

<b>AGENDA ITEM 6</b>	
<b>SSC/13/11</b>	
<b>Committee:</b>	<b>Safer and Stronger Communities Committee</b>
<b>Date:</b>	<b>15 July 2011</b>
<b>Scrutiny Review on the Sustainable Environment and Enterprise Specialist Services Consultancy Project (Minute 25/May 2011)</b>	
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At its last meeting the Committee considered the future delivery of the specialist consultancy services provided by the Council's Sustainable Environment and Enterprise Service. An interim scrutiny report has been prepared setting out the evidence considered at the meeting together with the Committee's findings, and is attached at the Appendix to this report.

Since that meeting it has been learned that a Cabinet decision on the Consultancy Project has been rescheduled from June to October. In practice this will give the Committee an opportunity to comment upon the business case for the new Trading Company before a final decision is made. It is intended that the Committee consider this matter at its next meeting in September.

**Action required by the Committee:**

**To receive the Interim report on this scrutiny review, and note that before a final scrutiny report is agreed the Committee will consider the business case for a new Trading Company for the future delivery of the Sustainable Environment and Enterprise Specialist Services.**

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Safer and Stronger Communities Policy & Scrutiny Committee

## SCRUTINY REPORT ON THE SUSTAINABLE ENVIRONMENT AND ENTERPRISE SPECIALIST SERVICES CONSULTANCY PROJECT

(Reference: SSC-SCR-16)

Dated: 13 May 2011

### INTERIM REPORT

#### Glossary

BEAMS	Built Environment Advisory and Management Service (trading company of the Hertfordshire Building Preservation Trust)
'the Council'	Essex County Council
ECC	Essex County Council
EDEHPSC	Economic Development, Environment and Highways Policy & Scrutiny Committee
ESH	Environment Sustainability and Highways Directorate
HER	Historic Environment Record
LATC	Local Authority Trading Company
LPA	Local Planning Authority
M&W	Minerals and Waste
'the Services'	Sustainable Environment and Enterprise Specialist Services
SEE	Sustainable Environment and Enterprise
SDV	Service Delivery Vehicle
SLA	Service Level Agreement
SSCPSC	Safer and Stronger Communities Policy & Scrutiny Committee
TOM	Target Operating Model

## 1. Introduction

At its meeting on 13 May 2011 (Minute 25) the Safer and Stronger Communities Policy and Scrutiny Committee (SSCPSC or 'the Committee') undertook a scrutiny review on the Sustainable Environment and Enterprise (SEE) Specialist Services Consultancy Project.

In 2010 the Committee undertook a scrutiny review of Essex Heritage that included an overview on the way that some of the specialist consultancy services are provided across the county in terms of heritage matters. Two of its recommendations drew attention to the way that services are provided in Essex as follows:

### STAFFING ISSUES

#### Recommendation 2

That, as part of the Transformation Programme, the Cabinet should invite the Transformation Team to consider (a) whether the current split of heritage related activities across Directorates is the most appropriate and cost effective method of organising staff; and (b) whether an approach should be made to the 12 district councils in Essex to seek to combine staffing provision in order to better deal with heritage/planning conservation matters.

### CONSERVATION ISSUES

#### Recommendation 3

That the Cabinet be invited to consider how the County Council, twelve district councils, and parish councils can work together to achieve a consistent and robust heritage planning policy across Essex.

In October 2010 Councillor Lucas, the Cabinet Member for the Environment and Culture, initiated a project to transform the way that the Sustainable Environment and Enterprise Specialist Services ('the Services') will be delivered in the future. Subsequently he invited the Committee to consider proposals prior to a final decision being reached by the Cabinet on 21 June that will, in turn, enable the development of the final business case to take to Transformation Outcomes Board in August. It is intended that new arrangements will be in place by end of March 2012.

The Committee accepted the invitation to consider the Consultancy Project, and a scoping document (reference SSC-SCR-16) was prepared to provide a framework for the scrutiny review with the following objective:

'To consider the future delivery of the specialist consultancy services provided by the Council's Sustainable Environment and Enterprise Service, and submit the Committee's findings to the Cabinet Member for Heritage, Culture and the Arts.'

On the day the Committee comprised Councillors Simon Walsh (Chairman), Jude Deakin, Margaret Fisher, Mike Garnett, Chris Pond (Vice Chairman), John Schofield, and Mavis Webster.

## **2. Evidence**

A briefing paper setting out background to the Consultancy Project was attached to report SSC/09/11 considered by the Committee at its meeting in 13 May, which was written by Anna Lambert, Built Environment Practice Manager (and Project Co-ordinator), and Owen Bedwin, Head of Historic Environment (SEE Change Manager). In addition, the following witnesses were invited to the meeting to provide the Committee with evidence about the Services from a customer perspective, and answer Members' questions:

- John Neale, English Heritage
- Martin Stuchfield, Essex Society for Archaeology and History
- Graham Thomas, Tendring District Council (and Essex Planning Officers Association)
- David Forkin, Head of Highways Maintenance, ECC
- Lesley Stenhouse, Minerals and Waste Planning Manager, ECC

The following is a summary of the evidence presented by the witnesses to the Committee.

### **(1) Overview of the Consultancy Project**

Essex County Council (ECC) aims to become a commissioning council by 2012/13, which will deliver services in different ways in the future and contribute to a savings target of at least £300 million. A Target Operating Model (TOM) has been established as a framework for the transformation. It is intended that those staff retained within the Council will focus on policy setting and commissioning. However, some services will continue to be delivered by ECC, for example:

- where they are of statutory nature of the service, i.e. required by law and / or,
- where there is political sensitivity to retain in house.

The 'Consultancy Project', which forms the subject of this scrutiny review, is focussed upon those specialist advice services currently delivered by small teams based in the Council's Environment, Sustainability and Highways (ESH) Directorate and comprise conservation, ecology, woodland management, archaeology, urban and landscape design, sustainability and development monitoring. As the teams are not seen as

fulfilling the criteria for retention within the ECC TOM, the Project was initiated to establish a new way of providing these services outside of the County Council.

The Services have traditionally fulfilled a range of statutory (eg tree safety) and discretionary (eg urban design) roles on behalf of the County Council.

While the statutory responsibilities place a duty of care upon the Council, it does not preclude such services being delivered externally. A majority of the Services are discretionary and do not fall within the definition of the ECC TOM. However, they do enable the local planning authorities (LPAs) to whom they are provided to deliver their statutory planning services.

[Note: This sort of arrangement is not unique to Essex. In many other parts of England with three tier local government, similar specialist teams are based in the county council, but also deliver a planning function for the district authorities. The reason for this is that small, specialist centralised teams of this kind have been shown to provide both financial and professional advantages, e.g. all aspects of a given planning specialism can be dealt with, and cover is provided during spells of absence in a way that would not be possible with a single officer in any given authority].

In addition to providing internal advice to the Council eg in its own role as a planning authority, the Services also provide advice to a majority of the Essex Districts and Borough Councils, plus the unitary Councils of Southend and Thurrock through a series of Service Level Agreements (SLAs). However, the SLAs do not recover the full cost of service provision and in effect the County Council subsidises the other local councils and, in some cases, the bulk of the work carried out by some staff is actually delivered on behalf of those other councils. The Services provide support for up to 15 different local authorities in total.

A brief description of the Services was set out in briefing paper SSC/09/11. Furthermore Committee Members visited the ESH Directorate prior to the meeting to meet the Teams that were the subject of the review to learn more about the work that they undertake in practice. This was particularly useful to Members for understanding the nature of work under consideration, the resources used, and outcomes produced.

At present the Services' customers range from the Council's own departments, and Essex District and Parish/Town Councils through to organisations such as Essex Police, the Fire and Rescue Service, churches, and amenities companies. Some work has also been commissioned from outside the county boundaries by other LPAs. Feedback from customers, particularly other planning authorities, indicates that they value the ECC Specialist Services for the following reasons:

- Reputation and integrity
- Excellent local knowledge
- Impartiality of the advice provided
- Flexibility of provision

- Professionalism and promptness of response
- Reasonable costs
- Retaining provision of such services within the public sector

## **The Consultancy Project**

The Committee was advised that the aim of the Consultancy project is to create a new service delivery vehicle (SDV), which will:

- continue service provision to ECC and to all LPAs in Essex who wish to buy into it;
- have the freedom to expand its role in both the public and private sectors (the latter being especially important for urban and landscape design); and
- also to take advantage of opportunities that may present themselves beyond the Essex boundaries.

In planning a new SDV, there has been particular regard to the following factors:

- Savings targets, both for ECC and all the other local authorities to whom these services are provided;
- the need to ensure that ECC has continuing access to these specialist skills; and
- the expertise of a number of teams within the project is recognised beyond Essex, and commissions for work in other counties already occur, with some activities having a national reputation.

The Project began in October 2010. Aside from a number of ECC staff who are in the Project Team, it has also drawn upon senior officers from other Essex District Councils plus the two unitary councils to reflect the fact that the Services deliver specialist services for all tiers of local government. All ECC staff have \*also been engaged throughout the process by means of monthly staff forums and volunteering to contribute to the research.

## **Options under consideration**

The following criteria were identified to assess the practicalities of establishing a new SDV:

- Financial performance (having regard to the fact that these teams already earn significant external income);
- competitive position in the marketplace;
- impact on staff and customer;
- confidence in deliverability; and
- customer priorities, in particular impartiality, flexibility and alignment of values and neutrality.

The following models were identified for fuller consideration as part of the Project.

1. A **partnership model** with one or more other local authorities, i.e. a group of the local authorities from among those already using these services organising themselves to continue the service provision.
2. A **social enterprise model**, i.e. a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners.
3. A **local authority trading company (LATC)**, i.e. a company owned by one, or more, local authorities, which would continue to have a role in their governance.
4. **Commercialisation**, i.e. consideration of the services being taken over by an existing private-sector company, or entering a joint venture with a private-sector partner.

The advantages and disadvantages of each of these options have been examined. In particular, the potential commercial viability of each option has been investigated by business consultants, who have made a provisional recommendation in favour of a LATC. A summary of the findings was set out at Appendix 3 report SSC/09/11.

Following analysis it had been concluded from the Project that the **local authority trading company** would be the preferred option for the way that the specialist services would be provided in the future.

## **(2) Witnesses**

Invitations were sent to several organisations that have direct experience of working with the ECC Specialist Teams to address the Committee meeting, and provide their practical observations on the services provided. In particular witnesses were asked to reflect on the following matters:

1. What do you value about the services currently provided that you have knowledge?
2. Would you continue to use/support the services you currently use if they were delivered outside of ECC through a new body that retained ECC's values?
3. If there are opportunities to change the way things are delivered, what changes that you would like to see?

The evidence submitted by witnesses is summarised below.

- **John Neale, English Heritage**

While English Heritage has no particular views on whether or not the types of specialist services under review should be provided in house by a local authority like ECC, Mr Neale took the opportunity to highlight two matters relating to the Essex specialist services.

- **National Reputation:** The Services have a tremendous national reputation for the good quality of their work from the regular daily work and provision of professional advice, to the strategic projects and training courses that are promoted. It was also noted that officers make a valuable contribution by writing articles for relevant magazines. Mr Neale felt that ECC had provided a logical home for knowledge about the historic built environment, which could be diluted if privatised.
- **Transmission of Knowledge:** The Services are underpinned by the emphasis that has been placed on transmitting and developing skills and knowledge among staff on an ongoing basis. Staff have been crucial in terms of the knowledge that they have contributed to planning work, and an important consideration in the way that the Services may be provided in the future. Mr Neale reflected from his own observations that when staff have been recruited to ECC there is an effective training process that includes work shadowing, which has been successful in underpinning continuity in the quality of the services provided even though changes may have taken place.

Through the Committee's cross examination Mr Neale agreed that there are wide variations in the commitment and effectiveness of individual district authorities to heritage and conservation services, and it was not unusual for county councils to provide pools of expertise that could be drawn upon by others.

The ongoing financial pressures upon public services are having an impact upon service provision, and there appears to be a reduction in the number of conservation officers across the country, which may have repercussions on the ability of local authorities to carry out related work. English Heritage itself is set to have its budget reduced by a third, and it is in the process of making changes to its operation that will take effect in 2013. While the Government has indicated that planning issues should be given some priority for resources, there will be a need to prioritise those resources. Mr Neale confirmed that LPAs are responsible for the development control process and although English Heritage works in parallel to that work as a statutory consultee, it has a different role to perform which is complementary to but does not replace local council services. He confirmed that his organisation does not have the capacity to pick up on local authority work that may be divested by councils.



- **Martin Stuchfield, Essex Society for Archaeology and History**

Mr Stuchfield highlighted his organisation's view on how ECC has developed a pre-eminent reputation for its heritage and conservation services in the UK. The knowledge and expertise of staff was very special, and other county councils could not compare with the Services in Essex.

The Society publishes 'Transactions of the Essex Society for Archaeology and History' on an annual basis, and there was concern that if the Services are out sourced then there could be a potential gap in the information that could be co-ordinated for the county.

ECC has played a crucial role in the co-ordination and creation of an effective historical database on Essex that has been accumulated over a long period of time. The Services have been able to provide a high level of expertise to local authorities throughout the county including the unitary councils, and have a good relationship with the London Boroughs. There was a fear that if the Services are decentralised, the strength of the mechanisms now in place that underpin their cohesion and success might be put at risk.

Mr Stuchfield's concern about the possible dilution of the Services was noted by the Committee, and he was asked about his impressions of BEAMS (Built Environment Advisory and Management Service, which is a trading company of the Hertfordshire Building Preservation Trust). While he confirmed that he did not have any experience of that operation, he anticipated from his broader knowledge from the Essex Congress that it might be possible that some of the local societies could pick up some of the work provided by the Services. However, he was concerned that it would not be up to the same professional standard that currently exists in Essex. ECC has been so successful in its co-ordination and sharing of information, and development of policies that it was difficult to envisage how its role could be emulated by others.

In response to questions about the former Essex London Boroughs, Mr Stuchfield felt that their historical and conservation services were not as effective overall as those provided by ECC. The Committee wondered if there might be opportunities for the ECC Service to offer its expertise to the London Boroughs in the future.

- **Graham Thomas, Tendring District Council (and Essex Planning Officers Association)**

Mr Thomas is an Executive Manager at Tendring District Council with direct experience of using the ECC Services, and was able to provide the Committee with a local impression. He confirmed that the Essex Planning Officers Association has been engaged in discussion about the future of the Service.

A small District Council like Tendring has its own Planning Service but does not have its own range of specialists as employed by ECC. Some of the bigger district councils might be in a better position to employ some specialists. Nevertheless Mr Thomas emphasised that the quality of development control is of paramount importance to local residents, and has an ongoing impact upon the local environment. For example the way a local supermarket is planned and designed, and in turn the implementation of planning permission will have long term consequences for an area: It could be a misfit that creates a local eyesore for one hundred years, or an attractive local amenity that enhances an area and is in effect a positive legacy.

Mr Thomas confirmed that his District Council regularly uses the full range of the ECC Services. It currently uses the services of an ECC Urban Design Officer for one and a half days a week, albeit that person will also draw upon the expertise of other colleagues at County Hall. Aside from the advice provided on individual schemes and attending its committee meetings, ECC staff share their knowledge and provide training for Tendring planning staff. This has been effective in developing the quality of development control in the District. He compared the role of a development control planning officer with that of a project manager who must draw upon the expertise of a range of specialists in the consideration of planning proposals. While it is still necessary to employ private consultants to undertake individual projects from time to time, he highlighted the differences in the relationship eg the consultant is employed to undertake a particular task rather than work in the type of two way partnership and ongoing sharing of knowledge that exists with ECC. The loss of the type of service currently provided by ECC would have implications across Essex.

At another level ECC has promoted strategic improvements at a national level eg the Essex Design Initiative. The range and expertise of its specialised staff base make such projects possible unlike the limited resources that a district council may be able to draw upon. Aside from the critical acclaim it has received, there is evidence to demonstrate that the Initiative has raised design standards in practice, and supported LPAs in fulfilling their roles.

Mr Thomas also drew attention to another practical problem that is emerging in the provision of planning services in general. The turnover of planning staff is very high across the country, and the age profile means that there is a growing shortage of skilled talent, which could have repercussions for the protection of the environment in the longer term. As a part of staff training it is imperative that there is a transfer of knowledge from skilled professional staff to more junior staff. The Committee accepted the points being made by Mr Thomas on the importance of skilled staff, and Members voiced their own concerns about the potential loss of skills within the ECC Service. It was felt that if the process of changing the way the Services are provided is too prolonged, staff will leave due to the ongoing uncertainty about their future employment. Furthermore it was important to retain the goodwill of staff and even those individuals

who may leave full time employment with the Council may be attracted to working with the Services in the future on a contractual basis.

The Committee asked Mr Thomas some questions around the four SDV models being considered under the Consultancy Project. He confirmed that it was likely that Tendring would continue its use of the ECC Service, because its mixture of skills and flexibility enable it to cover the different types of planning application that have to be assessed. The Specialist Services are undoubtedly very good and its practical partnership working approach was beneficial.

- **David Forkin, Head of Highways Maintenance, ECC**

Mr Forkin addressed the Committee as a representative from one of the County Council's own Departments who use the specialist services under review.

By way of example he described the type of professional advice that the Highways Service draws upon in terms of arboriculture. As a Highways Authority the Council has a responsibility for trees and vegetation adjacent to the highways, and has to address a lot of requests for information about trees. Consequently Highways Officers turn to the Natural Environment Team for expert advice, who it will make an assessment and organise work as appropriate. The Highways Service retains £135,000 per annum in its operational budget for this in house work. It does have the ability to recharge for works in situations where trees may be in private ownership.

In response to the Committee's questioning on how the Highways Service would obtain these specialist services if they were no longer provided in house, Mr Forkin indicated that the Highways Services was likely to have two options: To discuss with District Councils if they could provide the services, or seek tenders from prospective contractors. Unlike the current Specialist Services it was recognised that any costs were likely to contain an element of profit for the contractor. As a Highways Authority the Council has a statutory duty to keep the highways safe, and therefore it would have to continue drawing upon specialist services to fulfil its duties.

Mr Forkin confirmed that the Highways Service valued the specialist services provided by their colleagues in the SEE Specialist Services Teams, and there was confidence in the work provided. Furthermore there was a shared understanding of the environment in which the Teams operate, as well as the constraints upon the Council. Work on individual trees was only carried out if required, rather than as a matter of course and incurring unnecessary expense. It was considered that the Highways Service had received the best value it could over the years.

- **Lesley Stenhouse, Minerals and Waste Planning Manager, ECC**

Lesley Stenhouse addressed the Committee as a representative from one of the Council's own Departments who use the specialist services under review. As a LPA for Minerals and Waste (M&W) the County Council has a statutory duty to produce M&W Plans and determine associated applications. It also determines the Council's own applications. To fulfil this role the M&W Planning Team has to seek a wide range of specialist advice such as that provided by the Services under consideration as part of the Consultancy Project.

In general key specialist advice is sought on a regular basis across the Natural Environment, Historic Environment, Built Environment, and Spatial Planning Teams. Not only is the advice required to assist in the determination of planning applications, it is also used for policy making in terms of providing evidence and supporting the production of the M&W Plans, and supporting the Council at public inquiries. It was pointed out that in practice some of these M&W matters are long term matters that require ongoing input eg the life of a minerals site operation may extend beyond 30 years.

In response to the Committee's questions about the value of the specialist services currently provided, Ms Stenhouse highlighted the following features: Speed and quality, interaction with staff, comprehensiveness, commonality of purpose (shared understanding of requirements, continuity, local knowledge) professionalism, ability to prioritise work for both Development Management (planning applications) and in Policy Development (M&W Plans), assistance in bringing about the best quality planning decisions balancing all competing interests, and impartiality of advice.

It was confirmed that historically there has been no budgetary provision for the work undertaken by the specialist Services for the M&W Planning Team as it was viewed as in house work. If the Services are no longer provided in house the M&W Planning Team will have to incur costs in obtaining the advice that they require to fulfil the LPA's statutory duties, and it will continue to have a need to access information from the Council's GIS database.

Ms Stenhouse acknowledged that the Council had been fortunate to have had planning services co-located together. If the Specialist Services are outsourced there was concern about obtaining the same high level of specialist services particularly as their independent and impartial advice was important in terms of development control. If the quality of the existing service is to be compromised because of cost then, there will be an associated risk of poor quality planning decisions and potential delays for both planning applications and plan preparation. It was not known how private consultants would be able to access the same level of detailed information or provide the same quality of advice. Nevertheless it was essential to maintain a good working relationship to meet common ECC goals and objectives where we can gain from the neutral / independent specialist advice to assist M&W Planning in fulfilling its statutory functions.

### 3. Findings

Following its consideration of the evidence submitted by witnesses who had experience of using the Specialist Services and the briefing paper attached to report SSC/09/11, the Committee decided to cross examine in more depth some of that evidence. To assist its Members in reaching some conclusions Owen Bedwin, Head of Historic Environment, and Barry Shaw, Head of Built Environment, were invited to clarify several issues relating to the Consultancy Project.

As part of the ECC Transformation Programme it had been determined that the Services would not remain within the organisation and, in practice, even if that decision had not been made the Services would be subject to cutbacks that would impact upon their operation. While none of the four options considered by the Project was risk free, nor was maintaining the status quo a viable option. At present the Services recover about a third of their costs through charges made eg SLAs with other local councils, and therefore it is substantially subsidised by the County Council. Given the financial restraints upon local authority expenditure, it was unlikely that those Essex District Councils who currently use the Services would be able to meet the full costs of the work undertaken.

As part of the approach to the Project it was pointed out that since the introduction of three tier working in Local Government in 1974, there had been strong and consistent political support in ECC for the Specialist Services that had assisted in the development of a professional service with a very good countrywide reputation. The Services have a good customer base and there were possibilities for extending business beyond Essex boundaries. Therefore it was considered that there could be opportunities for the Services to capitalise on and develop their existing strengths in facing the future.

It was confirmed that the preferred option reached by the Consultancy Project was for the Services to follow the 'Local Authority Trading Company' route. In summary such a company could be set up quickly, and would retain the public sector ethos that local authority customers look for. ECC would be able to commission appropriate services through service level agreements. It would be able to operate outside Essex boundaries, and broaden its earning capabilities. However, it was being proposed that further review of the option would be undertaken including the setting up of a shadow company and development of a detailed business plan before any final decisions are reached. The Committee learned that feedback from partners and external agencies had drawn attention to such matters as:

- A feature of the Service's strength was the co-ordination of a number of related specialist teams who could work together effectively, and it was hoped this approach could be retained; and
- in developing a new business model it was highlighted that District Councils valued the independence and quality of services now provided.

The Committee considered the role played by the Services and the part they play in the integrity the planning functions performed by local government. This point was highlighted using the role of Spatial Planning and Natural Environment Teams in collating relevant statistics that are used by other specialists in the consideration of planning policy and development control decisions, as well as planning the educational needs of an area. While some of the work may be discretionary and could possibly be dropped, there would be consequences for instance in monitoring the rate of actual development taking place in practice and identifying local needs, and informing planning decisions. District Councils do collate some data. However, the integrity of ECC data has a proven reputation and its position in the public sector gives it an independence from private interests.

The Committee also noted that the Services provide skills and information that is required by developers, who may provide another stream of income towards its ongoing operation. However, if a new LATC was set up any proposals to market services to developers would have to be carefully considered because of the potential impact it could have other streams of income such as planning development grant. Also it would be sensible to ensure that the impression of the new LATC is not confused and consequently detrimental to the delivery of its services.

The Committee raised questions about the Project's consideration of intellectual property. It sought advice on the future ownership of the vast pool of resources like its Historic Environment Record (HER) and IT systems that the Services currently have at their disposal, aside from the individual skill and expertise of professional staff. Mr Bedwin confirmed that ECC has a unique collection of historic environment data that has been built up over 40 years with public monies, and which will remain as a public record. The HER is publicly available and much information may be accessed via the internet. While there is no charge to any member of the public wishing to access the records, there may be charges made in terms of the staff time used, e.g. for checking, copying and providing detailed information via e-mail or the post. There could be issues if the Services are moved outside the Council. English Heritage has been consulted upon ownership, and it has recommended that the records should remain in public ownership. Therefore careful consideration will be given to the ownership of the HER, with the recommendation that it will remain a public record, still in the ownership of ECC, but licensed to be used by the new entity. There will also be issues around maintaining the accuracy of the HER, as it is not static document, but is regularly updated as new archaeological sites are found or there are new designations of listed buildings or conservation areas.

With reference to the provision of specialist services by BEAMS In Hertfordshire, it was indicated that that body was set up in 1993 as the trading company of the Hertfordshire Building Preservation Trust. There are concerns about its financial sustainability, its ability to support the ongoing development of skilled staff for the future, and ability to grow as an organisation. The Services' witnesses indicated that BEAMS is based on a complex model that they felt was not appropriate for

ECC to take forward, but they acknowledged that there were lessons that could be learned from the experience of their counterparts in Hertfordshire.

At the meeting Members sought some legal advice associated with the SDV models considered, which could not be answered on the day. Nevertheless clarification has now been received and is incorporated into this report as follows:

Questions were raised on why the partnership model might not be a suitable option for the provision of the Services, and the constraints would make it less viable than an LATC. The following opinion was given by Derek Beer (Legal Services):

If ECC were to form a partnership with another local authority, then that partnership could do work for the two authorities without either of them being required to put the work that it gave to the partnership out to tender.

The reason for this is that the EU regards such an entity as being in essence the same as the participating authorities (even if the two authorities decide to operate through the form of a separate company, owned by them both) and that they are therefore not actually procuring such services, they are performing them.

Such an entity could operate within Essex (for ECC work) and the area of the borough/district (for that council's work), but could not operate for other local authorities other than through any procurement process required by the Public Contracts Regulations (or having them join the company). It could not provide services at all for the private sector, unless the two authorities formalise that intention by converting it into a local authority trading company.

#### **4. Committee's Findings and Conclusions**

In reaching its conclusions the Committee was mindful of the high regard with which the ECC Services are held as had been evidenced in its cross examination of the evidence received. Members also expressed their own appreciation of the valuable high quality work that had given Essex a distinguished national reputation.

From the evidence considered the Committee agreed that a Local Authority Trading Company was its own preferred option rather than a partnership model, social enterprise, or the commercialisation of the Service. A Trading Company appears to offer the Service the best opportunities to defend its national reputation as well as the flexibility to enhance its current operation by marketing its services across Essex and beyond current boundaries. The quality of the Service makes an important contribution to the integrity of planning services, and ongoing improvements in the quality of development control in Essex.

While supporting the creation of a Trading Company, the Committee did identify the following caveats to the way that the proposal is taken forward:

- Witnesses identified the importance of the approach that has been pursued by the Service in transmitting knowledge across the generations of staff who have been employed by ECC. This has been an ongoing asset that the Committee considered should be safeguarded in any new model that is finally approved.
- The combination of specialist staff working together is invaluable as well as their close working proximity both within their Service, and with other Teams across the County Council. It was hoped that the Services would remain at County Hall, Chelmsford.
- Steps should be taken to retain the goodwill of those staff who may no longer be employed in the core centre of the new Trading Company, and consideration should be given to bringing them back on a case by case basis.

It was confirmed that it was necessary for a detailed business case to be developed for the preferred LATC model, and the Committee Members confirmed that they would welcome an opportunity to comment upon that case before any final decisions are made on the future provision of the Services.

## **5. Summary of the Committee's Recommendations**

**In summary the Committee agreed that the following recommendations be forwarded to the Cabinet Member for Environment and Culture for consideration at the Cabinet meeting on 21 June 2011:**

- 1. Based upon the evidence considered the Committee supports the creation of a Local Authority Trading Company as a way forward for the Sustainable Environment and Enterprise Specialist Services Consultancy Project.**
- 2. That, in taking the Project forward, critical consideration should be given to:**
  - **The safeguarding of the high quality approach to transmitting knowledge throughout the Services;**
  - **The benefits of close working among the specialist teams as well as with their customers in the County Council complex at County Hall, Chelmsford.**
  - **The ways of retaining goodwill of existing staff who may not necessarily be employed on a full time basis by a new trading company, but who may be recruited on a contract basis for individual cases.**
- 3. That the Committee (Safer and Stronger Communities Task and Finish Group) be afforded an opportunity to comment upon the Business Case for**



**the new Trading Company in the summer before a final decision is made by the Cabinet.**

Implementation Review Date: Not required

Impact Review Date: Not required

Owner: Cabinet Member for Environment and Culture

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