

POLICY & FINANCE COMMITTEE

26 NOVEMBER 2020

PARTNERSHIP FOR THE EAST MIDLANDS BUILDING CONSULTANCY

1.0 Purpose of Report

1.1 To update Members on the following:

- (a) the outcomes of the Practioner Led Service Review of the Service, as advised within the previous report to Policy & Finance Committee on 4 April 2019, including;
- (b) the financial position for East Midlands Building Consultancy (EMBC) and NSDC; and
- (c) recommended next steps in terms of the partnership and extension of the contract.

2.0 Background Information

2.1 Members will be aware that in April 2016 the Council entered into a partnership previously formed between South Kesteven (SKDC) and Rushcliffe Borough Council's (RBC) to provide the Council's Building Control service. This partnership is called the East Midlands Building Consultancy and is delivered and hosted by SKDC. The contract with EMBC initially ran for 3 years, ending in April 2019, albeit this can, and has, been extended by agreement.

2.2 Building Control is unique compared to many other services provided by the Council in that it has to compete for work against the market, principally other councils and [independent] approved inspectors (AI). The exception to this are the statutory functions that a local authority building control service has to provide (and cannot be undertaken by an AI) such as dealing with dangerous structures, applications relating to work for disabled facilities, emergency planning etc. Such work cannot be charged for.

2.3 The reasons for entering into the partnership were captured by a report to the Policy & Finance Committee on 24 March 2016 report. They principally included:

- a) the inability of the service to reduce its strain on both the general fund and a substantial ongoing deficit; and
- b) issues with staff retention and recruitment given the attractiveness and pay of the private sector.

2.4 The partnership board is made up of a representative from each of the partners authorities being Newark & Sherwood District Council, Rushcliffe Borough Council and South Kesteven District Council. The board has primary responsibility for overseeing the operational management and delivery of the joint building control partnership and associated Business Plan. Alongside the partnership board is the Chief Executives Board, with the CEO from each authority attending to oversee the strategic direction of the partnership, ensuring key milestones are delivered, authorising any expansion of the partnership as well as changes to a Resource Availability Statement.

2.5 Following 4 years of operation EMBC has successfully arrested the previous financial decline of the service. As is demonstrated by the tables below the net costs of the service has been reduced. Critically, the deficit has been reduced to such a degree that the year-end position in 2018/19 for both NSDC and SKDC was that the deficit was cleared. This has continued into 2019/20 where it can be seen the account is £33, 305 in 'profit'. It must be noted that such 'profit' cannot be absorbed by the General Fund. Rather, this is ring-fenced for the running of the service. In the case of NSDC this is effectively used to reduce the Council's general fund contribution to the service.

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
NET COST (£)	180,607	136,764	120,178	43,920*	152,715	138,634	92,974	110,875	82,032

* 3 no. staff members left

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
DEFICIT (£)	-114,068	-95,429	-66,117	-187,490	-91,324	-66,366	-7,077	15,233	33,305

3.0 **Proposal**

3.1 Members will be aware from the April 2019 update that a review of the partnership was proposed, which would look at viable options around the continuation and/or expansion of the partnership.

3.2 An aspiration to progress and expand EMBC further has always been present, if matched by demand from other Local Authorities to possibly join the partnership or work closely with it. There have been previous approaches from 2 authorities in the region to join the current set-up.

3.3 EMBC commissioned specialist advice for future options, including a review of the service, market conditions, and options for the future in 2019. A number of options were appraised comprising:

- (1) Business as usual with service improvements;
- (2) Joint ventures (larger informal partnership with other Council's/Additional partner with private sector partner/Informal partner support); and
- (3) Joint local authority wholly owned trading company (Teckal company).

3.4 The appraisal took the majority of the second half of 2019 to undertake due to the level of detail that was investigated and examined. In appraising the above options the commission required that any proposals have regard to achieving the following:

- Costs reduction for all partners
- Economies of scale
- Deficit reduction and a balanced trading account
- Synergy and opportunity to grow market share
- Improved customer service and resilience
- Staff development
- Opportunity for alternative delivery models
- Contribution to the delivery of the partner's wide strategic objectives.

- 3.5 As well as the three options above, there is always a fourth option and that is to withdraw from the partnership. This will be discussed when the above report is presented, however, consideration would need to be given to the reason why the Council entered into the partnership in the first place, which included challenges in recruiting staff due to the attractiveness of the private sector (AIs) and a downturn in the construction industry with a corresponding downturn in fee income receipts.
- 3.6 A summary of the review of the existing service provision, together with the outcome of each of these options identifying the preferred, is provided below. Due to the Building Control Service being a competitive service, information provided is limited to that which is considered to not prejudice the service's competitive advantage.

4.0 Outcomes of the Practitioner Led Service Review of the Service

- 4.1 The service review was undertaken by Capita with the aim to analyse the current service provision in place and provide suggested solutions to improve the service both in the short and medium/long terms. Due to EMBC service being a competitive service, the information provided within this report is such that it will not fetter the consultancies ability to compete with other providers, nor provide those competitors with a marketing advantage.
- 4.2 A full review of the service including cost and income, staff numbers (including qualifications, age and experience), amount of work undertaken – both fee and non-fee earning and speed of undertaking work, including the amount of work 'lost' to the private sector was undertaken.
- 4.3 This demonstrated a high and stable workload, notwithstanding a fairly high level of Approved Inspector (AI) presence, with a corresponding stable and increasing fee income. Importantly each applicant using the EMBC is sent a Customer Service Questionnaire upon completion. Table 1 below provides a summary of the results, which demonstrates customers are satisfied with the service received.

Table 1: Summary of Customer Service Questionnaire Results

Question	Percentage Satisfied
1. How satisfied were you with the Building Control web page?	78%
2. How satisfied were you with the facilities at our Offices?	61%
3. How helpful and responsive were the Building Control personnel?	98%
4. How courteous did you find the Building Control personnel?	98%
5. How accessible were Building Control personnel?	98%
6. Do you feel Building Control added value to the finished product?	91%
7. If you are a regular user of the service, has the quality of the Service improved over the last year?	58% Yes 42% same 0% worse
8. Overall how satisfied were you with the service offered by Building Control?	98%
9. Do you feel that Building Control applied the Building Regulations professionally?	97%
10. Do you consider the approval and site inspections value for Money?	98%

- 4.4 An analysis of the productivity and financial analysis suggests the “...fee levels and productivity are very competitive, especially considering issues associated with service resilience”. Suggestions were made on how EMBC could improve these aspects, a number of which have been initiated.
- 4.5 Productivity is analysed alongside service quality with suggestions on improvements to improve the split between fee earning and non-fee earning. Additionally resilience and the future are detailed, albeit the report was finalised before the Covid-19 outbreak which has had repercussions as discussed below. An analysis of the competition within the locality by AIs indicates that whilst the number of AIs has reduced in recent years that the competition between them and EMBC remains strong and EMBC should consider a number of options for service development.
- 4.6 The conclusion of the review are that:
- East Midlands Building Consultancy is very customer and business focused.
 - Staff numbers are about right to the fee income.
 - Productivity appears good based on staff costs versus fee income.
 - Total number of Fee Earning Applications is stable.
 - Workload in the region is stable.
 - Turnaround times are excellent and are regularly exceeded.
 - East Midlands Building Consultancy had 4 winners at the LABC Awards.
 - The number of inspections meets the average.

However, challenges and improvement areas include that:

- AI competition in the locality is high.
- The Service would benefit from the appointment of a long-term Building Control Manager/Service Manager, position which has been delivered via an ‘act up position’ for the last few years.

- 4.7 A number of recommended improvement options have been suggested as follows:
- Option 1: Business as Usual with Service Improvements
This would maintain the existing model but formally introduce a series of service improvement recommendations with an expected aim of maximising resilience and performance of the partnership.
 - Option 2: Joint Ventures – Larger Informal Partnership with other Councils / Additional Partner with Private Sector Partner / Informal Partner Support
These models would retain the current in-house service but seek to create an arm’s length strategic and operational partnership with other entities, such as a private sector partner. The partners could benefit the councils in a number of ways including – commercial support, additional capacity and resilience, sales and marketing and joint staff recruitment. Profit share and risk/reward arrangements are increasingly common in such arrangements. Specific conditions are often required such as a longer-term duration of contract, additional income to be directly proportional to the risk/effort that is expected of the private sector partner.

The report identifies the current EMBC model is high performing and meeting customer requirements well. Introducing this model may be cumbersome for the benefits to be realised in the current market environment, without a guarantee of securing greater market share. An OJEU public procurement exercise would be required.

▪ Option 3: Joint Authority Wholly Owned Trading Company (Teckal Company)

The model operates within a formal company structure with each Council having a shareholding, with the company incentivised to secure work, grow organically and be profitable. It is better able to tackle AI competition. The amount of outside trading the exempt arrangement can enjoy is limited to less than 20% of its overall turnover (i.e. 80% must be for its public sector owners). The arrangements for Teckal arrangements are complex and subject to challenge.

The company cannot be subsidised by the Local Authority and the authority must recover the costs of any accommodation, goods, services, employees or other support provided to the company. As indicated there is an increased risk of challenge by other companies who might be affected [financially] by such trading companies.

In relation to the amount of exemption (20%) referred to above, problems can arise when the contract comes up for renewal if the company has diversified its activities and more than 20% of its turnover relates to non-local authority business. In such circumstances the company would need to bid in competition for the renewal of the core contract. If the core activities are crucial to the financial position of the company, it could mean the trading company ceases to be viable.

The report summarises that whilst this model is acceptable, EMBC is high performing and meeting its customers objections and introduction of this model might be too expensive and cumbersome to introduce for the benefits to be realised in the current market environment.

Operational Service Split

- 4.8 Examination was made of ways to improve the operational split - that is the % of fee earning work secured against the % of non-fee earning work (the statutory elements) which must be undertaken. Various options are discussed within the report, but are commercially sensitive and thus not published here.
- 4.9 The last option is to withdraw from the shared service and bring building control back to the Council to operate. However, as referred to above the Council originally joined EMBC due to the challenges in recruiting staff, due to the attractiveness of the private sector (AIs) and a downturn in the construction industry with a corresponding downturn in fee income receipts. Additionally, with the uncertainty in the economy in view of Covid-19 and the NSDC's share of the partnership now showing a profit, it is not considered that the current climate is the time to consider such a change.

Conclusion

- 4.10 The conclusion of the options above is that Option 1: Business as Usual with Service Improvements is the preferred option by all Lead Officers of the 3 authorities, with these for NSDC being, Matt Lamb – Director, Planning & Growth, and Lisa Hughes – Business

Manager – Planning Development. This option as well as continuing the existing partnerships with SKDC and RBC will still allow for services to be provided to other local authorities on a consultancy basis rather than a formal partnership with another Council decision-maker on the Board. This option is also favoured by SKDC and RBC colleagues. It enables the councils to retain full ownership and control of the company so can directly influence how services are delivered.

- 4.11 The options of maintaining the status quo of partnership structure is accompanied by a raft of service improvement recommendations, with the intention of maximising efficiencies, customer satisfaction (already high), resiliency, and market share.

5.0 Financial Implications – FIN20-21/8693

- 5.1 EMBC has demonstrated success since its inception in increasing market share, fee income, staff resiliency, and reducing the level of deficit for all three Local Authority Partners. Two of the partners have cleared the deficit within the financial year 2018/19 and growth has continued into 2019/20.

NSDC entered in to the partnership in 2016 with a £91,000 deficit, in 2018-19 we saw this become a surplus to the account.

Payments to the Partnership, are made up of 2 elements - a Management Fee and an Admin Fee:

Management Fee NSDC 20-21

Gross Expenditure NSDC: £309,167

Gross Income NSDC: -£219,849

Net Costs NSDC: £89,318

Administration Fee

£20,000 payable by NSDC.

The Statutory Non Fee Earning Element of this service along with the Admin Fee will always generate a cost to the Councils General Fund. The net cost is now slowly and consistently improving the Councils overall position. It is estimated that the impact for 2020-21 net cost is to be £109,318, an estimated cost for 2021-22 to be £111,192 and for 2022-23 is estimated to be £113,069.

- 5.2 The Covid-19 outbreak has had impact, like many other service areas, on the amount of fee income received. At 14 April 2020, income received for the 2020/21 financial year was £3,773 compared to £42,253 for the previous financial year, equivalent to a 91% drop. In relation to the amount of work, there had been a fall across the board by 74% in applications, 72% in phone calls, 77% in inspections, 96% in competent persons and 61% plan checking. Requests for quotes remain at the same rate as last year.
- 5.3 As a result of this, a decision to furlough the majority of building control staff (11) for an initial 3-week period commencing 20 April was agreed between the three authorities Chief Executives and Section 151 Officers. A number of officers were required to be retained to provide emergency cover, general geographic cover, technical support and recovery business plans. Therefore 4 inspectors and 2 technical support officers were retained. A review was undertaken towards the end of this initial 3-week period to consider whether or not to extend the furloughing of staff.

- 5.4 The review of this action in June demonstrated the officers who had been retained had been busy, with evidence provided of applications continuing to be received, with the numbers slowly increasing week on week. In addition, quite a significant number of phone calls and inspection requests had been received following the initial reduction. The amount of work being received had increased from the initial April figures above towards 50% of that received at the same time in 2019/20. However, income in June has increased such that the service has received approximately 70% of its profiled income. Therefore, whilst the applications and income are still less than 2019/20, there appears to be a consistent gradual increase since the lockdown was initially implemented and following the Secretary of State advising the construction industry to return to work.
- 5.5 The initial furloughing decision indicated a salary saving of approximately £20,000 a month. Based on income to date, the forecast position is that there could be a trading deficit of £8,256 and general fund contribution of £74,167 per partner. This, if the forecast is accurate would comprise an increase of £474 on the budgeted contribution per partner.
- 5.6 The impacts of Covid-19 are, and will be, continually reviewed to understand their impact in terms of the EMBC service. In addition, officers of EMBC are investigating a other measures to improve resilience and reduce costs, such as improvements to ICT as well as how they might attract more of the market share as operations return to a more normal state.
- 5.7 Whilst the overall impacts of Covid-19 on the construction sector in the medium to longer-term are unknown, the service has shown over the previous two years a significant positive benefit to the Council in terms of income received and clearing the deficit since joining the partnership.

6.0 RECOMMENDATIONS that:

- (a) **the existing contract with East Midlands Building Consultancy for Building Control Services in partnership with Rushcliffe Borough Council and South Kesteven District Council be extended until April 2023, subject to annual review; and**
- (b) **the financial position of the East Midlands Building Consultancy be noted.**

Reason for Recommendations

To provide a sustainable Building Control service in partnership with neighbouring authorities.

Background Papers

Report to 4 April 2019 Policy & Finance Committee
Report and appendices to 24 March 2016 Policy & Finance Committee

For further information please contact Lisa Hughes on Ext 5565.

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