

NORTH DEVON COUNCIL

Minutes of a meeting of Building Control Joint Committee held at Woodlands Enterprise Centre, Pathfields Business Park, South Molton on Thursday, 18th July, 2019 at 11.00 am

PRESENT: Members:

Councillors Barnell, Deed, Topham and Yabsley

Officers:

Head of Place, Building Control Manager, Accountancy Services Manager and Solicitor and Data Protection Officer

1. APPOINTMENT OF CHAIR 2019/20.

RESOLVED that Councillor Barnell be appointed Chairman of the Joint Committee for a period of one year from date of appointment.

2. APPOINTMENT OF VICE-CHAIR 2019/20

RESOLVED that Councillor Yabsley be appointed Vice-Chairman of the Joint Committee for a period of one year from date of appointment.

3. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

4. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 14TH FEBRUARY 2019 (ATTACHED)

RESOLVED, that the minutes of the meeting held on 14th February 2019 be approved as a correct record and signed by the Chairman.

5. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIRMAN SHOULD BE CONSIDERED AS A MATTER OF URGENCY.

The Head of Place introduced himself to the Joint Committee and advised that following the appointment of the new Chief Executive at North Devon Council he had been appointed as the lead officer for the Building Control Joint Committee.

The Chairman invited the members of the joint Committee and other officers to introduce themselves.

6. DECLARATIONS OF INTEREST

The following declarations of interest were announced:

Councillor Yabsley: All items – Personal interest as a member of Devon County Council and a member of the Devon and Somerset Fire Authority.

7. POOLED BUDGET TRADING ACCOUNT 2018/19.

The Joint Committee received an update by the Accountancy Services Manager in relation to the Pooled Budget and Building Control Trading Account 2018/19 (circulated previously).

The Accountancy Services Manager highlighted the following:

- Column one detailed the net budget expenditure for both North Devon and Mid Devon District Councils, which was £68K and £34K respectively.
- Column two detailed the actual expenditure for both North Devon and Mid Devon District Councils from April 2018 to March 2019, which was £429K and £245K respectively and showed a total net deficit of £79K. He added that in comparison to the year 2017/18, when the deficit was £109K that the service was in a more favourable financial position.
- Column three detailed the ratio of income to each authority, which was split 60:40 between North Devon and Mid Devon District Councils.
- Column four detailed the chargeable 75% and non-chargeable 25% elements of the service for North Devon Council.

The Building Control Manager advised that the initial figures for 2019/20 were slightly distorted and following a decision of the previous Committee to charge 100% fee at the initial stage, it had created an artificially high income at the present time. The Head of Resources was aware and the one-off windfall would be put into the earmarked reserves for Building Control.

In response to a question relating to the distortion of figures following the 100% fee at the initial stage, the Accountancy Services Manager (NDC) advised that a calculation would be done to work out what additional fees would be placed into the reserves for as long as required.

In response to a further question regarding the chargeable percentage of 75% and whether it should be higher, the Building Control Manager (NDC) advised

that the figure was similar to that of other Councils with the chargeable percentage between 50-80%.

In response to a question regarding pooled budgets, the Accountancy Services Manager advised that the Head of Resources at North Devon Council had regular meetings with his equivalent officer at Mid Devon District Council.

In response to a question regarding whether the increases indicated an improved percentage of the market. The Building Control Manager advised that the service had improved in terms of winning larger projects. However, its overall position in the market remained at the same level. The service had expanded its share in the housing sector and been successful in regaining a number of former contracts.

8. KEY PERFORMANCE INDICATORS

The Joint Committee received an update by the Building Control Manager (circulated previously) regarding the Key Performance Indicators (KPIs).

The Building Control Manager highlighted the following:

- There were six Key Performance Indicators (KPIs) for the Building Control Service.
- The percentage figure for Building Regulation Full Plan applications determined within two months for quarter one was 99% against a target of 95%.
- The replacement of a Surveyor with a trainee was continuing to impact on plan check times, which was 84% for quarter one against a target of 95%. However, the trainee was progressing well and the service was beginning to allocate specific work to him which would reduce the workload on some other officers. There was also ongoing work to improve the performance of some individuals with regard to that particular KPI.
- The average time to first response was 12 days for quarter one against a target of 10.
- The market share for the number of applications was 74% against a target of 75%, which was slightly disappointing as there had been an upward trend following the formation of the partnership. However, the service had lost two employees, one from each Council to another local company who were winning contracts as a consequence.

In response to a question regarding how the fees compared with competing Approved Inspectors, the Building Control Manager advised that certain elements of work were cheaper with other local companies. However, he added that the lower fee was reflected in the service received and that some original clients were re-utilising the service of local authorities.

In response to a further question regarding the financial position for quarter one, which was currently to be agreed. The Building Control Manager advised that the figure was above expectation at the current time.

In response to a question regarding the target for the market share for number of applications, the Accountancy Services Manager advised that the figure of 75% had been in place for a number of years but that the figure could be reviewed if required.

RESOLVED:

- (a) that the advice of the Chief Finance Officer be sought in relation to the trading and non-trading account figures for the first two quarters prior to the agreement that any financial surplus resulting from the change to fee collection being ring fenced for future service development to allow the Committee to make an informed decision;
- (b) that advance payments for services be treated as an accrual and that the advice of the Chief Finance Officer be sought in relation to the most appropriate mechanism to reflect that within the accounts;
- (c) that this information be presented at the next meeting on a date to be agreed in October 2019; and
- (d) that whilst the it was acknowledged that it was not recognised as a KPI as in isolation it did not measure performance, the actual number of applications be included to the percentage figure as part of KPIs for the market share for number of applications.

9. BUILDING CONTROL BUSINESS UPDATE

The Joint Committee considered a report by the Building Control Manager (circulated previously) in relation to the Building Control Business update.

The Building Control Manager highlighted the following points to the Committee:

- Staff had been under pressure as a result of increased workloads following the recruitment of a trainee in January 2019 to replace a Senior Surveyor. The training was going well and the service was now going to begin to allocate workload directly which would begin to alleviate the situation. The trainee had a BSc (Hons) Building Surveying Degree but to ensure the maximum speed of development and ensure that the service met the Local Authority Building Control (LABC) competency framework moving forward the trainee was enrolling on the Degree in Public Service Building Control provided by Wolverhampton University which would be funded through the apprenticeship levy.
- Two Surveyors had now gained the Level 5 diploma in Building Control, which was awarded by Wolverhampton University via LABC scheme. This was evidence that supported the LABC competency framework for all but the most complex non-residential developments. Both officers were now exploring the option of studying for level six.
- The Hackitt enquiry and the resulting consultation document published by Ministry of Housing Communities and Local Government (MHCLG)

had caused insurers to reassess their exposure to risk in the Building Control market.

- Up until recently there had only been three insurers involved in the provision of cover for private sector Building Control, they were:
 - National House Building Council (NHBC).
 - Howdens.
 - Griffiths and Armour.

- As a result Howdens had now decided to withdraw as they were unable to find an underwriter and were therefore not renewing any Approved Inspector policies when they expired. NHBC only insured themselves so there was now only one possible insurer.
- Initially Griffiths and Armour stated that they would not take on any of Howdens clients but following lobbying of Government to take action with regard to this situation they had reviewed this policy and were now looking at the risk profile of each Approved Inspector (AI's) individually before offering cover. So far this had impacted the following AI's:
 - Head Projects Building Control.
 - Aedis.
 - Guy Shattock.
 - Dunwoody Building Legislation.
 - ACT Building Control Ltd.
 - Celtec Consultancy Ltd.
 - Thames Building Control.
 - Meridian Consult.

- Three of those companies Aedis, ACT and Celtec had a significant number of initial notices in the local area. Four of the companies had been successful in gaining insurance but the remaining four companies had not.
- Aedis was unable to obtain insurance and as a result had gone into liquidation. The records indicated that Aedis had 17 active projects within the Partnership area that had not been issued with completion dates. Reversion applications would need to be made to the Local Authority for which a fee would be applicable.
- South Hams had recently passed a motion that:

“This Council will lobby MPs and write to MHCLG to express its concerns about the standards of new housing, calling for:

 1. A minimum number of inspections to be carried out on every new dwelling by the Building Control body, local authority or private sector;
 2. Quality of work to be incorporated to a higher degree than present, in the Building Regulations;
 3. Newly constructed timber framed housing to be included in the Governments Building Safety Programme; and
 4. Local Authorities to become the sole provider of Building Control, at least on high risk and all new residential buildings.”

- A report had been taken to both North and Mid Devon District Councils and recommending not to follow the example of South Hams Council and the reasons for this were set out in the report under paragraph 2.3.2.1 numbered one to four.
- South Hams Council had written to the Chief Executives of both North Devon and Mid Devon District Councils a month ago and the Head of Place advised that the Chief Executive of Mid Devon District Council had provided a robust response to the letter. However, with a new Chief Executive recently in post at North Devon Council he was unable to advise as to whether or not there had been a response from North Devon Council.
- The Head of Place added that Devon County Council had declared a climate emergency.
- As a result of the Grenfell Tower fire, building regulations had been amended to ban the use of combustible materials in the facades of building over 18m high. However, there was criticism as there was nothing in the revised regulations to protect residents of flats lower than 18 metres. The MHCLG had since issued a response stating that the use of combustible materials in facades lower than 18m should be considered under Building Regulation Requirement B4.
- Building Control officers from across the country had challenged the government in relation to the inclusion of buildings lower than 18m in the regulations.
- Letters had been sent to both Chief Executive Officers and officers awaited a response.

In response to a question regarding the impact of the additional 17 projects, the Building Control Manager advised that the impact upon the authority was significant.

RESOLVED:

- (a) that the impact of the 17 additional projects be monitored by the Joint Committee;
- (b) that the responses from the Chief Executives of both Councils be presented to the next meeting of the Joint Committee;
- (c) that an update be provided by the Building Control Manager in relation to the changes to the regulations and that an explanation be provided as to “what nearly zero new carbon builds” meant; and
- (d) that the responses from both Chief Executives to the letters sent in relation to the inclusion of buildings less than 18m tall under Building Regulation Requirement B4 be supported by the Joint Committee.

The Committee wished to record their congratulations to the two Surveyors that had recently gained their Level 5 diplomas in Building Control.

10. ORDER OF AGENDA

RESOLVED, that item 12 be considered before item 11 on the agenda to enable full discussion of dates with all Members present.

11. DATES AND LOCATIONS OF FUTURE MEETINGS. TO AGREE DATES AND LOCATIONS OF FUTURE MEETINGS OF THE COMMITTEE FOR 2019/20.

The Joint Committee discussed the dates and locations of future meetings for 2019/20.

RESOLVED:

- (a) that the start times of the meetings be changed to 9.00am;
- (b) that the next meeting be scheduled for Thursday 31st October 2019 at 9.00am at Woodlands Enterprise Centre; and
- (c) that the Clerk to the Committee circulate an email to propose dates for future meetings for 2019/20.

12. GOVERNMENT PROPOSALS RESULTING FROM THE HACKITT ENQUIRY

The Joint Committee received an update from the Building Control Manager regarding the Government Proposals resulting from the Hackitt Enquiry.

He drew the Committee's attention to the following points:

- The government's proposals had been published following the Hackitt Enquiry and the post Grenfell response was as follows:
 - A review had been commissioned.
 - An established safety programme had been implemented.
 - Amended building regulations had been published.
 - The social housing green paper had been published.
 - Housing Health and Safety system had been reviewed.
 - Any gaps and inconsistencies had been identified.

He added that as part of the scope, the building regulations for multi-occupied buildings that were more than 18m high had been amended to ban the use of combustible materials in the facades of buildings over that height. He reassured the Joint Committee that there were no buildings of that nature within the North Devon and Mid Devon areas. There was however, the potential for the inclusion of prisons, hospitals and other public buildings in the future. The regulations currently excluded multi storey offices and hotels.

The Head of Place added that the Civic Centre tower block could become a potential issue if it were to be redeveloped into housing. The Building Control Manager advised that he had not had any recent updates in relation to the progress made with the negotiations for the Civic Centre tower block. In response to this, the Head of Place advised that he could provide the Building Control Manager with an update in relation to the latest position following the meeting.

The Building Control Manager explained the Duty Holder roles and their place within the design and construction phase. He also explained the enforcement process.

In response to a question regarding whether there had been any potential applications for the Proceeds of Crime Act (POCA), the Building Control Manager advised that he was not aware that any case of that nature that had been followed through.

He advised that in terms of competence there were 12 working groups established together with a licensing regime that required re-qualification of officers every three years. He added that there were concerns that in an area which was already difficult to recruit to more people might leave the profession. In terms of the impact upon local authority Building Control, there had not been many cases nationally that had taken the route of the Magistrates Court; however, the government were keen to change that. There was a potential risk terms of the retention of existing employees and the impact upon future recruitment. He added that the risk could be mitigated via the job evaluation process to recognise individual qualifications.

He explained that the Building Control team would not be able to undertake work for its own local authority due to a conflict of interest. He added that it was currently unclear as to how the Building Control bodies would be appointed.

Following the update, the Joint Committee discussed the following:

- The importance of regular updates to keep the Members informed of any developments or issues that arose.
- The role of the Joint Committee within the communication channel.
- The importance of bringing urgent issues to the attention of the Joint Committee at the earliest opportunity.

In response to a question regarding the submission of the minutes of the Joint Committee to the Strategy and Resources Committee. The Solicitor and Data Protection Officer advised that a report could be submitted to the Building Control Manager to highlight any issues to the Strategy and Resources Committee.

The Chairman added that both Councils would need to agree a formal route in regards to the arrangements for disseminating information from the Joint Committee.

RESOLVED:

- (a) that a standing item be added to each agenda of the Joint Committee

to provide Members with regular updates in terms of the management arrangements; and

- (b) that emails be circulated between meetings with any important information that should be brought to the attention of the Joint Committee members.

The Chairman thanked the Building Control Manager for the update.

Chairman

The meeting ended at 1.09 pm