

**TELFORD & WREKIN COUNCIL****CABINET – 20 APRIL 2017****SUPPORTING GROWTH – DEVELOPMENT MANAGEMENT****REPORT OF ASSISTANT DIRECTOR: BUSINESS, DEVELOPMENT & EMPLOYMENT****LEAD CABINET MEMBER – CLLR OVERTON****PART A) – SUMMARY REPORT****1. SUMMARY OF MAIN PROPOSALS**

- 1.1 This report outlines proposals for the introduction of a multidisciplinary ‘one stop shop’ development service to bring about a step change in the provision of development management services. The new approach will see the provision of enhanced, discretionary development services designed in response to soft market testing which increase efficiency, improve planning determination times, generate additional income, and reduce costs to the service and applicants. It will also adapt the planning service area to respond effectively to the Government’s proposals to introduce private sector competition into the processing of planning applications. Alongside enhanced pre application advice and the ability to tailor a package of support to applicants in the Borough the proposal will enable the service to provide planning and development services outside the Borough.
- 1.2 Development Management is one of the first services that developers/investors ‘touch’ and as such is central to delivering sustainable growth and the ‘Business Winning, Business Supporting’ agenda – processing c.1200 applications in 2016/17. It is also a significant ‘gateway’ to promoting the authorities wider commercial services. The service fulfils a range of statutory duties on behalf of the Council from the determination of planning applications, planning enforcement, the production of planning policy, Local Authority Building Control, development control highway engineers, and a range of specialist development functions – including ecology, conservation, geotechnical, development delivery, affordable/specialist Housing and Healthy Spaces specialisms.
- 1.3 Following legislative changes in 2003 a significant number of Authorities have introduced charges for the provision of discretionary services; including charges for a number of development management functions such as pre-application advice, and providing historic data. To date TWC has resisted such charges however national changes to introduce greater competition within planning services and feedback from developers indicates a willingness to pay for the type of enhanced services which the new service can tailor to applicants requirements speeding up the delivery of development and ultimately delivering greater cost/time reductions to applicants. To ensure a quality service to all, a level of pre application advice would remain free of charge including an appointment booking service provided from Wellington Business & Planning First Point. The enhanced package of services are discretionary but offer new avenues of revenue to support the costs of the regulatory authority (which will remain separate and wholly responsible for the determination of planning applications), and provide income that covers the costs of the non-chargeable services.

- 1.4 The changes will offer new opportunities to connect developers from first contact directly into other investor services including biT (the Council's building, design and building management service) and the wider Enterprise Telford land, finance and skills investor offer. This will support growth and maximise income opportunities with residential and commercial developers able to benefit from tailored support from pre application stage, through planning, building design and project management through to ongoing building maintenance/management.
- 1.5 The Council's vision for the Borough is "to be the place of enterprise, innovation and partnership working'. As a Council we are continually challenged in delivering this vision, in light of reductions in government funding. There is a need to drive efficiency, challenge, and review and reimagine the way we deliver our services and support growth that strengthens our communities and delivers income to invest into front line services.

## RECOMMENDATIONS

- 2.1 That Cabinet approve and authorise the Assistant Director: Business, Development & Employment, and such other officer(s) authorised in writing by the Assistant Director: Business, Development & Employment, in consultation with the Cabinet Member for Housing, Leisure and Health:
- i. To make and implement whatever arrangements are considered by the Assistant Director: Business, Development & Employment to be necessary to undertake and charge for undertaking those functions listed in paragraph 4.5 & 6 of this report and such other planning, highways and building control functions the Assistant Director: Business, Development & Employment considers it would be lawful and appropriate to provide at a charge
  - ii. To set the charges on a full cost recovery basis for undertaking those functions listed at paragraph 4.5 & 6 of this report and such other planning, highways and building control functions the Assistant Director: Business, Development & Employment considers it would be lawful and appropriate to provide under such a charging regime and to amend those charges as required.
  - iii. To enter into any formal agreement, contract or other documentation necessary to implement whatever arrangements are considered by the Assistant Director: Business, Development & Employment to be necessary to provide services in respect of those functions listed at paragraph 4.5 & 6 of this report and in respect of such other planning, highways and building control functions the Assistant Director: Business, Development & Employment considers it would be lawful and appropriate to provide on a full cost recovery basis.
  - iv. to produce, approve and secure the implementation of a business plan setting out how the functions referred to in the above recommendations will be undertaken and charged for on a full cost recovery basis
- 2.2 That Cabinet approve and authorise the Assistant Director: Business, Development & Employment, and such officer(s) authorised in writing by this AD, in consultation with the Assistant Director: Finance & Human Resources and the Cabinet Member for Council Finance & Service Delivery to make changes to nationally set planning fees in line with National Government policy as set out in para 4.12 of the Report

## 2. SUMMARY IMPACT ASSESSMENT

<b>COMMUNITY IMPACT</b>	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes	<i>Business supporting, Business Winning Promoting speedy delivery of sustainable development</i>
	Will the proposals impact on specific groups of people?	
	No	
<b>TARGET COMPLETION/DELIVERY DATE</b>	Introduction of changes from mid April 2017	
<b>FINANCIAL/VALUE FOR MONEY IMPACT</b>	Yes	<p>The Development Management and Planning Policy team had a savings target of £158k as part of the 2016/17 – 2017/18 budget strategy. The restructure implemented in June 2016 delivered £68k cost reductions and put in place the staffing required to accommodate the multi-disciplinary service. This leaves a £90k income target which will be met through a combination of new income from the multi-disciplinary service and more income from the efficient delivery of the current service.</p> <p>Finance have modelled the multi-disciplinary service on full cost recovery basis. The Service area will utilise this information in their pricing strategy for discretionary services.</p> <p>It is important that Finance are involved during all stages as the new service is developed.</p> <p>The Housing White Paper (February 2016) proposes to allow Local Planning Authorities to increase nationally set planning fees by 20% from July 2017. This is on the proviso that the additional income is invested into the Planning Service. TWC has responded to Government to confirm the intention to increase fees by 20%. This is in line with benchmarking with other Authorities regionally and nationally. AEM 27/01/17.</p>
<b>LEGAL ISSUES</b>	Yes	<p>The Local Government Act 2003 enables councils to charge for, or trade in, activities relating to their functions on a commercial basis. Charging is recovering the costs of discretionary services whilst Trading generates surpluses and profits.</p> <p>Under section 93 of the 2003 Act, local authorities can charge for discretionary services on a cost recovery basis.</p> <p>Discretionary services are defined as those services that a local authority has power to provide but are not obliged to provide by law. Where there is a duty</p>

	<p>to provide a service, the Authority must make this available free of charge, however a charge can be applied for enhancements to the mandatory service, which is to a higher standard than that required by law, and as such considered discretionary, to which a charge can be applied.</p> <p>The Localism Act 2011 introduced a general power of competence “to do anything that individuals generally may do” (unless expressly prohibited by another statutory provision) thus enabling a local authority to provide discretionary services anywhere in the UK or elsewhere for a commercial purpose.</p> <p>The section 93 power however only relates to charging. It does not provide a local authority with a legal power to do anything. A local authority must be able to identify legal authority for what it wants to do. This is a key principle of local government administrative law.</p> <p>Capacity to act may be provided by general powers; specific powers; implied powers; or incidental powers. The Council can therefore rely in these circumstances on the subsidiary powers under section 111 of the Local Government Act 1972 to authorise the provision of a service to facilitate the discharge and thus make a charge under section 93 of the 2003 Act for the specific functions listed at section 4.1 of this report.</p> <p>The Council is under a general duty to secure that, from one financial year to the next, the income from charges for each separate service does not exceed or fall short of the costs of provision.</p> <p>The authority must offset any surplus or deficit in income as a result of any over or under recovery of charges when setting future charges for the discretionary service. This ensures that over time the income generated by the discretionary service equates to the cost of providing the service.</p> <p>Should the services generate a profit then this will be considered as trading and the Council will have to take steps to provide the services through a company. Likewise if the service is provided at less than full cost recovery, effectively providing a subsidised service, then this will be contrary to UK and EU law on anti-competitive practices.</p> <p>There are no express legal provisions for calculating income and expenditure for calculating the cost of the service. This is left to the local authority's discretion. The 2003 ODPM Guidance suggests how</p>
--	--

		<p>income and expenditure should be calculated and suggests that a local authority in deciding on its methodology for assessing costs may find it helpful to draw on the Chartered Institute of Public Finance and Accountancy Best Value Accounting Code of Practice (Code). The Authority has developed a model and guidance on calculating costs for charging for Council services.</p> <p>The provisions of the Housing and Planning Act 2016 which relate to the processing (but not determining) of planning applications by alternative providers i.e. not necessarily by the LPA for the area in which the application site is located, enable the Secretary of State to make regulations to introduce this change of approach. However, the required regulations have not yet been produced.</p> <p>Together with Planning Committee, the Council's Development Management Team has responsibility to perform the Council's statutory planning functions. The proper and independent performance of those statutory functions must be maintained at all times and legal advice will be provided to assist the Team in this respect as it implements the proposals set out in this report. Clear working arrangements will need to be put in place to demonstrate that the Council's statutory functions are being performed properly.</p>
<p><b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b></p>	<p>Yes</p>	<p>Where a planning service is undertaking development services such as the preparation of neighbourhood plans and/or the promotion of land for allocation there is a need for a clear functional and operational distinction between the roles of the officers, and the teams involved. Regulatory duties including the making of decisions must remain open and fair.</p> <p>The government's proposed pilot scheme for the 'Approved Provider' would allow applicants to choose other companies/authorities instead of its own Local Planning Authority Development Management team to process and consider their application and make recommendations to the Council for determination. Consequently there is a risk that the processing and presenting of planning applications that previously 'had' to be processed/presented by Telford &amp; Wrekin Council's in-house planning officers may be undertaken by private sector companies or other Local Authorities. However being involved in the pilot scheme will allow the Council's Development Management Team to compete to process, consider and present recommendations in respect of planning applications in other authority areas as well as the Borough which</p>

		<p>widens the market and increases income opportunities. By engaging with DCLG at the outset the Council will also be able to input into the emerging regulations, recognise any issues and pose possible solutions.</p> <p>Providing the enhanced services described in this report will enable the authority to provide appropriate solutions efficiently, acting as a consultant not just a processor, consultee and a regulatory body. This will enable us to prepare the solutions that the LPA require, streamlining any application and post application process to bring forward development earlier, which in consequence accelerates income from new homes bonus and business rates. Furthermore it will allow us to adapt to the market to provide a service beyond the Borough's boundary.</p>
<b>IMPACT ON SPECIFIC WARDS</b>	No	Borough-wide impact

**Part B) – ADDITIONAL INFORMATION**

**4. INFORMATION**

**Introduction:**

- 4.1 Development Management is a statutory and regulated service provided by the Local Authority. The Service is responsible for ensuring development that accords with local and national planning policy that maintains the interests and promotes the sustainable growth of our Borough and communities.
- 4.2 Development Management is also a key 'gateway' for developers/investors to the Council's Enterprise Telford investor services and in supporting the delivery of growth and the consequent homes, jobs and income this delivers. The service has been praised by developers for the changes made to speed up delivery and streamline processes and the Local Development Order introduced in January 2017 means many householder alterations no longer require a planning application reducing costs and time for both the service and applicant in addition to promoting the Council's building control function. Soft market testing however has identified opportunities to enhance the service to further coordinate and reduce cost and time for applicants.
- 4.3 Following the restructure of the service in 2016 which has established two discrete teams – a Regulatory Team responsible for the determination of planning applications, LDO compliance and enforcement and a Development Team to process applications - the Report proposes to further establish the Development Team as an in-house commercial multi-disciplinary development service. This will position the service to respond to changes to introduce competition into the delivery of planning services being considered nationally, recognise the emergency of a small number of local authority based 'place' services and build on feedback from users of the service including a number of major developers.

- 4.4 The proposals recognise the need for the service and the enhanced discretionary charge services to continue to meet the needs of householders, small and medium sized businesses (SME) as well as major investors. The proposals compliment the Local Development Order and maintain all statutory and the regulatory duties to provide planning, highway and building control services to enable sustainable development in the public interest.
- 4.5 The new Development Team will form a separate team from the Regulatory Team and would offer a range of new and existing services drawing on specialisms within the Service Area including planning control and planning policy, building regulations, highways development control, ecology, conservation, geotechnical and structural engineers, a Healthy Spaces Design Specialist and development delivery and affordable and specialist housing expertise. The new service would also package advice and services from the full range of experts in house.
- 4.6 The Development Team will provide quality professional development management advice based on the knowledge of what is required by the Local Authority, reducing abortive work by applicants and consultants saving them time and cost. In addition the service will be able to propose solutions to meet the requirements of the Local Authority driving efficiency and value for the client. At the outset this would include charges for enhanced services to those already undertaken by the Authority. Initially it is proposed this include the following functions (more information on these is in Appendix 1):-
- Enhanced pre-application advice, a contribution towards the costs of providing this service, but not covering cost of provision in full
  - The provision of all historic documents
  - Building Regulation applications:
    - Regularisation Applications
    - Demolitions
    - Dangerous structures
    - Opening historic files
    - Street naming and numbering
  - A range of highway and rights of way processes:
    - S184 of the Highways Act 1980
    - S116 to S121B of the Highways Act 1980
    - Various Highway licences – e.g. S178 of the Highways Act applications
    - S247 of the Town and Country Planning Act
    - S257 of the Town and Country Planning Act
    - S53 of the Wildlife and Countryside Act application
- 4.7 Building on the expertise within the Team a range of new services and service packages would then be developed capable of being tailored to applicants needs and which could be part of a wider investor offer alongside biT/Enterprise Telford and other services as these develop:
- Fast track discharge of condition – preparation and process
  - Preparation and submission of planning applications out of Borough to other LPAs; including any submission and representations at appeals
  - Promotion of land for allocation in Local Plans to Telford & Wrekin and other LPAs
  - Feasibility advice to developers both within Telford & Wrekin and other LPAs
  - Preparation of Local Plan and specialist materials to other LPAs (e.g. Preparation of supplementary planning documents, and Conservation Area Management Plans)

- Advice and preparation of Neighbourhood Plans on behalf of Town /Parish Councils – in the Borough and outside
- Ability for Building Regulations to work beyond the authority boundary widening the Market area
- Provision of Structural Reports and design service
- Geotechnical Reports and design service
- Ecological Reports and solutions
- Transport Assessments and highways design service
- Fully manage the S38 and S278 of the Highways Act applications (some functions are currently undertaken by a consultancy)
- Project management, including any applications for HLF funding's
- Preparation of 'Permission in Principle Sites' as described in the Housing and Planning Act 2016 - Giving in principle consents without technical detail
- Design, build and contract manage Healthy Spaces – including the erection of Play Equipment

4.8 Following the Housing & Planning Act 2016, while no timetable has been confirmed DCLG are proposing to introduce a pilot for 'Approved Providers'. If these proposals come to fruition this would allow TWC to then offer:

- Processing and providing recommendations in respect of other Councils' planning applications for determination, available to both local authorities and the private sector;

### **Opportunities and Benefits**

4.9 TWC has chosen to invest and maintain teams engaged in delivering development and growth where other Authorities have downsized. In promoting these changes the Council has recognised the need to adapt quickly in order to capitalise on growth opportunities which are appearing as other Councils and public and independent bodies seek to outsource work in this area. The provision of the additional services through the Development Team will not only provide additional revenue streams within the service, but will enable the service to tackle issues from the outset of a development proposal, within the design stage rather than as a 'second opinion' from the Local Authority. This will reduce the amount of non-fee earning work of planning, highways and building control. It will condense aspects of the design and negotiation stage with applicants, deliver stronger, more locally acceptable proposals reducing local objections. It will ensure that the requirements of the Local Authority and local community are built into the scheme within those initial design stages.

4.10 The Development Team will promote early engagement and consultation with local communities; promoting consultation with Town and Parish Councils, and elected ward members within the enhanced pre-application service. This ultimately will reduce the risk, timescale and cost for any potential developer. There will be an ability to react and adapt to the identified client's needs, tailored to their specifics but meeting the requirements of the Local Authority.

4.11 The service will bolster the Council's drive for investment within the Borough, which will have direct and indirect benefits, as the supply chain associated with the development, and associated inward investment increases. Providing this service will lead to the growth of jobs and homes and ensure that the determination of planning applications remains robust, being fully compliant with legislation including thorough consultation.

- 4.12 The Housing White Paper (February 2017) focuses on the need to deliver homes faster, and as such proposes a number of planning reforms. This includes an option for Authorities who are performing well on housing delivery to increase the nationally set planning fees by c.20% from July 2017 so long as the additional fee income is invested in boosting local planning authority capacity and its capability to deliver. Telford is ranked number 2 for housing delivery nationally (Centre for Cities 2017) and is performing well above the required level to take advantage of the White Paper's provision. The White Paper also suggests Government may bring forward the potential for a further increase to nationally set planning fees subject to local planning authority performance. Further details on this remain to be published. Alongside the proposals in this Report and the LDO that is already in place, the 20% fee increase will allow the Council to resource and invest in both appropriate skills and systems to maintain an enhanced, growth focused Development Management Service and ensure the Regulatory Team are resourced to ensure efficient determination and maintaining proactive enforcement services. A further reform in the White Paper relates to tackling delays in the discharge of planning conditions. The proposals in this Report to fast track discharge of planning conditions aligns with the Government's intentions.

## **Risks**

- 4.13 The recent restructure has separated the Regulatory Team and Development Team. As the Development Team will have greater exposure operating as a separate body from the Regulatory Team, conducting a number of services beyond the statutory duties, there is a clear need to introduce Service Level Agreements within the Service Area, between both the Regulatory Team and Development Team to ensure that no conflicts of interest occur and providing accountability of each area. Consequently it is proposed to establish a separate, distinct brand for the Development Team to be visibly different from all. A branding exercise is underway alongside preparing a launch marketing strategy. The internal agreements clearly sets out the responsibilities for each team ensuring, for example, that no planning application prepared by an officer on behalf of an applicant is processed or determined by that same officer – the Regulatory Team maintains all responsibilities of issuing formal planning decisions, and maintaining statutory duties.
- 4.14 While still only proposals at this stage the introduction of Government changes to introduce the 'Approved Provider', would impact in a number of ways. Firstly there is a risk that applications for development within the Borough may be submitted to other LPA's or private companies to process, and as such will result in a reduction of planning application fees received by the Council and potentially impact on the quality of development proposals. The changes proposed will allow the new Development Team to compete against existing private companies, and other Local Authorities' and benefit from opportunities to undertake work outside the Borough and create new income streams. Indications are that some LPAs will downsize in order to deliver savings and there may be opportunities for strategic relationships with other LPAs which can be used to introduce other Council services. Secondly there is potential that the Regulations may have gaps within them; and as such adapting ourselves at the outset allows us to assist DCLG in preparing the Regulations.
- 4.15 Competition in the market place is also recognised, as the Development Team brings forward a multi-disciplinary service. There is a consequent risk that the changes will not be able to justify and prove operating on full costs recovery basis. However such competitors target high end markets; this service will be more accessible and open to

all providing layers of services designed for the client whether they are a first time applicant, small/medium sized housebuilder or major investor.

**Marketing and delivery:**

- 4.16 The new Service's unique selling points is the range of knowledge that is provided by the multi-disciplinary team and through direct connections into wider commercial service opportunities, giving the ability 'to get things right first time'. Modelling the Enterprise Telford 'offer' it would provide a unique, tailored service that combines a number of specialist skills and experience to help customers meet the requirements of the Local Authority. Soft market testing has highlighted that a number of customer demands would be met by the proposed service, and that the delivery of development could be brought forward more efficiently, reducing the costs to the applicant and the Council.
- 4.17 Alongside finalising the name and brand a marketing strategy is being developed to promote the changes locally and establish the Development Team offer regionally and nationally. This will link with the marketing of biT and Enterprise Telford and provide opportunities to connect and cross sell other commercial service opportunities that may be established in other service areas.
- 4.18 Once established services will be marketed to different sectors, including schools, Town and Parish Councils and other Local Authorities, in addition to developers and residents.

**Monitoring**

- 4.19 The delivery of the new Development Team will be monitored at Assistant Director/Director Level, to ensure that the focus of the team remains ensuring efficient and effective delivery of development to the benefit of local communities, securing investment in the borough and maximising commercial opportunities across the region/nationally. Senior Officers will also monitor the delivery of the business model and the income stream to ensure full cost recovery and that savings are made within the team and the development of the service is coordinated with other commercial services.

**5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

NA

**6 PREVIOUS MINUTES**

NA

**7 BACKGROUND PAPERS**

1. 'Out of the box: innovative approaches to maintain and enhance planning services.'  
<http://www.pas.gov.uk/documents/332612/0/Innovative+councils+case+study/7d3f5079-51cf-4e10-b7d6-986efd742f1f>services.'  
<http://www.pas.gov.uk/documents/332612/0/Innovative+councils+case+study/7d3f5079-51cf-4e10-b7d6-986efd742f1f>
2. "Enterprising councils: Getting the most from trading and charging" (2012)  
[http://www.local.gov.uk/c/document\\_library/get\\_file?uuid=f8aaa25f-81d6-45c9-aa84-535793384085&groupId=10180](http://www.local.gov.uk/c/document_library/get_file?uuid=f8aaa25f-81d6-45c9-aa84-535793384085&groupId=10180)

1. Pre-application Advice

- 1.1 The type and quality of pre-application advice is important to the Borough, giving certainty to developers before they invest and purchase sites, and delivering developments without unnecessary delays. Since 2012 free pre-application advice has been provided including Strategic Application Workshops (SAWs) for large scale development. These SAWs provide a multi-disciplinary team coordinated through planning to assist major developments across the Borough, and are well recognised for their importance by both the applicant and the Council services. However the Council has seen a significant increase in the amount of pre application advice sought – with c.1700 take up in 2016 – with only c.25% converting to a planning application. The cost of providing this is significant (c.£260k pa). Through soft market testing developers have indicated that they would willingly pay for an enhanced and extended service which could cover some of the pre application costs currently incurred but also to introduce additional services, at a charge, which would offer further benefits to developers and strengthening the Enterprise Telford pledge.
- 1.2 The majority of the Councils in the region charge for pre-application advice; these are of varying scales and varied level of commitment. The Team would still offer a free ‘entry’ pre application advice service including a booked appointment system at Wellington Business & Planning First Point but then build on the existing service and the reputation of the SAWs with competitive charges below the full cost of advice to ensure developers continue to engage.

2. Charging for Building Regulation processes

- 2.1 Following the introduction of the 2003 Act a number of authorities introduced charging regimes for discretionary services associated with Building Control. Building Control has a place on the open market, and is in competition with Approved Inspectors (AI), which currently results in the loss of a significant amount of work. However being the regulatory Local Authority Building Control service, we must deliver a number of free processes, open to the public and in a timely manner. In order for us to sustain these free services, charges are being sought from discretionary services, which can only be provided by the Local Authority, diluting the overall cost of free services within the Service Area. It has been identified that discretionary charges could be made for regularisation applications, demolitions, dangerous structures, historic files, and street naming and numbering. In applying such charges, procedure, terms and conditions and the service will be enhanced, providing certainty to the customer as to what the fee will pay for.

3. Charging for Requests for Highway Orders, licences

- 3.1 As existing the Local Highways Authority receives a number of highway applications made under various acts; fees are derived by the Council in addition to its procedure. The Highways Development Control Team which will sit within the new Team carry out a number of these Functions. It is proposed to enhance this service by introducing a streamlined process with clear procedures and application forms, reviewing these charges accordingly and in some cases introducing fees. The intention is to provide the most relevant and non-confidential data on line, providing some self-service to the customer available at any time, similar to the planning application system. This will allow an applicant or any local interested party to review these files, providing further engagement with the community. The first procedure to be updated is the S184 1980 Act request for a dropped kerb vehicle

access, which is now provided alongside the LDO, which came into force in January 2017.