

# **SOUTH THAMES GATEWAY BUILDING CONTROL JOINT COMMITTEE**

**16 SEPTEMBER 2021**

## **MONITORING REPORT APRIL TO AUGUST 2021**

Report from: Janine Weaver, Director, South Thames Gateway Building Control Partnership

### Summary

The report updates the Joint Committee on the current forecast for the 2021/2022 financial year and gives details against the progress of the objectives of the Business Plan 2021/2022.

#### 1) Budget and policy framework

1.1. The Joint Committee requires the preparation of monitoring reports to be reported to the Officer's Steering Group and Joint Committee.

#### 2) Director's comments

2.1. The report gives an overview of the position of the budget and the progression against the objectives.

2.2. The number of building regulation applications are 59% higher than the same period last year, which was during the first lockdown of the pandemic, and 22% higher compared to the first quarter of 2019/2020. Whilst this is good news in respect of recovery of income, the increased number of applications require a high demand for resource to service the processing, plan checking and inspection of such a large increase in numbers.

2.3. As reported over the years, there is a shortage of experienced qualified building control surveyors. The scarcity of surveyors also now extends to the appointment of temporary contract surveyors.

2.4. In 2015 the Partnership began a strategy of recruiting from other areas of the construction industry, together with in-house training to develop our own building control surveyors. This initiative has been highly successful but is reliant on sufficient numbers of experienced/qualified surveyors to provide the training/mentorship.

- 2.5. Our three assistant building control surveyors are progressing well and are on track to become building control surveyors by the end of the year. They are now carrying out unsupervised inspections of many areas of construction and carrying out supervised plan examination on a wide variety of work. Their continued development is providing greater cover for the East and West teams.
- 2.6. The use of agency staff as a long-term solution is unsustainable and further recruitment will be taken forward in the Autumn, ideally to provide a qualified surveyor, however, with a proven process of delivering an area of service with non-qualified staff we have an alternative option.

### 3) Delivery plan update

- 3.1. Within our service delivery plan for 2020/2021, there are a number of actions under each of the three objectives. This section will update Members on the progress on a number of actions within each objective.
- 3.2. Delivery of our online site inspection booking facility for customers continues to be delayed by IDOX. Despite assurances, it is evident that their focus is on the development of their existing platforms to harmonise the cloud functionality with the Tascomi platform. Once operational, this facility will enable those customers with an application to submit inspection requests 24/7.
- 3.3. The partnership strategy and investment of moving to a cloud-based system and working in an agile environment 8 years ago has proved invaluable in maintaining service delivery during the pandemic. Customers are only experiencing changes due to government guidelines.
- 3.4. The extraordinary impact that the pandemic is having on working arrangements enables us to embark on a work-life shift. It provides an opportunity for all to re-evaluate and reset work using a hybrid model.
- 3.5. In order to make the transition successful we need to design hybrid working arrangements with individual concerns in mind, not just service delivery. The last 18 months has seen a shift from being place-constrained (working from the office) to being place-unconstrained (working from home). Less noticed is the shift some have made from being time-constrained (working synchronously with others) to being time-unconstrained (working outside normal office hours).

### 4) Use of resources overview

- 4.1. In November 2020, one of our Senior Building Control Surveyors that oversaw part of the Medway area resigned for personal and financial reasons. Having been a temporary contract surveyor for a number of years, the individual could achieve a higher salary returning to this form of work placement.

- 4.2. As reported to Members previously, there is a shortage of building control surveyors across the industry. Two advertisements have been placed to recruit permanent staff in the last year, but this has proved fruitless. This required a further examination of resources in April within the East and West teams as we looked to realign staffing resources to ensure both teams can continue to deliver their excellent service to customers.
- 4.3. The benefits of having built in resilience to the partnership has been demonstrated through the years of the ease in directing our resources as demand dictates. Unfortunately, the adjustments we wished to undertake from April 2021 are currently impeded through a staff grievance.
- 4.4. In July, the Senior Building Control Surveyor that has been looking after the Gravesham area resigned to take up employment with a local approved inspector which exacerbated the problem. The surveyor also engaged and maintained a substantial number of our most prolific partner architects and builders under the LABC partnering scheme. In order to balance resource against demand we have re-examined our partner list and re-allocated partnering surveyors, where appropriate. This will assist in our client management and ensure these customers submitting repetitive applications receive a first-class service.
- 4.5. With the increase in workload and the usual issues of resourcing a demand led service through the summer period, we have engaged a surveyor on a temporary contract until the end of September. Unfortunately, agency surveyors are far more expensive than engaging with fulltime employees. Without the use of this resource, we would not be able to maintain adequate cover.
- 4.6. This does create pressure on current staff and level of performance. Given there is around 59% increased level of applications that may have a detrimental effect on the performance targets over the next quarter.

## 5) Performance

- 5.1. Our three Assistant Building Control Surveyors are progressing well on their structured training plan and are anticipated to reach the required level for re-grading as Building Control Surveyors by the end of the year.
- 5.2. Whilst we are carrying two Senior Building Control vacancies, in order to ensure future resilience of the partnership we are proposing to use one of the vacancies to enable the recruitment of two assistants. This will ensure we have staff coming through at different levels.
- 5.3. Details of the performance statistics are shown in Appendix 2. Given that the number of applications submitted for this period are 17% higher than the same period in 2019/2020 (pre-pandemic), the administration team averaged 2.99 processing days with 96.98% processed in five working days.

## 6) Financial implications

- 6.1. The budget monitoring sheet attached at Appendix 1 shows a balanced budget for this year with additional pressures from temporary agency staff mitigated through vacancy provision and reduced expenditure.

## 7) Legal implications

- 7.1. There are no direct legal implications as a result of this report.
- 7.2. Part of the changes to the Building Act 1984 currently being considered by Government is the potential enactment of Section 38 Civil Liability.
- 7.3. It imposes civil liability for damage, for breach of duty under building regulations, subject to any exceptions and defences provided in the regulations. It is not retrospective except as regards continuing requirements which allow building regulations in certain circumstances to apply to buildings erected before the date on which the regulations come into force. It does not affect rights of action that may arise at common law or under other enactments.
- 7.4. Civil liability in matters affecting the Building Regulations may arise in contract or, where there is no contractual relationship between parties, in tort for breach of statutory duty and negligence. The mere existence of a contract does not preclude liability in tort.
- 7.5. *Murphy v Brentwood District Council* represented a landmark not only in the liability of local authorities in relation to building control but in the law of negligence generally. This was a Tort Law case concerning negligence and duty of care. The claimant was the owner of one of the two houses constructed on landfill. The houses required a concrete raft foundation. The plans for the raft were submitted to Brentwood District Council for approval.
- 7.6. As the damage suffered by the claimant was neither material nor physical but purely economic, the authority was not liable in negligence. It was argued that allowing the claimant in this case to recover compensation would result in an unacceptably wide liability and open the floodgates.
- 7.7. The Local Authority Building Control (LABC) body are currently seeking legal advice as to whether *Murphy V Brentwood* case will still stand and the potential liability to building control if enacted.

## 8) Risk management

- 8.1. The inability to recruit suitably qualified/experienced building control surveyors places increased pressure on existing staff. As projected in our current business plan, a number of senior surveyors are expected to retire over the next two years.

- 8.2. There is concern within the surveying teams with risk, accountability, and training. The heavy workloads already cause difficulty with facilitating training which will need to be undertaken if staff are to evidence their competencies to ensure they are licensed to work on the relevant category of development.
  - 8.3. Potential for staff to be poached due to the lack of building control surveyors within the industry and approved inspectors offering higher salaries.
- 9) Recommendation
- 9.1. Members are asked to note the contents of the report.
- 10) Suggested reasons for decision
- 10.1. The Constitution requires the Joint Committee to monitor the progress of the Partnership.

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### Exempt Appendices

Appendix 1 – August 2021 Monitoring Statement  
Appendix 2 – Performance Statistics

### Background papers

None