

Report to: **Council**

Date: **2 March 2017**

Title: **Local Authority Controlled Company (LACC)
Business Case**

Portfolio Area: **Leader of the Council - Strategic Vision**

Wards Affected: **All**

Relevant Scrutiny
Committee: **N/A**

Approval and
clearance obtained: **Yes**

Urgent Decision: **N/A**

Date next steps can
be taken: **Immediately**

Authors: **Neil Hawke**
Support Services Specialist Manager
neil.hawke@swdevon.gov.uk

Recommendations:

That Council be RESOLVED to:

1. Note the recommendations of the Joint Steering Group (as presented at Appendix 1);
2. Agree with the Joint Steering Group recommendation to not form a Local Authority Controlled Company in its proposed form at this time;
3. Approve that the Joint Steering Group continues to meet with revised terms of reference being put into place to consider other options in respect of shared arrangements and financial challenges;
4. Approve the revised terms of reference for the Joint Steering Group (as set out in Appendix 2); and
5. Approve that the remaining funding for the LACC project be earmarked to fund further work by the Joint Steering Group within their revised terms of reference.

1.0 Executive Summary

- 1.1 The Council has been exploring the possibility of establishing a Local Authority Controlled Company (LACC) jointly with West Devon Borough Council. The matter was last considered by a meeting of this Council on 28 July 2016 and at Executive Committee on 2 February 2017.
- 1.2 At the meeting on 28 July 2016, Members resolved that further information was required on a number of issues, to enable them to make a final decision.
- 1.3 A Joint Steering Group (JSG) consisting of members from both Councils was formed to consider further detailed information and make a final recommendation to the Council in respect of the LACC proposal.
- 1.4 Having fully considered the matter, the JSG have concluded that there are no legal or technical matters that would prevent the Councils implementing a LACC.
- 1.5 There are however significant additional initial costs (particularly Pensions contributions) in establishing a LACC and therefore the recommendation to both Councils is to not proceed with the implementation of a LACC as currently proposed. The full JSG recommendations are set out in Appendix 1 to this report.
- 1.6 The Joint Steering Group recognise the value of holding regular meetings to discuss matters affecting both Councils (such as shared services arrangements and particularly around exploring further options to meet both Councils' financial challenges) and recommend that these meetings continue to consider future opportunities.

2.0 Background

- 2.1 Setting up a company jointly owned by South Hams District Council and West Devon Borough Council to run their services is one solution that the Councils have been looking into in order to close the funding gap in their finances, and provide a way for both Councils to continue to deliver essential services.
- 2.2 On 28 July 2016, a full meeting of South Hams District Council considered a detailed business case prepared by Price Waterhouse Coopers into the viability of establishing a Local Authority Controlled Company.
- 2.3 At that meeting, it was resolved that a Joint Steering Group be formed to consider a number of matters which Members felt required further investigation before making a final decision on implementing a Local Authority Controlled Company.
- 2.4 At their first meeting, the JSG identified 9 key areas where further analysis was required to enable Members to make a final decision on whether or not to implement a LACC for the delivery of services to the Councils.

- 2.5 Expert Legal and Financial advice was commissioned in order to fully understand the implications of establishing a LACC. This advice, and that of Officers was fully considered by the JSG at their meetings.
- 2.6 In addition to the meetings of the Joint Steering Group, sessions have been held with the wider Membership in respect of identifying Reserved Matters (i.e. those decisions which the Council would wish to retain if a LACC is established) and the Audit Committee has considered risk and governance issues in respect of implementing a LACC.

3.0 Outcomes/outputs

- 3.1 The Joint Steering Group considered, in full, the nine key issues before reaching a conclusion into the matters. Appendix 1 to this report sets out the JSG recommendations in full.
- 3.2 In considering the 9 issues set out above, the JSG concluded that there are no legal or technical matters that would prevent the Councils implementing a LACC.
- 3.3 There are however significant additional initial costs (particularly Pensions contributions) in establishing a LACC and therefore the recommendation to both Councils (by 5 votes to 3) is to not proceed with the implementation of a LACC as currently proposed.

4.0 Options available and consideration of risk

- 4.1. There are two possible options for Members in this report
- 4.2. Option 1 – Proceed with the implementation of a Local Authority Controlled Company. There are no legal or technical reasons to prevent the implementation of a LACC however there are additional costs which the Council will incur, particularly in respect of pension contributions, which are identified in Appendix 1.
- 4.3. Option 2 – Do not proceed with the implementation of the LACC. This is the recommendation of the Joint Steering Group as set out in Appendix 1. The Council will need to undertake further work in order to explore alternative options for meeting the Councils financial challenges and bring these back to Council for consideration at a later date.
- 4.4. It is therefore recommended that Option 2 be the preferred option.

5.0 Proposed Way Forward

- 5.1. It is recommended that the Joint Steering Group continue to meet with a revised terms of reference. The revised draft terms of reference (as set out in Appendix 2 to this report) have been developed in consultation with the Leader of South Hams District

Council. Consultation has also been undertaken with the Leader of West Devon Borough Council.

- 5.2. The continuation of the Joint Steering Group under the revised terms of reference will enable the Council (jointly with West Devon Borough Council) to explore further options for meeting the financial challenges of the Council.
- 5.3. Exploring alternative options will require resourcing and the recommendation is that the remaining funding approved by Members for further exploring the LACC proposal, be earmarked for the work on exploring further options.

6.0 Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	Y	The LACC proposal will have significant Legal and Governance implications, on which the Council has received specialist legal advice from Bevan Brittan and to which officers and the JSG have had regard. The most significant matters are considered in Appendix 1 to this report.
Financial	Y	Detailed financial modelling had been undertaken with input from the Joint Steering Group around some of the assumptions.
Risk	Y	The LACC project has a risk register which is regularly reviewed by the Joint Steering Group and which has been considered by the Audit Committee.
Comprehensive Impact Assessment Implications		
Equality and Diversity		N/A as no change to service delivery or policy
Safeguarding		N/A as no change to service delivery or policy
Community Safety, Crime and Disorder		N/A as no change to service delivery or policy
Health, Safety and Wellbeing		N/A as no change to service delivery or policy
Other implications		N/A as no change to service delivery or policy

Supporting Information

Appendices:

Appendix 1: Local Authority Controlled Company JSG Conclusions

Appendix A – Bevan Brittan Legal Advice (Exempt)

Appendix B – Grant Thornton Tax and Pension Advice (Exempt)

- Appendix C – Barnett Waddingham Actuaries report (Exempt)
- Appendix D – Outline draft business plan
- Appendix E – Market Analysis (Exempt)
- Appendix F – Financial Modelling v13 (Exempt)
- Appendix G – Assumptions included in Financial Modelling (Exempt)
- Appendix 2 – Joint Steering Group Draft Terms of Reference

Approval and clearance of report

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