Alternative Service Delivery Vehicles
for
Building & Planning Consultancy Services

An Options Appraisal

Project Board
Caroline Simpson
Adrian Fisher
Ian Bunn
David Laycock

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1. Background

At the meeting of Cheshire East Council on 4 February 2013, full Council agreed the adoption of a revised operating model for service delivery. The council is moving toward becoming a strategic commissioning organisation, where a small core of commissioners identify and prioritise local needs, develop the outcomes that local people require, and then commission the services that will best deliver those outcomes. This approach ensures a 'best-fit' model that puts residents first

The Council also seeks to support economic growth within the area and as a consequence needs to provide effective and efficient services which support and assist those who wish to invest in the area through development or relocation. The Council's building and planning services provide a number of services that do just that, with some of these services currently operating within a commercial and competitive arena, attempting to respond and react appropriately whilst forced to operate within the constraints associated with a traditional council operation.

To support the achievement of these ambitions a review of the services has been completed, identifying and reviewing the differing operating models which could be used to support the building and planning needs of residents, businesses and other organisations. A guiding principle of this review has been the desire to create a more effective, efficient and locally responsive service whilst responding to a number of threats currently endangering service delivery whilst those services remain in their current form.

This report explores the alternative service delivery vehicles that would support such change in line with the Council's aim of becoming a commissioning organisation. It forms part of the detailed business case which is required to justify the establishment of any alternative trading function as specified in the "Guidance on the Power in the Local Government Act 2003 related to the General Power for Local Authorities to trade in function related activities through a Company"

CEC is not alone in recognising the potential of this approach with local authorities such as Birmingham (ACIVICO), Norwich & Norfolk (CNC Building Control) and Breckland Borough Council all introducing Separate Legal Entities (SLEs) to offer services.

There are many different forms such a trading entity could take, each with their own advantages and disadvantages. The Council has also recognised that a mixed-economy of delivery vehicles should be developed with the most appropriate form used to suit individual service requirements. This document assesses those forms against the requirements for five services comprising:

- Building Control
- Local Land Charges and property searches
- Street Naming & Numbering
- Planning Liaison
- Planning Support

The different delivery vehicles assessed were:

Retain the status quo
Retain the status quo but with developments/investment (within current CEC procedures) to overcome some of the current problems
Outsource to a commercial operator
Company Limited by Shares (CLS) – wholly owned by CEC
Company Limited by Guarantee (CLG) – wholly owned by CEC
Community Interest Company (CIC) limited by shares
Community Interest Company (CIC) limited by guarantee
Charitable Incorporated Organisation (CIO)
Industrial & Provident Society (IPS)
Co-operative/Mutual
Limited Liability Partnership (LLP)

2. The Appraisal Process

The options were examined by a working party on 25 July 2014. This including a range of people with broad experience designed to bring a wide perspective to the issues. Several members also had experience of establishing previous ASDVs and therefore contributed the lessons learned from those ventures
The group comprised:

Cllr Don Stockton (Housing and Jobs Portfolio Holder)
Adrian Fisher (Head of Strategic & Economic Planning)
Ian Bunn (Principal Manager - Built Environment Protection)
Jayne McLaughlin (Senior Lawyer)
Steve Wilcock (Finance Lead)
Mike Wall (Senior Accountant- Challenge & Innovation)
David Laycock (Project Manager)

In addition to acknowledging that the need to take into account the "Guidance on the Power in the Local Government Act 2003 related to the General Power for Local Authorities to trade in function related activities through a Company" the group also recognised the need to take heed of:

- the Council's Charging and Trading Strategy
- the guidance contained within Council's ASDV Framework document

The workshop first examined the initial options appraisal included in the original high level business case. It concluded that this did not now provide a sound basis for proceeding for 2 key reasons:

1. The pass/fail interpretation of the Council's Charging and Trading Strategy had been too rigorous in that it states "The Council's investment in any commercial trading activity will be *normally* limited by shares, not guarantee. The appraisal should therefore not have fully excluded a 'guarantee' option but simply recognised that it was not a best match approach
2. The assumption that a 'Teckal' exemption would be appropriate had subsequently been discounted given that the majority of the business of these services is conducted directly with private individuals and commercial developers rather than with the Council

The workshop therefore agreed to re-examine *all* possible solutions prior to drawing any conclusions

3. Appraisal Process

In examining all the options available the group used a variation of a scoring tool proposed by both PWC and NW Employers. This tool assesses each option against a number of criteria and allocates a score for each

The criteria had previously been agreed by the project board who had allocated a weighting for each factor. This weighting was kept 'hidden; from the group to avoid influencing any decisions, as recommended by its authors.

Scores were first given to the 'status quo' and then each option was then compared with the status quo with scores been given which reflected the degree by which each option was better or worse than the status quo.

It was acknowledged that the scores should not be regarded as definitive in themselves but that the methodology was designed to provoke comment and discussion to support the derivation of a sound result

The results of the discussion are summarised in two formats: the scoring chart itself plus a 'pros/cons' analysis of each potential solution.

3. Scoring table

The final scores are given in Appendix A

4. Pros & Cons Analysis

COMPANY FORM	PROS	CONS
STATUS QUO	• Retains full control • Requires no change effort or investment	• Does not support the goal of becoming a strategic commissioning council • Cannot trade at a profit • Does not address low staff morale caused by poor pay and cumbersome systems • Does not address high staff attrition rates • Does not address recruitment difficulties • Low staff numbers continue to lead

		to deteriorating service quality and increased waiting times • Does not offer the new bundling and packaging opportunities • Difficult to extricate true back office costs leading to uncompetitive pricing
STATUS QUO +PLUS	• Retains full control • Opportunity to address negative issues (although some remedies might not be possible – e.g. better staff T&Cs could result in equal pay challenge) • Helps inculcate a more commercial approach and attitude • Potential for improving service levels as retention issues are addressed • Relatively easy and quick to implement • Focus on commercial approach will remedy unfocussed pricing and offer bundling opportunities	• Does not support the goal of becoming a strategic commissioning council • Cannot trade at a profit nor generate a full commercial offering • Limited joint working potential • Does not overcome the Council's slower operating basis
OUTSOURCE	• Fits with the goal of becoming a strategic commissioning council • May offer additional opportunities for revenue sharing and alternative services – dependent on market response	• Not 'residents first' since external focus will be on profit rather than customers • Potential for job losses as supplier rationalises cost base • Council no longer benefits from membership of LABC : These include the provision of a national support network of Building Control services, national marketing and promotional initiatives and the ability to work with clients who adopt the LABC NH Warranty Scheme • Uncertainty as to ongoing service quality levels – will require robust contract negotiation • The procurement process is likely to be lengthy (up to 2 years)
Co LIMITED BY SHARES	• Fits with the goal of becoming a strategic commissioning council • Very positive feedback from staff, perception of freedom but with	

	continuing security • Motivated staff deliver higher service levels for customers (quality & volume) • CEC have previous experience of this company form	
Co LIMITED BY GUARANTEE	• Fits with the goal of becoming a strategic commissioning council • Very positive feedback from staff, perception of freedom but with continuing security • Motivated staff deliver higher service levels for customers (quality & volume)	• Does not align with the CEC Charging & Trading strategy: "*The Council's investment in any commercial trading activity will be normally limited by shares, not guarantee.*"
Community Interest Company (CIC) LIMITED BY SHARES	• Fits with the goal of becoming a strategic commissioning council	• Difficult for the Council to draw a profit income • Remuneration levels must be justified in the context of benefitting the community
Community Interest Company (CIC) LIMITED BY GUARANTEE	• Fits with the goal of becoming a strategic commissioning council	• Difficult for the Council to draw a profit income • Remuneration levels must be justified in the context of benefitting the community • Less control due to need to demonstrate community focus in everything • Does not align with the CEC Charging & Trading strategy: "*The Council's investment in any commercial trading activity will be normally limited by shares, not guarantee.*"
CHARITY	• Eliminated since it does not provide the Council with any control	
INDUSTRIAL & PROVIDENT SOCIETY		• Remuneration levels must be justified in the context of benefitting the community • Akin to John Lewis model - Staff could perceive a risk as co-owners • Less control due to need to demonstrate community focus in everything
CO-OPERATIVE		• All feedback indicates this is not a popular option with staff who do not want to be involved in running a company

		• Public perception of giving money/profits to staff rather the 'resident first' • Potential risk of state aid challenge
LIMITED LIABILITY PARTNERSHIP	Eliminated since LLPs are not a vehicle available to the Council as they are not permitted as a trading vehicle under section 95 of the Local Government Act 2003.	

5. Conclusion and Recommendations

After careful consideration of the factors outlined herein the option of creating a 'Wholly owned company limited by shares' is recommended as the way forward.

This recommendation is made on the basis that it:

Best fits with the Councils aim of becoming a strategic commissioning council
Provides the best opportunity for stemming the current downward spiral in business with a resulting increasing cost for delivering statutory elements of the service in future years
Gives motivation to staff
Provides freedom to explore additional revenue earning opportunities
Encourages profit generation

It is also recommended that, in terms of implementation planning and the future:

- The company should utilise CEC in-house assets and support for an initial 3 year incubation period
- The company's structure and Articles of Association would permit the company to consider how to work with/for other councils in the future, perhaps in a partnership arrangement

APPENDIX A - OPTIONS APPRAISAL (PWC METHODOLOGY)

SCORE EACH FACTOR OUT OF 10	Weight	STATUS QUO	STATUS QUO +PLUS?	OUTSOURCE	COMPANY LIMITED BY SHARES	COMPANY LIMITED BY GUARANTEE	CIC LIMITED BY SHARES	CIC LIMITED BY GUARANTEE	CHARITY	IPS	COOPERATIVE	LLP
Strategic Fit – closeness of fit to current business plan vision /policy	25%	3	4	5	9	8	6	5	Excluded due to full loss of control by the Council	5	3	Eliminated since LLPs are not a vehicle available to the Council as they are not permitted as a trading vehicle under section 95 of the Local Government Act 2003.
Employment – will the solution be seen as staff friendly or beneficial?	10%	2	5	1	7	7	6	6		6	7	
Customer – impact in terms of quality and range of service offer	20%	3	5	3	7	7	6	6		6	5	
Risk & Governance – level of risk exposure and likely levels of future influence and/or control	20%	8	8	3	7	7	4	4		4	3	
Timetable – likely timing and scale of effort required to implement change	10%	10	8	3	6	6	4	4		4	4	
Commercial & Investment (or Community Benefit) – potential to develop new opportunities for income generation and provide a more commercial platform for future growth and/or social outcomes	15%	1	3	5	7	7	6	6		5	5	
TOTALS	100%	**4.30**	**5.35**	**3.60**	**7.4**	**7.15**	**5.4**	**5.15**		**5**	**4.2**	