of exploring a shared service delivery model.

7. **POLICY IMPLICATIONS**

7.1 The recommendation to review the service, and in particular a shared service model, is in line with the Council's Corporate Operating Principles, which include a commitment that services will be provided by whoever is best placed to deliver services, and offer value for money.

8. FINANCIAL IMPLICATIONS

8.1 The current Building Control service is split into chargeable and non-chargeable services. The latest budget monitoring position is shown below: -

	Chargeable Service			Non-Chargeable Service		
	Budget	Projected Outturn	Variation	Budget	Projected Outturn	Variation
	£'000	£'000	£'000	£'000	£'000	£'000
Expenditure						
Employee costs	552.9	393.9	-159.0	236.7	153.7	-83.0
Running costs	77.5	77.5	0.0	14.4	14.4	0.0
Contribution to reserve	0.0	186.7	186.7	0.0	0.0	0.0
	<u>630.4</u>	<u>658.1</u>	<u>27.7</u>	<u>251.1</u>	<u>168.1</u>	<u>-83.0</u>
Income						
Fees & charges	-797.3	-622.3	175.0	-2.7	-2.7	0.0
Contribution to reserve	0.0	-202.7	-202.7	0.0	0.0	0.0
	<u>-797.3</u>	<u>-825.0</u>	<u>-27.7</u>	<u>-2.7</u>	<u>-2.7</u>	<u>0.0</u>
Total controllable budget	<u>-166.9</u>	<u>-166.9</u>	<u>0.0</u>	<u>248.4</u>	<u>165.4</u>	<u>-83.0</u>
Non-controllable recharges						
Recharges & insurance	166.9	166.9	0.0	72.2	72.2	0.0
Recharges out	0.0	0.0	0.0	-109.3	-109.3	0.0
Total non-controllable recharges	<u>166.9</u>	<u>166.9</u>	<u>0.0</u>	<u>-37.1</u>	<u>-37.1</u>	<u>0.0</u>
Net Expenditure	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>211.3</u>	<u>128.3</u>	<u>-83.0</u>

8.2 The financial implications of the outcome of the review of the service (5.1) will be reported back to Members following the review.

9. LEGAL IMPLICATIONS

9.1 Building control services are provided under the Building Act 1984 and Regulations made under the Act. There are various models available to structure shared service arrangements between two or more authorities and detailed legal consideration will need to be given to each. There are enabling powers under sections 101, 111 and 113 of the Local Government Act 1972. There are also powers available under section 19 of the Local government Act 2000 and the power of competence under section 1 of the Localism Act 2011.

9.2 In looking at the options and depending on any further recommendations, consideration will be given to staffing issues in particular staff terms and conditions, TUPE, and staff consultation requirements under section 113 of the Local Government Act 1972. Consideration also needs to be given to the Councils best value duty arising under section 3 of the Local Government Act 1999 and also the need to carry out appropriate consultation. Consideration should also be given to community right to challenge under section 81 of the Localism Act 2011 and the public sector equality duty arising under section 149 of the Equalities Act 2010.

10. PERSONNEL IMPLICATIONS

10.1 To date there has been informal consultation with staff, managers and staff representatives about the review of the service. Any comments received on this report from staff and their representatives will be verbally reported to members at the meeting. In the event that the option to explore a shared service model is agreed, and as more detailed proposals are developed these will be the subject of formal consultation with staff, trade unions and departmental representatives in line with the Council's procedures for managing change.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	