

INDIVIDUAL CABINET MEMBER DECISION

Provision of Building Control Services 2024-2027

Individual Cabinet Member Decision: Councillor Jean Parr

Report of Chief Officer - Planning and Climate Change

PURPOSE OF REPORT			
That the Council intend to award a contract for the provision of Building Control Services following a procurement exercise.			
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	Referral from Cabinet Member
Date of notice of forthcoming key decision	14 November 2023		
This report is public			

RECOMMENDATIONS

- (1) That following a procurement exercise the Council award a contract for the provision of its Building Control Services for 3 years with an option for 2 annual extensions.
- (2) That the authority to award the contract be delegated to the Chief Executive.

1.0 Introduction

- 1.1 Lancaster City Council is the Building Control Local Authority for the purposes of the Building Act 1984 and the Building Regulations 2010. The primary purpose of a Building Control service is to ensure that new or redeveloped buildings comply with the national Building Regulations.
- 1.2 The City Council is statutorily required to act to provide a range of services to deliver and enforce the Building Regulations in its district area. A proportion of those statutory activities are fee-earning, and the Council can recover its costs on a non-profit basis. The remainder of its statutory duties, which include enforcement and responding to reports of dangerous structures, are non-fee earning.
- 1.3 Unlike the national planning system, there is no requirement for any party to use the Council's Building Control service. Those applying for consent under the Building Regulations can choose to use the local authority or use Approved Inspectors (AIs). The local authority or the AI is responsible for

ensuring that the proposed works comply with the Building Regulations, and they issue the necessary certification.

- 1.4 During the last decade, the Council (like many local authorities) has lost professional capacity either to the private sector or through retirement and it has not been able to successfully replace the lost officer resource in-house. This has meant that the building control service has been regularly outsourced to consultants.
- 1.5 The current contractual arrangements with Capita have been in place since 2016 and have for the past several years been extended on an annual basis. However, a new tender exercise must now be undertaken, and is in any case considered prudent given the increasing responsibilities arising from the Building Safety Act 2022.
- 1.6 An open tender exercise was undertaken during Q3-4 2023-24 and did not attract any submissions.

2.0 Proposal Details

- 2.1 The proposal is to undertake a procurement exercise via the Crown Commercial Services Estate Management Framework RM6168 Lot 4. The ITT will be to secure building control services for a period 3 years (with an option to extend by a further 2 years after that), and to ensure that the approved provider delivers building control services that are fit for purpose and adaptable to the needs of the district.
- 2.2 Other options for service delivery have been considered in 4.0 below. However, there is no other single option (outside of the tender exercise) that can be delivered to guarantee the delivery of building control services for the next three-year period. The appointment of a service provider for the 2024-2027 period does not necessarily preclude some of the other options being explored prior to the end of the new contract.

3.0 Details of Consultation

- 3.1 None – this would be a formal tender/procurement process.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Procurement of a new Building Control Contract for 3-year period	Option 2: Seek a Shared Service with one or more Local Authority	Option 3: Recruit to permanent establishment posts
Advantages	Puts in place a level of service provision that is flexible to the changing needs of Building Control in the short to medium term.	Potentially shares the cost with other LAs. Greater opportunity /interest likely from consultants at tender stage.	There is likely to be increased service resilience in retaining your own staff, providing that the service staffing levels are commensurate with the demands on the service. Staff may be more invested in

			service delivery due to them being less transient than contractors or consultants. Succession and development of staff is possible.
Disadvantages	Restricts opportunities for exploring other service delivery options, including recruitment to established, vacant posts in the immediate term.	Informal interest in a shared service remains low. Previous (historic) attempts to establish have been unsuccessful.	Previous attempts to recruit have been unsuccessful and the local public sector employment market is reported to be even more challenging, especially in Building Control.
Risks	That a suitable tender is not received, and the Council is left exposed with no adequate service delivery.	National shortage of resource in the profession. Attempts to establish shared service are unsuccessful and leave the Council exposed with no adequate service delivery.	Unable to secure suitably qualified staff to cover Council's statutory responsibilities. With no alternative provision the Council would have no adequate service delivery.

5.0 Officer Preferred Option (and comments)

5.1 Given the continuing need for a credible and deliverable Building Control service, the best current option remains Option 1. Even if Option 1 is agreed, future options for different models of service delivery can still be explored in readiness for the end of the proposed contract (2027 or 2029 with extensions).

6.0 Conclusion

6.1 The preferred option ensures that the Council procures outsourced Building Control services to fulfil its statutory responsibilities as Building Control Authority for the purposes of the Building Act 1984 and Building Regulations 2010.

RELATIONSHIP TO POLICY FRAMEWORK

Corporate Priorities: The priorities directly contribute to the Council's approved priorities, which includes informing sustainable building methods and net zero carbon approaches in line with government guidance.

CONCLUSION OF IMPACT ASSESSMENT

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

An Equality Impact Assessment has been completed and concludes no adverse impact.

LEGAL IMPLICATIONS

The existing contract with the current supplier has been extended several times in recent years and increases in the value of this contract are likely to be considered 'substantial' under the Public Contracts Regulations 2015 and as such may not be lawful. This leaves the Council at risk of legal challenge while the current contract is still in place. There is therefore an urgent need to move to a solution which does not rely on the existing contract, such as procuring a new contract, to mitigate against the risk of legal challenge. The opportunity for re-procurement also allows the Council to negotiate more favourable terms and conditions for any future contract.

FINANCIAL IMPLICATIONS

The cost of providing the current external contract has increased significantly in the last couple of years with actuals rising from £180K in 2022/23 to an estimated £331K in the current year.

The available budget is a consolidation of both salary and existing consultancy budgets and has been adjusted in line with the current contract.

The figures included in the latest approved budget for the following three years are shown in the table below:

	2025/26	2026/27	2027/28
Budget	£323,400	£335,000	£345,600

A new three-year contract should attract more favourable rates and provide sufficient resources to return a positive outturn on income targets. Any additional costs/savings arising from the award of contract will be built into draft budgets at the earliest opportunity, as part of the ongoing current budget process and reported as appropriate.

OTHER RESOURCE IMPLICATIONS

Human Resources:

n/a

Information Services:

Appointed consultant will use LCC devices as per existing contract arrangements.

Property:

n/a

Open Spaces:

n/a

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

MONITORING OFFICER'S COMMENTS

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

BACKGROUND PAPERS

n/a

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