

CABINET AGENDA



**TUESDAY 12 JULY 2022 AT 7.30 PM
COUNCIL CHAMBER, THE FORUM**

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Membership

Councillor Williams (Leader)	Councillor Anderson
Councillor Griffiths (Deputy Leader)	Councillor Banks
Councillor Elliot	Councillor Barrett

For further information, please contact Corporate and Democratic Support or 01442 228209

AGENDA

- 18. HBC CONTRACT EXTENSION (Pages 2 - 7)**



Report for:	Cabinet
Title of report:	Extension of Contract - Hertfordshire Building Control
Date:	12 th July 2022
Report on behalf of:	Councillor Andrew Williams, Portfolio Holder for Commercial Strategy and Delivery
Part:	I
If Part II, reason:	N/A
Appendices:	None
Background papers:	Cabinet report 10 th September 2019 Officer Decision 23 rd October 2020
Glossary of acronyms and any other abbreviations used in this report:	HBC - Hertfordshire Building Control

Report Author / Responsible Officer

Mark Brookes, Assistant Director – Legal and Democratic Services

Farida Hussain, Head of Legal and Democratic Service



Mark.brookes@dacorum.gov.uk / 01442 228236 (ext. 2236)

Corporate Priorities	A clean, safe and enjoyable environment Ensuring efficient, effective and modern service delivery
Wards affected	ALL

<p>Purpose of the report:</p>	<p>To set out proposals to Cabinet for the continued delivery of the Council's Building Control Service by Hertfordshire Building Control Limited.</p>
<p>Recommendation (s) to the decision maker (s):</p>	<p>That Cabinet agrees to:-</p> <ol style="list-style-type: none"> 1. Extend the current Services Agreement with Hertfordshire Building Control until 31st March 2023 and delegate authority to the Chief Executive in consultation with Assistant Director, Legal and Democratic Services and Chief Financial Officer to agree future extensions. 2. Delegate authority to the Chief Executive in consultation with the Assistant Director, Legal and Democratic Services and Chief Financial Officer to agree any final and outstanding legal, technical, financial and operational matters to be concluded in effecting the proposed extension of contract noted in recommendation 1 or the LA1 function. 3. Continue the appointment of Three Rivers District Council to perform the LA1 contract management function and the audit and issue of statutory notices as per the current arrangements. 4. Appoint East Hertfordshire District Council to perform the statutory notice LA1 function until 31st March 2023 5. Delegate authority to the Chief Executive, following consultation with the Portfolio Holder for Commercial Strategy and Delivery, Assistant Director, Strategic Director (Corporate and Commercial Services), Assistant Director, Legal and

	Democratic Services and Chief Financial Officer, to agree and finalise any future arrangements for statutory building control including the LA1 function beyond 31 st March 2023.
Period for post policy/project review:	Prior to the expiry of the proposed contract extension

1 Introduction/Background:

1.1 On 18th September 2019 Council accepted Cabinet’s recommendation to transfer the Borough Council’s Building Control Service to Broste Rivers Limited, holding company of Hertfordshire Building Control Limited (“HBC”) and The Building Control (Hertfordshire) Company Ltd and resolved to pass a resolution to delegate statutory Building Control to one of Building Control authorities (“LA1”). The Council became HBC’s 8th shareholder joining Broxbourne, East Hertfordshire, Hertsmere, North Hertfordshire, Stevenage, Three Rivers and Welwyn Hatfield Councils who had established HBC in 2016.

The role of LA1 is to act as the Delegated Authority and to issue certificates through a Contract Manager, audit HBC and monitor service levels. An annual support sum is paid to LA1 by all the building control authorities. Currently LA1 is designated as Three Rivers Council.

2 Key Issues and proposals:

2.1 Building control services are contracted from the building control authorities to HBC through the Services Agreement which had a term of 5 years from 17th August 2016. The term was extended for a further year through a deed of variation dated 9th February 2021 following an Officer Decision dated 23rd October 2020. The extended term is due to end on 16 August 2022 and it is proposed that a further deed of variation is entered into to extend the Services Agreement until a new contract is completed and that authority be delegated to the Chief Executive in consultation with the Portfolio Holder and statutory officers to agree the new building control arrangements going forward.

2.2 Under the current arrangements, all the building control authorities have delegated their statutory building control functions to Three Rivers Council. However, as the current Services Agreement comes to an end, the future of this role is yet to be determined. Three Rivers District Council has offered to continue to deliver the LA1 functions in relation to contract management function and the audit and issue of statutory notices, but has requested that the statutory notices are signed by the authorised officer of the local authority to which the notice relates.

2.3 East Hertfordshire Council has come forward to accept a delegation to perform the statutory building control sign off functions on behalf of the other building control authorities until 31st March 2023, on the basis that a director with knowledge and expertise in the area of building control will be specifically employed to perform the role of LA1 Director and the costs are to be shared between the building control authorities.

- 2.4 Consideration for the delivery of the LA1 function beyond 31st March 2023 will be assessed by the partner authorities in-year and delegated authority is sought to the Chief Executive following consultation with the Portfolio Holder for Commercial Strategy and Delivery, the Strategic Director (Corporate and Commercial Services) and the statutory officers to agree the appropriate body to perform this role post 2023. It may be a role that Dacorum may consider performing in the future and this will be considered further with partner authorities.

3 Options and alternatives considered

- 3.1 Three Rivers District Council has offered to continue to deliver the LA1 functions in relation to contract management function and the audit and issue of statutory notices, with each partner authority signing off its own statutory notices, however, this option is not recommended because it is a more complex process than is necessary and there would be a separation from the audit and signatory process, without the appropriate expertise within each authority to provide the assurance oversight function
- 3.2 Should no action be taken, the current Services Agreement with HBC will expire on 16th August 2022 which would result in the Council taking back in-house building control functions. There are currently no staff members who could provide this service in-house so a new team would need to be developed and recruited which is likely to be a difficult and lengthy process in the current recruitment market and, as a result, Building Control Services would be detrimentally affected.

4 Consultation

Consultation has taken place with the Council's Strategic Leadership Team and Senior Cabinet members. There also been extensive discussion with partner authorities who have agreed to the approach set out in this report.

5 Financial and value for money implications:

Currently the Annual Support charge that the Council pays to Three Rivers Council is £26K. It is anticipated that the cost to perform the role of LA1 will increase as a part-time LA1 Director will be employed by East Hertfordshire Council specifically to perform the role of LA1 Contract Manager. The costs relating to this role will be shared equally by the eight building control authorities and are projected to be no more that £3,500 per authority to the end of March 2023.

6 Legal Implications

Pursuant to section 101 of the Local Government act 1972, any function of a local authority may be delegated to another local authority. Building control is a statutory function within which certain functions cannot be delegated to any external body (other than another local authority) even if the body itself is wholly owned by other local authorities.

7 Risk implications:

If the extension to the current agreement is not concluded and a further agreement entered into, then the operational requirement to provide Local Authority Building Control services in the Borough of Dacorum will revert back to DBC as it is a statutory requirement. The Council no longer employs any Building Control professionals, no administration staff to support this service and therefore currently has no capacity. It would have to rely on expensive agency staff adding costs to the Council. Furthermore as Building Control is a competitive service, it would have to build up new businesses from customer from a very

low customer base with a large risk of under achievement of income necessary to support the service.

8 Equalities, Community Impact and Human Rights:

There are no community or equality impacts arising directly from this report.
There are no Human Rights Implications arising from this report.

9 Sustainability implications (including climate change, health and wellbeing, community safety)

A sustainable and well-functioning Building Control Service in the long term will continue to ensure that new building are constructed to safe standards in compliance with the national Building Regulations, and that an effective service is in place to deal with public safety issues of dangerous structures as they arise can continue to be provided and delivered effectively.

10 Council infrastructure (including Health and Safety, HR/OD, assets and other resources)

There are no impacts arising directly from this report.

11 Statutory Comments

Monitoring Officer:

A resolution was passed on 18th September 2019 to delegate statutory Building Control functions to one of the Building Control authorities. This delegation remains in place but, for completeness, as part of the LA1 function is being changed to a different authority this report brought to Cabinet for approval. Further delegations are being proposed so that future commercial decisions on the LA1 function can be agreed by officers.

To extend the current Services Agreement, a deed of variation will need to be completed to give effect of the contract extension and also to formalise any changes to the role of LA1.

This report was not on the Forward Plan and is reported to Cabinet as an urgent decision without giving the usual 28 days' notice of an Executive Decision. The decision is urgent because the current Service Level Agreement ends in August and needs to be extended to ensure that the Building Control service can continue to operate.

The Chairman of the Finance and Resources Overview and Scrutiny Committee has been consulted and has agreed that this report be treated as an urgent decision as it cannot reasonably be deferred to the next Cabinet meeting in September.

S151:

The 22/23 budget is sufficient to fund the current LA1 service agreement. Following further negotiations if additional costs are agreed and there is not sufficient budget available in existing approved budgets the service will be required to seek member approval for growth, in line with the current Financial Regulations.

12 Conclusions:

The above report sets out the current position with regards to the Building Control service and provides proposals to ensure continuity of the services provided which provide longer term resilience and offers the best value for money to the local tax payer.