



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Finance and Economic Overview and Scrutiny Committee

8th May 2024

Report of Councillor Phil Dilks, Portfolio Holder Housing and Planning

Updated financial position and Service update for East Midlands Building Consultancy, April 2024

Report Author

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Purpose of Report

The purpose of this report is to support the Committee in keeping oversight of the highly successful building control service for South Kesteven District Council, Rushcliffe Borough Council and Newark and Sherwood District Council.

Recommendations

That the Committee:

1. Notes the update regarding East Midlands Building Consultancy (EMBC) and agrees to receive an update in 12 months.

Decision Information	
Does the report contain any exempt or confidential information not for publication?	Yes – Appendix A is exempt under Section 100(a)(4) of the Local Government Act 1972; paragraph 3 of Schedule 12A of the Act. The press and public may be excluded from the meeting during consideration of Appendix A, on the grounds that if they were to be present, exempt information could be disclosed to them.
What are the relevant corporate priorities?	Sustainable South Kesteven Enabling economic opportunities Housing Effective council
Which wards are impacted?	All Wards

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance and Procurement

- 1.1 Appendix A shows the provisional outturn for EMBC for 2023/24 and the impact on the Trading Accounts for each of the partner Authorities.
- 1.2 Fee income, for the year, reflects a significant reduction from the budget (£168k lower). The overall trading position has though been managed through not replacing vacant posts, resulting in a compensating reduction in expenditure (£190k lower).
- 1.3 The overall position for EMBC at 31st March 2024 is a surplus of £50k, which has resulted in a deduction from the contributions for the three partners of £16k.
- 1.4 Income continues to be monitored however application levels across the sector are lower than previous years due to the current economic climate. There will therefore need to be a balance to ensure staffing costs are matched to fee income levels for 2024/25.

Completed by: Paul Sutton, Assistant Director of Finance and Deputy Section 151 Officer

Legal and Governance

1.5 There are no legal implications arising from this report.

Completed by: James Welbourn, Democratic Services Manager and Deputy Monitoring Officer

2. Background to the Report

2.1 Delivering excellent and effective services is at the heart of the Council's Corporate Plan (2024-2027) and is essential to running an Effective Council. Building Control is necessary to ensure that buildings comply with the Building Regulations including new housing across the District. Recent and forthcoming changes to the Building Regulations to improve energy efficiency of buildings will be pivotal in reducing energy consumption and achieving net zero carbon goals. The Building Control function therefore plays an important role in delivering many of the ambitions within the Corporate Plan.

2.2 Building Control is unique compared to many other services provided by the Council in that it competes for work against the market, principally other councils and [independent] approved inspectors (AI). The exception to this are the statutory functions which a local authority building control service has to provide (and cannot be undertaken by an AI) such as dealing with dangerous structures, applications relating to work for disabled facilities, emergency planning and enforcement. Such work cannot be charged for and is typically referred to as 'non fee earning'. The 'fee earning' aspect relates to applications made to the Council for it to assess if the development meets the Building Regulations. The Council is in direct competition with AI's for this element of the workload.

2.3 The Council is in a partnership with Newark and Sherwood District Council (N&SDC) and Rushcliffe Borough Council (RBC) to provide the respective authorities Building Control Services. The partnership, known as the East Midlands Building Consultancy (EMBC), is delivered and hosted by South Kesteven District Council (SKDC). The partnership was originally formed between SKDC and RBC in 2014 with N&SDC joining in 2016. The partnerships contracts have been extended ever since by Members on a rolling basis, subject to an annual review and an ability to exit subject to specific notice periods and defined actions.

2.4 The original partnership objectives were to combine resources to improve resilience, depth of expertise, staff retention and to improve service performance in this highly regulated area of work. The partnership is based on a shared service agreement, with South Kesteven District Council delivering the EMBC service on behalf of each partner. Each council shares any financial surplus or deficit equally, operating financially under one single trading account. A Partnership Board, comprising of senior officers from each partner authority has primary responsibility

for overseeing the operational management and delivery of the joint building control partnership.

2.5 The workload split between fee earning and non-fee earning activity is approximately 74/26 and is typical of a local authority building control service. The non-fee earning work is a cost that must be borne by the Council and is charged to the general fund.

2.6 Whilst fee earning work is paid for by the customer, the Council is still required to have regard to the overriding objective of ensuring that as far as possible, charges are set at a level which equate to the cost of providing the service. This means the Council is not permitted to make a profit from the charges and cannot subsidise the statutory services from fee income.

Performance

2.7 Table 1 (below) provides the yearly comparison of applications for building regulations received by EMBC. It can be seen from the table below that there has been a decrease in numbers of applications over the last year; this is due to the current economic climate.

Table 1 Yearly comparison of applications received by EMBC

	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	TOTAL
2019/20	203	155	172	218	154	153	153	133	68	158	159	171	1897
2020/21	83	95	161	180	146	200	187	262	131	181	181	258	2065
2021/22	206	258	199	207	150	182	169	141	88	205	160	173	2138
2022/23	175	192	251	136	149	158	133	138	67	140	128	138	1805
2024/23	118	160	141	122	131	121	115	103	58	123	113	134	1439

2.8 As referenced above, Local Authority Building Control (LABC) departments do not have a monopoly in relation to “fee-earning work”. Approved Inspectors (AIs) can compete for this work, and it is important the Council monitors the percentage of the market share to ensure that it remains competitive. Table 2 provides the number of applications made directly to the Council and the Initial Notices (applications made directly to Approved Inspectors). EMBC is currently maintaining its market share at 50% (average year to date) and the downturn in the number of building control applications is affecting AI's and Council's alike.

Table 2 Number of Applications made to the Council and Approved Inspectors

KPI: BC10 - Building Control Partnership % of Fee Earning Full Plan, Building Notice, Regularisation application numbers against Initial Notice application numbers												
Application Numbers -Three Way Partnership												
	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24
Total Application Numbers LABC	118	160	141	122	131	121	115	103	58	123	113	134
Total Initial Notices AI	118	141	168	130	145	123	114	115	62	131	131	138
TOTAL APPS LABC & AI	236	301	309	252	276	244	229	218	120	254	244	272
LABC Market Share %	50	53	46	48	47	50	50	47	48	48	46	49
AI Market Share %	50	47	54	52	53	50	50	53	52	52	54	51

2.9 Table 3 provides a summary of income against budget forecast, compared to the previous years. This demonstrates a year-on-year increase in income between 2021 and 2023; this is linked to the increase in applications. In 2023/2024 the income is below budget due to the decline in the number of applications.

Table 3. Income Against Budget Over the Past 3 Years.

	Total Income	Budget
2021/2022	£689,528	£650,000
2022/2023	£657,699	£650,000
2023/2024	£531,624	£700,000

*Note 2023/24 figures are still provisional.

Resources

2.10 Since the last update to the then Companies Committee, the service has recruited a permanent Building Control Manager to lead EMBC. Prior to this appointment (April 2023), interim arrangements had been in place for the previous five years.

2.11 The service has undergone a number of staffing changes and there are still several vacant Building Control Surveyor posts. However, since April 2023, the service has successfully recruited 1 no. Building Control Surveyor and 2 No. Trainee Surveyors. The current economic climate and reduced number of applications means that the service is not currently under pressure due to the vacant posts. This however could change and is being monitored. Further recruitment will take place throughout the course of this year.

Building Safety Act

2.12 Building Control has been under significant scrutiny and legislative change in recent years. The Building Safety Act 2022 represents a huge shift in the regulatory framework governing the UK's construction industry. Its core objective is to reshape the industry's culture and practices – primarily following an independent review of the 2017 Grenfell Tower tragedy – to make sure building safety is a paramount concern on all projects. The Building Safety Act (BSA)

(2022) was one of several pieces of legislation and guidance that is being implemented by Government to enhance building safety.

- 2.13 The Act has changed the way that buildings are designed, constructed and managed to make people feel safer in their homes. At the heart of these changes is a legal obligation for all individuals to be competent to ensure compliance with the building regulations. This obligation applies across the sector whether the works relate to a small extension or a large building or housing development.
- 2.14 The Health and Safety Executive (HSE) will act as the new Building Safety Regulator (BSR) and will be the building control body for High-rise buildings (HRB's -Buildings over 18m high which contain at least two residential units). This includes new HRB's and also work to existing HRB's. The BSR will also oversee safety and standards, encourage industry competence, and lead the implementation of the new regulatory framework. The LABC and AI's will remain the building control body for other developments.
- 2.15 As part of the new requirements, those working in the building control industry now need to demonstrate their competency. All Building control approvers and inspectors will also need to be registered with the Regulator. The BSR will establish registers for building inspectors and building control approvers, with defined registration criteria – including a code of conduct – for registered building inspectors and professional conduct rules for building control approvers.
- 2.16 As part of the BSR approved independent competence assessment schemes, candidates will be evaluated against the Building Inspector Competence Framework (BICoF) every four years. Assessments include interview or examination pathways and continuous professional development. There are three levels or class of competence:
 - Domestic Building Control Surveyor (aligned with BSR Class 2)
 - General Building Control Surveyor (aligned with BSR Class 2)
 - Specialist Building Control Surveyor (aligned with BSR Class 3)
- 2.17 EMBC has embraced these changes. Two Building Control Officers currently hold the Domestic Class 2 competency. Two Officers are waiting for the results for the General Class 2 competency and the other two have registered as trainees and have started their competency journey. It is anticipated that on the implementation date of 6th July 2024 (formally 6th April 2024) EMBC will have the resources to carry out the building control function for all but specialist developments in line with the majority of building projects within the three Local Authority areas.
- 2.18 There are a number of technical support staff within EMBC and three of these officers are currently studying the Level 3 Certificate in Technical Support for Public Service Building Standards and Level 4 CIOB Diploma in Public Service Building Control.

3. Key Considerations

3.1 The partnership is a significant success and performance remains extremely stable. The service provides value for money for all stakeholders. However, it is important to review performance and to ensure the service is competitive and able to maintain its market share. There are a number of legislative changes that are currently being implemented however the service has embraced these and has a supportive learning culture enabling officers to successfully pass their competency exams.

4. Other Options Considered

4.1 The report is an update report for noting and the do nothing approach has been discounted.

5. Reasons for the Recommendations

5.1 To support the ongoing success of the EMBC Partnership.

6. Background Papers

6.1 List any background papers and where they can be accessed.

East Midlands Building Consultancy, Report to Companies Committee, published January 2023; [EMBC report January 2023 v2.pdf \(southkesteven.gov.uk\)](https://southkesteven.gov.uk)

7. Appendices

7.1 Financial Report (Appendix A) – Exempt from publication