

NOT FOR PUBLICATION

Appendix A of this report contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972

Report to: **West Devon Hub Committee**

Date: **1st December 2015**

Title: **Devon Building Control Partnership:
Provision of New Homes Warranties**

Portfolio Area: **Economy: Robert Oxborough**

Wards Affected: **All**

Relevant Scrutiny Committee: **External**

Approval and clearance obtained: **Yes**

Urgent Decision: **N**

Date next steps can be taken: **Council - 8 December 2015**

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Recommendations:

That the Hub Committee:

- Recommend to Council that the Devon Building Control Partnership (DBCP) is delegated authority to undertake fee-paying new home warranty building inspections in addition to their current scope of works
- Agrees that a report will be presented in early 2016 to set out the future strategy for DBCP

Executive summary

- 1.1 This report recommends that West Devon Borough Council delegates authority to Devon Building Control Partnership (DBCP) to enable it to undertake and charge for new home warranty inspections, in addition to its current scope of works. The power to undertake this work needs to be delegated to DBCP. Once agreed, DBCP will be able to provide and charge for these discretionary services under section 93 of the Local Government Act 2003.
- 1.2 Discussions have taken place with a New Home Warranty provider, who is interested in using DBCP surveyors to carry out inspections on their behalf from January 2016. Additional providers have also intimated they would like DBCP to carry out warranty inspections on their behalf.
- 1.3 Developers who currently instruct DBCP to provide statutory building control inspections may also instruct DBCP to provide a new home warranty inspection and pay an additional fee for this service. Both inspections can be carried out at the same time, meaning DBCP would, in effect, be paid twice for one inspection visit. DBCP competitors already offer these services.
- 1.4 Income generation such as this, is consistent with the Council's strategic priority of financial sustainability and will enable the DBCP to grow its business and compete more effectively in the marketplace.
- 1.5 The DBCP Board and the other partnership members (South Hams District Council and Teignbridge District Council) have all already approved this delegated authority.
- 1.6 It is not expected that these new powers will deliver a significant amount of additional work and the impact on DBCP's revenue generating capability will be minimal due to low volumes – however, being able to offer this service will help to protect DBCP's position in the market and will generate a return for minimal additional effort. Based on initial volume estimates, it is not envisaged that these additional inspections require additional resources.
- 1.7 It is proposed that should the recommendation be approved by all partners, DBCP would offer the new service from January 2016 and report back regularly through the DBCP board on take up and income generated.
- 1.8 This proposal is separate from the medium term considerations for the future operating model and strategy of the DBCP and will not be affected by any changes that happen as a result. Agreeing this delegated authority will not fetter any future decision. A report will be brought to the Hub early in 2016 to present an options appraisal on the future strategy and organisational structure of DBCP.

2 Background

- 2.1 The Devon Building Control Partnership (DBCP) was established in 2005 and provides a building control service on behalf of South Hams District Council, Teignbridge District Council and West Devon Borough Council. The partnership's board is made up of two Members from each of the three Councils.
- 2.2 DBCP is staffed with officers from all three Councils and is hosted by Teignbridge DC. Work is underway to agree the future strategy and organisational structure of the partnership and a report on the outcome of this work is expected in early 2016. It is anticipated that this will enable a decision as to whether the service should continue to operate: as is; via a local authority Teckal trading company, or; via single-Council hosting arrangement. This recommendation to give DBCP delegated authority to accept discretionary new homes warranty inspections will in no way fetter that decision.
- 2.3 DBCP complete chargeable and non-chargeable work. The chargeable work is for building or building project inspections. Approx. £1m per annum is received in income by DBCP from the chargeable works and DBCP operates largely at breakeven or with a small surplus. DBCP compete to win chargeable work with independent approved inspectors and organisations such as NHBC.
- 2.4 The statutory non-chargeable work cannot be completed by approved inspectors or other bodies such as NHBC. This work costs approx. £400k pa and this is shared between the DBCP partners. Examples of non-chargeable work include enforcement work; dealing with dangerous structures; dealing with public enquiries, and; maintaining public registers of competent persons and approved inspectors.
- 2.5 DBCP's chargeable income must cover the entire cost of providing the chargeable service whilst being legally required as per Section 93 of the Local Government Act 2003, to be non-profit making. A small surplus is expected to be achieved this year. The revenue that is generated is almost entirely sourced from the competitive market. Providing new homes warranties will help diversify this income stream and could help to create a surplus to fund future investment in the service.
- 2.6 New homes warranties are provided by a number of providers in an increasingly competitive market. At least one major warranty provider is currently also an Approved Inspector, providing private sector building control services and thereby competing directly with DBCP. Other warranty providers work together with Approved Inspectors. A significant commercial advantage to these arrangements is that building control and warranty inspections can be carried out by the same surveyor and at the same time, which is often easier and more cost effective for both the suppliers and their customers. If DBCP were to provide warranty inspections, it would erode this advantage.

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- 2.7 A number of DBCP customers have asked why Local Authorities cannot provide joint warranty/building control inspections. Warranty inspections complement building control inspections as they cover similar technical aspects. DBCP cannot complete warranty inspections without WDBC approval.
- 2.8 There would be an obvious potential to increase building control business by offering a directly competitive service. There would be an additional source of income for DBCP to supplement that generated by current building control / inspection work.
- 2.9 The success of this venture will ultimately depend on the ability of the Warranty Company to sell its products to Housing Developers operating in the locality. Before the warranty can be validated, the new home must be inspected at various stages throughout the construction period to ensure the new home meets certain standards. The Warranty Company want to procure the services of DBCP to complete these inspections and validate that the property is of sufficient quality to benefit from the warranty.
- 2.10 It is the intention of DBCP to recover the full cost of providing this new inspection service, thus it will follow the Office of the Deputy Prime Minister (ODPM) 2003 guidance in pricing this work.

3 Outcomes/outputs

- 3.1 Discussions have taken place with a Warranty provider, who is keen to set up an arrangement with DBCP. Several of their potential customers have said they would want to use this arrangement if it becomes available. The charge levied for these services can be set at the discretion of the Partner Councils, as long as the income generated does not exceed the cost of its provision.
- 3.2 DBCP completes approximately 20,000 building inspections per annum, from its staff base of 12 full time surveyors and 7 other specialists who can also perform inspections. Note, not all of these "inspections" require a site visit, so on average each "inspection" lasts between 40 – 50 minutes.
- 3.3 If this venture is agreed, the volume of new home warranty work will be monitored and if demand consistently exceeds capacity, sufficient income would be achieved in order to justify employing additional staff. Alternatively, DBCP also has the option to seek additional temporary resources from neighboring local authorities through the LABC (Local Authority Building Control) network. LABC is a not-for-profit membership organisation that represents all local authority building control teams in England and Wales. As stated above, income from the additional inspections would be sufficient to cover any related expense. Alternatively, DBCP would always retain the right to refuse warranty work if it could not resource it effectively.

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- 3.4 The main benefits to the Partnership from providing these services are:
- 3.4.1 **Additional income:** Although 'not for profit', this income will supplement income derived from chargeable building control services.
 - 3.4.2 **Meet customer demand:** Many new home builders ask if DBCP can provide a new home warranty. Additionally, by providing this service the Partnership is likely to increase its building control business because a number of customers have expressed they would prefer a joint building control/warranty service provided by the Partnership rather than by Approved Inspectors.
 - 3.4.3 **Compete with private sector:** Along with NHBC, other warranty providers such as 'Buildzone' are using Approved Inspectors (AIs) to provide their warranty inspections. This gives AIs a competitive edge. Whilst some private sector surveyors are locally based the AIs for whom they work operate nationally.
 - 3.4.4 **Potential to Extend the Service:** It is intended that this service will be provided to customers in the Partnership's geographical area (i.e. Teignbridge, South Hams and West Devon). If there is a request to provide services outside these areas, this could be considered, taking into account additional cost recovery for time and travel along with impact on capacity.
- 3.5 The success of this venture will be evidenced through take up and expansion of the DBCP's work.

4 Options available and consideration of risk

- 4.1 The proposal has already been approved by the DBCP Board and approved by both the Teignbridge and South Hams Executive. Without West Devon Borough Council approval, DBCP would be unable to proceed with this venture and compete for this work.
- 4.2 WDBC could opt not to delegate powers to DBCP and the opportunity would be lost; potentially handing DBCP's competitors an advantage in that they could more effectively compete for building inspector work alongside new homes warranty work.
- 4.3 The possible risks attached to providing these services:
 - 4.3.1 **Little or no increase in work results:** If this happens there will also be little or no additional expenditure other than a Professional Indemnity (PI) insurance premium. The cost for this is estimated at around £500 per year. The premium is directly linked to the value of work completed.
 - 4.3.2 **Reputation:** If a homeowner were to claim for a home defect on a property that was inspected by the DBCP and received a New Home Warranty, it may bring reputational damage to DBCP or the Council.

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However, this risk is inherently addressed by the warranty itself (i.e. the presence of the warranty means the homeowner is insured for any insured defect), whilst the PI insurance would cover any negligence on behalf of DBCP in the inspection process.

- 4.3.3 **Conflict of interest:** It is not anticipated there will be a conflict of interest where building control and warranty inspections are carried out by the same provider. There are no known conflicting requirements of building regulations and warranty provision. This dual provision of services is long established by a number of Approved Inspector/Warranty providers, most notably the NHBC.

5 Proposed Way Forward

- 5.1 It is proposed that should the recommendation be approved by all partners, DBCP would offer the new service from January 2016 and report back regularly through the DBCP board on take up and income generated.
- 5.2 This proposal is separate from the medium term considerations for the future operating model and strategy of the partnership and will not be affected by any changes that happen as a result. Agreeing this delegated authority will not fetter any future decision. A report will be brought to the Hub in early in 2016 to present an options appraisal on the future strategy and organisational structure of DBCP.

6 Implications

Implications	Relevant to proposals	Details and proposed measures to address
Legal/ Governance	Y	This report looks to enable the Partnership to provide and charge for discretionary services, involving the inspections of new homes on behalf of a provider of new home warranties, under section 93 of the Local Government Act 2003
Financial	Y	As detailed in the report, the income generated from this venture will depend on the success of the Warranty Company in selling its products. Further details of the business case information and the financial implications can be found within Appendix A to this report. Since there is commercially sensitive information in Appendix A there are grounds for the publication of this appendix to be restricted, and considered in exempt session. The public interest has been assessed and it is considered that the public interest will be better served by not disclosing the information in Appendix A.

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		Accordingly this report contains exempt Information as defined in paragraph 3 of Schedule 12A to the Local Government Act 1972. Additional PI insurance are estimated to cost around £500 per annum.
Risk	Y	The associated risks are set out at 4.3.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N/A	
Safeguarding	N/A	
Community Safety, Crime and Disorder	N/A	
Health, Safety and Wellbeing	N/A	
Other implications	N/A	

Process checklist	Completed
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes
Relevant Exec Director sign off (draft)	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Executive/Hub/Scrutiny)	Yes