

CABINET

REQUEST FOR AUTHORITY TO TENDER FOR THE PROVISION OF PARTNERSHIP BUILDING CONTROL SERVICES

01 September 2015

Report of Chief Officer (Regeneration and Planning)

PURPOSE OF REPORT				
To seek Cabinet approval to tender for the provision of Building Control Services.				
Key Decision	X	Non-Key Decision	Referral from Cabinet Member	
Date of notice of forthcoming key decision	3 rd August 2015			
This report is public				

RECOMMENDATIONS OF COUNCILLOR JANICE HANSON

- (1) That Cabinet note the position taken by South Lakeland District Council in relation to entering into a formal arrangement to provide Building Control services on behalf of Lancaster City Council.
- (2) That Cabinet agree that the City Council secures external services to assist with the provision of its Building Control services going forward and authorises the Chief Officer (Regeneration and Planning) and the Chief Officer (Resources) to tender the opportunity for those services to be provided at minimum practical costs to the council with the fee earning element to be provided at cost to the service user.

1.0 Introduction

- 1.1 The Council has a duty to provide a basic Building Control service. The provision of those services is subject to open market competition with private sector companies which are registered as "Approved Inspectors".
- 1.2 Although fees can be charged for the vetting of applications for compliance with the building regulations, and the inspection of works being implemented, there are a range of other statutory functions which the council must provide and pay for. These include enforcing the regulations, dealing with dangerous structures and verifying initial notices submitted by Approved Inspectors.
- 1.3 In financial terms the council's building control function runs a rolling trading account which is expected to break even making neither profit or losses over a three year period. Taken alongside the statutory duties the council provides the ideal would be that the basic cost for providing those duties would be

modest and stable with the fee earning element of the operation covering the rest of the costs. Up until 2010 and the emergence of private sector competition in the district the Council's building control operation made an operating surplus. This changed when new competition was established in the district largely providing services undercutting the City Council's rates.

2.0 Proposal Details

- 2.1 After 2010 when private sector competition established itself in Lancaster District a significant amount of application business was lost to Approved Inspectors. Corrective action reduced significantly the establishment of the council's operation and it was hoped that a smaller modest team could still break even and provide a minimum statutory service alongside the private sector. A smaller operation still carries significant operating and premises costs however and the amount of fee income generated by less and smaller applications has meant that the council's trading account has been running at a deficit for some time.
- 2.2 In addition to the continuing deficit, the smaller operation has experienced the loss of a significant number of its staff with some moving to join the private sector competition. Increased business for the existing city council function could only be generated if the council invested heavily in replacing staff and employing new skills. In the current financial climate such an approach would be difficult to justify. One alternative approach was to look to find another local authority with the skills and resources in place to either share a service with or to run the operation on behalf of the city council on either a delegation or outsourced management arrangement.
- 2.3 Discussions with adjoining Lancashire authorities took place in 2012 but it quickly became clear that the most promising operational arrangement which could deal with commonalities in boundaries and links with architecture/planning practices was one which could be provided by South Lakeland District Council. After piloting this operation during 2013/14 and 2014/15 South Lakeland District Council concluded that there were no operational advantages for them in providing a shared service with the City Council.
- 2.4 Interim arrangements were put in place with Salford City Council's public/private trading arm, Urban Vision (originally procured directly by SLDC during the pilot), to enable the City Council's operation to continue providing a service until another option could be fully explored and implemented. Helpfully the experience of operating a service with a public/private partner has delivered a viable alternative to a shared service operation with another local authority.
- 2.5 It should be noted, however, that it is not possible to continue these interim arrangements beyond the current financial year under Public Contract Regulations 2015 Regulation 12. This Regulation sets out that the controlling body exercises similar control as to its own departments, that eighty percent of its activities are for the controlling body and that there is no direct private capital participation. Urban Vision has grown significantly and the percentage of its work for Salford City Council does not exceed the eighty percent requirement.

3.0 Details of Consultation

- 3.1 Staff involved in providing Building Control services have been consulted about how the council should move on following the decision by SLDC not to proceed. If new formal arrangements are authorised staff will be fully consulted about the proposals, along with the Trade Union.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: To maintain and resource the Building Control Service in-house	Option 2: To enter into formal negotiations with another local authority to provide Building Control services	Option 3: To tender the opportunity for another party to assist the council in providing its Building Control services
Advantages	None, other than fitting in part with the council's ethos of being an ensuring council (e.g. retaining core capacity, but conflicts with some aspects such as VFM).	This would fit well with the council's ethics as an ensuring council and potentially keep the work within the local government family.	Still fits with council's ethos – commissioning or procuring services in the most appropriate manner, where retaining in-house capacity is not a viable option. Private sector organisations have more capacity for marketing services and are now more likely to attract new business. May lead to reduced costs overall.
Disadvantages	The Council cannot currently provide a viable Building Control service without further investment in staff resources resulting in a greater draw on the revenue budget as there is no guarantee that this can be recouped through an increase in fee earning income – so option would not deliver VFM and so may not meet the council's statutory obligations.	All local authorities are facing severe budget restraints in the current environment which can affect business plans and the ability to adequately resource service provision.	Ideally, the council may prefer to retain this business within the local government family and this option would be seen as partially outsourcing this activity, so implementation would need carefully managing and communicating.
Risks	The further extension of the deficit in the Building Control Trading Account.	Shared service being unable to secure more business from the Lancaster area and	The cost of using a private sector provider may be higher than directly employing officers

	Failure to meet statutory obligations for trading position and for securing VFM / continuous improvement.	continuing losses in the Building control Trading Account. Highly unlikely that another Local Authority will be willing to undertake a shared service provision due to Lancaster's geographical boundary.	and unable to directly compete with established and emerging providers who are more flexible in responding to market forces.
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5.0 Officer Preferred Option (and comments)

5.1 The officer preference is Option 3.

6.0 Conclusion

- 6.1 The Council must take steps to continue providing this service without continuing to build the deficit in its own trading account. To do this the best alternative is to achieve economies of scale and changes in market perception by working with another party. Members have expressed the preference to achieve efficiencies by working with other local authorities as part of their ethical role as an Ensuring Council. However, despite best efforts and extensive trials no other local authority nearby has been prepared to enter into a shared service arrangement.
- 6.2 The only other viable alternative for the City Council, which must by statute provide a service, is to now advertise widely for a partner organisation to assist with provision of these services. The aim will be to reduce to a basic cost (subject to increases for inflation) for the City Council's statutory role and provide fee earning services from a partner at cost to the service user. Such an approach may not build business share back towards previous levels, but it will enable the council to comply with statutory requirements to provide a service at cost to those who require it from the City Council and to break even with the Trading Account.

RELATIONSHIP TO POLICY FRAMEWORK

The Building Control process ensures that building works are carried out to national standards with the aim of raising the standard of energy efficiency, and providing people who live and work in them with a safe and clean environment.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

Building control service have a role to play in supporting the district emergency planning procedures. The ability of the local authority to continue to provide a service avoids a virtual monopoly being created in the district.

LEGAL IMPLICATIONS

The Council, in entering into these arrangements, will need to ensure that its legal obligations under the Building Acts are observed and maintained.

FINANCIAL IMPLICATIONS

Following on from being agreed by Cabinet in May 2014, the City Council had entered into formal negotiations with South Lakeland District Council to provide its Building Control Service, however for a number of reasons (including reduced capacity and increased workload), SLDC have concluded that there is an insufficient business case to enter into a 'shared service' arrangement with Lancaster. Option 2 has been previously explored with Preston, Wyre and other Lancashire districts, none of which have sufficient capacity at present to undertake / assist with Lancaster's operation. It is unlikely, therefore, that the Council could successfully find another Local Authority partner at this stage.

As outlined in the body of the report, it is further re-iterated here that if Option 1 is pursued, there is no evidence to suggest that the additional investment needed, expected to be in the region of £75K-£100K per annum for additional staff and associated operating costs will be recouped based on current market conditions.

It is not anticipated that there will be any additional costs arising as a result of the preferred Option 3 as the Council already budgets for a deficit on its chargeable trading account, i.e. at £60K in the current financial year with inflationary increases thereafter. This option would enable the Council to maintain and resource its statutory Building Control duties in house, whilst seeking to outsource the fee earning (chargeable) application process on as close to a cost neutral basis as possible. By outsourcing this work the Council will only need to continue to cover the statutory (non-chargeable) element, which may lead to stabilized or even reduced costs overall, subject to final contract arrangements.

Option 3 appears to be the only viable option to achieve cost reductions going forward, therefore, whilst recognising that in the current climate the Council may not be able to remove its trading account deficit entirely.

Members should note that in the interim period the current informal arrangement will continue, whereby Urban Vision undertake the work beyond current in house capacity in order for the Council to discharge its statutory duties.

OTHER RESOURCE IMPLICATIONS

Human Resources:

The existing staff would remain employed by the City Council

Information Services:

Current arrangements where the private sector contractor uses the council's operating system works effectively.

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The s151 Officer is in support of option 3 as the only viable alternative, given the Council's statutory obligations.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

exempt

Contact Officer: Andrew Dobson

Telephone: 01524 582303

E-mail: adobson@lancaster.gov.uk

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