

## **Cabinet**

**11 February 2025**

### **South Thames Gateway Building Partnership Control Business Plan**

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

Report from: Adam Bryan, Director of Place

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#### **Summary**

This report seeks agreement to the South Thames Gateway (Building Control Partnership Business Plan for 2025 to 2028.

#### **1. Recommendation**

- 1.1. The Cabinet is asked to approve the Business Plan for 2025-2028 for the South Thames Gateway Building Control Partnership, as set out in the Exempt Appendix.
- 1.2. The Cabinet is asked to agree the change to the contribution arrangements set out in section 2 of the business plan to option 3, as approved by South Thames Gateway Joint Committee on 12 December 2024 and the proposed contribution of £309,532.00 for 2025-2026.

#### **2. Suggested reasons for decision**

- 2.1. The constitution of the Joint Committee requires approval of the Business Plan for the following year by the Cabinet of each Partner Authority.

#### **3. Budget and policy framework**

- 3.1. The approval of the South Thames Gateway (STG) Building Control Partnership Business Plan is a matter for Cabinet; however, specific parts of the plan may need to be progressed in accordance with the Council's relevant policies and procedures. The Partnership's business plan outlines how the

building control function for the four Partnership Councils will be delivered over the next three financial years.

## 4. Background

4.1. The South Thames Gateway Building Control Partnership (involving Medway Council, Canterbury City Council, Gravesham Borough Council, and Swale Council) went live in 2007 and was expanded in 2018 with Canterbury City Council joining on the 1 April 2018.

4.2. The Joint Committee's Constitution sets out the process for approval of the business plan each year and the timing required to ensure that each partner authority can incorporate associated budget requirements into the financial planning process for the subsequent year. The stages to this process are as follows:

- Before 1 October each year the Joint Committee is required to approve and send its draft Business Plan for the following year to each partner authority for comments.
- Each Council has 35 days (from receipt) to provide comments to the secretary of the Joint Committee on the draft business plan. To streamline the process, the Cabinets in each partner authority have agreed to delegate authority to the relevant director, in consultation with the council's Chief Finance Officer and appointed member on the Joint Committee to deal with this element of the process.
- The Joint Committee is then required to meet to consider any comments received and agree any revisions to the draft business plan.
- By no later than 5 January the Joint Committee must send a revised draft to each partner authority for their final approval.
- Each partner authority must advise the Secretary to the Joint Committee whether it approves or rejects the revised draft business plan by no later than 10 days before the Annual Meeting of the Joint Committee. (The Joint Committee will formally adopt the Business Plan at its Annual meeting).

4.3. There are also provisions in the Constitution of the Joint Committee stipulating the process and timescales for agreeing amendments to the Business Plan during each year.

4.4. Whilst much of the building control partnership operation is subject to competition from registered building control approvers (RBCAs), the service retains statutory responsibilities regarding public protection eg, dangerous structures, demolitions, unauthorised works, and maintenance of public registers etc.

- 4.5. The Government is setting out an enhanced Devolution Framework with a strong preference for partnerships that bring more than one local authority together over a large geography to enable effective working within the sectors. The four partner authorities within the partnership have been delivering this format for over 17 years for building control which has enabled substantial savings to authorities through the economies of scale.
- 4.6. The affect devolution will have on the partnership's is currently unknown, but any impacts and proposed changes will be scrutinised through the Joint Committee.

## 5. Executive Summary

- 5.1. The Business Plan outlines how the building control function will be delivered on behalf of the four Partnership Councils up until 2028. It is seeking to change the partner authority contribution arrangements to align with The Building (Local Authority Charges) Regulations 2010 and respond to the changed building regulation landscape. It provides three options, as set out at 2.30 to 2.47.
- Option 1 – retain existing financial arrangement.
  - Option 2 – contributions calculated on forecasted non-chargeable expenditure (as directed under the CIPFA guidance).
  - Option 3 – contributions calculated on forecasted non-chargeable time.
- 5.2. The partnership continues to deliver good performance and a value for money service, however, building regulations have substantially changed and to ensure continued delivery and development of the service significant changes are required to the partner authority contribution arrangements.
- 5.3. Current partner contribution payments are not in line with The Building (Local Authority Charges) Regulations 2010 and may result in an annual call on additional contributions from each partner authority. Other consequences may be:
- Inability to maintain continual professional development of surveyors fostering a culture of undervaluing and not supporting training to enable licence retention or upgrade.
  - Inability to retain and recruit surveyors resulting in staff losses and unable to deliver statutory services and/or additional costs in employing expensive registered building inspectors (RBIs) under contract.
  - Under or no investment in technology advancements to ensure service remains resilient and deliverable for the future.
  - Failing to meet deliverables under the new Operational Rules by the Building Safety Regulator (BSR).
- 5.4. In the Local Government Association Capacity Survey – Building Control Report (October to December 2023) it highlighted as of 1<sup>st</sup> October 2023:

- One in four building control posts across England were vacant.
  - Nearly all councils experiencing retention and recruitment difficulties.
  - Staff turnover on average is around 15%, with nearly half experiencing increases over the last three years.
  - Two thirds identified salary as one of the main reasons for leaving.
  - Two thirds expressed concerns on having enough principal surveyors / building control to maintain the building control service adequately.
- 5.5. The two-tier public and private building control service has been in place for nearly 40 years and resulted in a leaner and more accountable regulatory system, competitive regulation is not by any means a utopian model for regulation. The role that all registered building inspectors (RBIs) play in the constant improvement of our built environment has increased in importance with licencing of the profession.
- 5.6. It is a criminal offence to impersonate, or to do anything which would imply you are a registered building inspector (RBI). All RBIs have to be registered with the Health and Safety Executive as the Building Safety Regulator (BSR), the regulatory authority overseeing both public and private building control.
- 5.7. RBIs are only permitted to work unsupervised on the categories of work defined under the relevant licence. Trainee building control surveyors or surveyors seeking to develop and attain a higher licence can only work under supervision for that category of work. Their supervisor must be an RBI with the appropriate scope of registration for the work they are to supervise.
- 5.8. Licencing now prescribes and constrains the way the sector operates. Without appropriate RBIs the partnership will struggle or be unable to undertake the building control function, develop surveyors to maintain the future resilience of the service and fail to meet the Operational Standards Rules on resourcing under the Building Safety Regulatory (BSR).
- 5.9. As anticipated, the industry is already seeing competition to retain and/or recruit RBIs on higher licences as well as RBIs demanding higher salaries.
- 5.10. There are no Class 3E (non-standard construction or complex buildings) or Class 3F (HRBs) employed by any of the Kent authorities at this time and with only a couple in Sussex and Surrey. Supervision for an RBI to progress to Class 3 will potentially require support from neighbouring counties but it is unclear how this could operate and the practicalities.

## 6. Risk management

- 6.1. Should chargeable applications and therefore income fall below expectations and outside of any mitigating proposals put forward to enable a zero-based budget there may be further calls on the contributions from each of the partner authorities. However, this would be only applied for as a last resort.

- 6.2. If the partnership does not have sufficient registered building inspectors (RBIs) licenced at the right levels, this will impact on service delivery and have a financial impact. Suitably licenced surveyors would need to be contracted to deliver the service.
- 6.3. Potential for staff to be poached due to the lack of RBIs, new licencing within the industry and RBCAs offering higher salaries.
- 6.4. Service risks are set out in part 8 of the Service Delivery Plan 2025-2028.

## 7. Financial implications

- 7.1. The Charges Legislation 2010 provides the legal framework for local authorities to set charges enabling the full recovery of their costs for carrying out their main building control functions listed in regulation 5(1) relating to the building regulations (chargeable income).
- 7.2. The overriding objective is that the authority must ensure that, taking one financial year with another, the income derived by the authority from performing the chargeable functions as nearly as possible equates to the costs incurred by performing chargeable functions. The chargeable account is achieving this; however, it should not be cross-funding the non-chargeable activities.
- 7.3. Local authorities remain the 'backstop' provider. Obtaining building control consent is a statutory requirement but RBCAs are not obliged to undertake the supervision of any particular building project. In addition, as building control is primarily intended to ensure the health and safety of people in and around buildings, it is considered essential that local authorities should continue to provide the chargeable service 'at cost' to ensure building control remains as affordable as possible and that high charges do not encourage circumvention of the building regulations and a reduction in the level of health and safety.
- 7.4. Partner authorities are accountable for the costs attributed to the non-chargeable functions and these are paid for under the contribution's arrangement.
- 7.5. The Chartered Institute of Public Finance and Accountancy (CIPFA) produced guidance to support the new regulations and isolate chargeable costs from other building control activities. The current contribution arrangement is not in line with the guidance.
- 7.6. Applying the CIPFA guidance to the building regulations final accounts for 2023/2024, as detailed at 2.13-2.14 within the business plan, demonstrated a shortfall in contributions of £261,971.00.
- 7.7. Under the agreed authority percentages, the contributions that would have been payable under CIPFA are shown below against those received.

	Authority Contributions 2023/2024 £	Contributions under CIPFA 2023/2024 £
Canterbury – 23%	74,433	136,021
Gravesham – 15%	48,543	88,709
Medway – 41%	132,685	242,472
Swale – 21%	67,961	124,193
	<u>323,623</u>	<u>591,396</u>

- 7.8. Over the last 18 months, building control has seen significant changes and is now a regulated profession. It is a criminal offence to work as a 'building inspector' if you are not registered with the Building Safety Regulator (BSR).
- 7.9. As detailed in section 3 and 5 of the business plan, from 6<sup>th</sup> April 2024 anyone intending to carry out any restricted activities must be registered and they can only undertake activities for the category of work as specified under their licence. This places greater pressure on local authorities as the provider of last resort, local authority building control has no discretion as to whether or not to accept work.
- 7.10. Licencing presents service delivery risks if insufficient numbers of RBIs are employed. Delivering the service can no longer be about having only a certain number of RBIs but sufficient number of Class 2D-F licences to enable a flexible workforce and service delivery.
- 7.11. The Memorandum of Agreement, which underpins the Partnership, states "each Council shall notify the Partnership no later than 28 February in each year the amount the Council has allocated to the Partnership from its revenue budget". For Medway the sum of £309,532. has been provided for in the 2025-2026 draft budget, which demonstrates exceptional value for money as in comparison to the costs of one building control surveyor, including on-cost, is £83,000.
- 7.12. The table below shows the number of surveyors each partner authorities contributions pay for.

	Number of Surveyors (FTEs)		
	2025/2026	2026/2027	2027/2028
Canterbury	2.09	2.12	2.26
Gravesham	1.36	1.38	1.47
Medway	3.73	3.77	4.03
Swale	1.91	1.93	2.06
TOTAL	9.10	9.20	9.83

The partnership currently employs 18 surveyors.

- 7.13. Detailed below are the indicative costs (inclusive of on-costs) for the minimum number of surveyors required for each partner authority to undertake site inspection work only.

	2025/2026 £	2026/2027 £	2027/2028 £
Canterbury	332,000	348,000	352,000
Gravesham	249,000	261,000	264,000
Medway	415,000	435,000	440,000
Swale	332,000	348,000	352,000
<b>Total</b>	<u>1,328,000</u>	<u>1,392,000</u>	<u>1,408,000</u>

## 8. Legal implications

- 8.1. The building control function is a statutory duty under the Building Act 1984 and therefore must be provided by each authority – whether as a partnership arrangement or a standalone service.
- 8.2. The Charges Legislation 2010 provides the legal framework for local authorities to set charges enabling the full recovery of their costs for carrying out their main building control functions listed in regulation 5(1) relating to the and building regulations. Local authorities are accountable for the costs associated with all non-chargeable activities.
- 8.3. The partnerships current financial arrangement is not in line with the guidance under CIPFA for Charges Legislation 2010.
- 8.4. Under the Building Act 1984 S58Z-S58Z10 local authorities must comply with the Operational Standards Rules on the delivery and resourcing of the building control service.

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### Appendices

Exempt Appendix South Thames Gateway Building Control Partnership Business  
 Plan 2025-2028 (version 4)

### Background papers

None