

Key Strategic Issues

Why must there be a Building Control function in the local authority?

The Building Act 1984 and the Building Regulations made under that Act control all building work carried out in England and Wales. Certain categories of work, types of building and owners are exempt from the procedural requirements. In addition there are various local Acts across the country.

There are two systems of controlling and approving building work. The first is by local authorities (LAs) under the Building Act 1984, who must accept everything submitted to them and charge for the service under a fixed and published charges scheme. The second is by private Approved Inspectors (AIs) under Part II of the Building Act 1984 and The Building (Approved Inspectors etc.) Regulations 2000 who can pick and choose which work they want to deal with and can agree any fee they wish for a job.

However there are associated activities which only a local authority can do. The most important ones are :-

- Taking enforcement action in respect of work in contravention of the Building Regulations. This function remains with the local authority irrespective of who provided the building control service.
- Dealing with applications to relax or dispense with a requirement under the Building Regulations.
- Dealing with applications for a Regularisation Certificate.
- Keeping a statutory register of all work dealt with by Approved Inspectors.
- Administering the remaining parts of the London Building Acts which still apply in inner London (e.g. Dangerous Structures, Sections 20 and 30 etc)

Therefore a LA has to deal with all Applications and Notices under the 1984 Building Act submitted by persons who either prefer to user a LA or who cannot find an AI willing to provide the service for an acceptable price and it has to carry out these associated functions.

In addition in RBKC the Building Control Department provides general advice to the public on building and fire safety issues and gives pre-application advice to developers as well as providing technical advice to other Council departments.

Why seek to maintain a high market share?

The current aim is to maintain as high a market share as possible as this has the following advantages:-

It allows greater flexibility in the charges policy.

The larger commercial new build jobs are generally the most profitable area of work and to some extent they partially fund the smaller jobs. These smaller jobs frequently concern residential properties and as such are more likely to directly affect the

physical or financial well being of Borough residents. This cross subsidy allows more resources to be allocated to this category where there may be fewer professionals involved and greater reliance is placed on building control inspections. This is in line with the general public service ethos of Local Authorities and in particular with the Borough Aims of protecting the public and supporting the vulnerable.

The Building (Local Authority Charges) Regulations 1998 requires LAs to cover the costs of providing the building control service from charges income. If most of the profitable jobs were lost to AIs it would be necessary to substantially increase charges for the smaller jobs or drastically reduce the level of service given.

If charges for minor works are high it is more likely that work will be done illegally without making an application. This can directly affect the health and safety of occupants, lead to more enforcement activity which is costly, often necessitates opening up and remedial work and delay property transfers if picked up in searches. It is far easier and better to approve and inspect the work as it is being done.

It allows resources to be allocated according to need.

A large proportion of the Borough is comprised of high density, relatively old residential buildings, many of which are in conservation areas. Alterations to existing buildings, many of which are smaller jobs as mentioned above, require a higher level of inspection and experience than for new build situations where there are fewer unknowns. An appropriate level of inspection results in less abortive or remedial work for the customer and less need for the LA to take enforcement action.

It helps in recruiting and retaining quality staff

Having an wide and interesting profile of work increases professional job satisfaction and allows staff to develop and gain experience.

It ensures that the department has the capacity and expertise to deal with any application

If staff numbers, experience and quality declined then the department would be far less able to deal satisfactorily with any large complex jobs that were submitted. This would increase the risk of errors being made thus widening the Borough's exposure to claims.

It would be less cost effective

The cost of certain ancillary activities (e.g. enforcement, reporting on planning conditions, dangerous structures, giving advice to other departments etc) does not have to be covered by charge income but is borne by the Borough. Nevertheless the surplus on the building control trading account usually covers these functions. This is unlikely to be possible if the department and its charge income were substantially reduced. It would be an extra cost to the Borough.

At present the volume of work and associated income justifies having in house experts for fire precautions and mechanical & electrical services. This would not be

possible with a smaller service and this facility would have to be provided by external consultants at a possibly greater unit cost.

Why is service provided to the current level?

1 National Standards

The departments aims to work in accordance with the DETR document “Building Control Performance Standards” which is a document produced in 1999 codifying best practice and placing an emphasis on self review and continuous improvement.

It sets out standards in respect of the following areas:-

- Policy
- Resources
- Consultation
- Assessment of Plans
- Site Inspection
- Certificates at Completion
- Archiving of Records
- Continuing Professional Development
- Review of Performance
- Quality Management
- Business Ethics

It was drawn up in consultation with the District Surveyors Association, the Association of Corporate Approved Inspectors, the Local Government Association and the Construction Industry Council. It applies to both LAs and AIs and the Minister for Construction urged all building control bodies to adopt and apply the standards.

It was adopted by RBKC Planning and Conservation Committee on 21st February 2000.

2 Customers are satisfied

The latest postal survey shows that the overall impression of the service by 90%+ of respondents is “positive” or “very positive”. 85%+ consider the overall value for money is “good” or “very good”

3 Complaints

A register of all feedback is kept as part of the QA management system accredited under ISO 9002. Whilst there are often constructive comments about how individual aspect of the service could be improved (which are considered by the QA review team at quarterly meetings) the are few, if any, complaints about the general level of service.

3 Insurance Claims

Thus the checking of submitted plans for compliance with the Regulations could be done by external consultants in the same way that calculations are at present. The LA registers the application and fulfils its duty in making and issuing the decision but the work is done by others.

The two possible benefits of this would be lower cost and the facility to cope with variations in workload, staff shortages and any specialist skills required.

The unit costs may be lower due to economies of scale and because the staff doing the work could be in a cheaper location with fewer overheads

However there are a number of significant disadvantages to outsourcing this function:-

- Any cost savings would have to be offset against the additional cost of administering and monitoring performance under the contract. Contract monitoring is usually expected to cost between 1% and 3% of the contract cost.
- As mentioned above an applicant may not wish his job to be dealt with by a consultant who may be a competitor. In the postal survey 90%+ of customers considered public accountability and impartiality as “important” or “very important”
- It would lose the obvious current advantage of having the same surveyor in most cases checking the plans and subsequently making the site inspections.
- The Building Regulations are no longer prescriptive. Since 1986 they have been substantive requirements backed up by detailed Approved Documents which give guidance about one way of complying – but any proposed alternative methods must be considered and may be accepted. It would therefore be essential to give detailed guidelines in the contract as to what may be accepted outside of the Approved Documents and to receive back from the consultant reasoned arguments for such departures.
- Until such time as all transactions of correspondence, calculations and drawing could be done electronically (and although the technology is available some customers may never wish to do this) using consultants would build inherent delays into the system. In the customer survey 95%+ thought that speed of plans examination was “important” or “very important.”
- At present there is no mature market of appropriate consultants offering services in this field, other than companies which are also AIs. To put LA building control customers in close contact with the competing AI market sector would be commercial suicide. It was originally intended to run a small pilot project using consultants who were offering this service but who were not AIs. However in the few months while this was being considered both of the possible candidates became practicing AIs. This suggests that it is more profitable to act as a AI than as a consultant to a LA. If a LA relied totally on consultants for this work there could be a problem when the contract requires renewal if at such time it was far more profitable to act as an AI. It may then

not prove possible to obtain realistic tenders for the work, leaving the LA either unable to fulfil its duties or having to pay a premium to secure the necessary service.

- Although in theory use of consultants could help with dealing with times of unusual workload, in practice, unless the fluctuation was local, there is unlikely to be the capacity in the market to cope with a widespread demand for consultancy services.

Nevertheless the market situation will be kept under review and if there are appropriate providers of such a service then a pilot scheme will be considered so that the advantage and disadvantages can be objectively assessed.

Can the service be provided in a different way

Consideration of ways to improve the internal working of the department by reviewing all systems, processes and procedures will be dealt with elsewhere.

A national DSA working party has been considering and appraising 10 options for alternative wider working practices for the past 18 months. *(detail here or add as appendix??)* The most viable avenues to explore further are now considered to be joint working, sharing or joint commissioning of resources and partnership working.

Working jointly with an adjoining Borough (or Boroughs) could bring economies of scale and greater flexibility in allocating resources. Apart from that the only direct savings are likely to be at the upper management level unless the combined footprint of the Boroughs involved is small enough for local offices not to be necessary. There would be a number of obstacles to be overcome in the short term concerning differences between the Boroughs. These would include different salaries, style, policies, QA systems, Borough aims, political backgrounds, charges, computer systems etc. These could all be resolved but the effort involved means that this could only be a long term permanent solution.

Many of the London Boroughs benefit from being in a consortium which appoints and monitors a contractor to deal with dangerous structures emergency work. The consortium produces sufficient work for the contractor to justify having dedicated staff and equipment whereas an individual Borough would not. The costs and effort of tendering the contract are shared between the consortium. The prices may be lower because of the volume of work.

Similar benefits may accrue from jointly employing specialists in other fields - e.g. calculation checking, legal advice and action, fire engineering etc. The possibility and benefits of so doing will be explored through the LDSA over the next 4 years. It is hoped that other Boroughs will reach similar conclusions as they work through their fundamental reviews. A questionnaire will be sent to all London Boroughs to initiate and give impetus to the process.