

TELFORD & WREKIN COUNCIL

DELEGATED DECISION BY THE DIRECTOR: PROSPERITY & INVESTMENT

REVIEW OF DEVELOPMENT MANAGEMENT INCLUDING APT

LEAD CABINET MEMBER – CLLR DAVID WRIGHT, CABINET MEMBER FOR ECONOMY, HOUSING, TRANSPORT AND INFRASTRUCTURE

PART A) – SUMMARY REPORT

1. SUMMARY

- 1.1 This report sets out the findings of a review of the Development Management function of Telford Council looking at its structure, performance, commercial activities and branding. This review has been undertaken by the Councils Director: Prosperity & Investment in consultation with the Cllr David Wright Cabinet member for Economy, Housing, Transport and Infrastructure. It was instigated following changes in the Senior Management Team that saw the co-location of the two main income generating outward facing brands of apT and biT, as well as concerns raised in respect of the perceived overlap between statutory and income generating functions within the Development Management Service. Development Management/apT service is an internal department with all employees employed directly by TWC.
- 1.2 Development Management provides a number of statutory and regulatory services provided by the Local Authority. The Service is responsible for ensuring development accords with local and national policies and implementing legislation, ensures safety and promotes the sustainable growth of our Borough and communities. It is a service that is used by residents and businesses who live in the Borough or are looking to invest/move into it. It has to ensure its independence and an open and transparent methodology whilst also delivering sustainable growth and the 'Business Winning, Business Supporting' agenda. The service fulfils a range of statutory duties on behalf of the Council from the determination of planning applications (processing c.1200 applications in annually), planning enforcement, Local Authority Building Control and associated enforcement, Development Control Highway Engineers, Rights of Way and a range of specialist development functions – including ecology and conservation.
- 1.3 Performance / Scrutiny
The service is monitored monthly against a range of parameters as set out in Appendix 1. Key highlights over the past financial year 2020/21 include 95% of planning applications determined within the statutory planning period; this includes 97% of major applications determined with the statutory planning period (well above the Government best practice of 65%), with 71% of appeal decisions upheld against the Council's decision.
- 1.4 Branding
In 2017 the Development Management function moved away from its traditional Telford & Wrekin Council – Development Management brand and was replaced by apT for all statutory and non-statutory work either within or outside of the Borough. This decision was made to support the service providing 'enhanced services', from reformed pre application advice service to the discharge of conditions and external work outside of the Borough.

2. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes	<i>Everyone benefits from a thriving economy</i>
	Will the proposals impact on specific groups of people?	
	No	
TARGET COMPLETION/DELIVERY DATE	1 st October 2021	
FINANCIAL/VALUE FOR MONEY IMPACT	No	
LEGAL ISSUES	Yes	<p>The Local Government Act 2003 enables councils to charge for, or trade in, activities relating to their ordinary functions on a commercial basis. Charging is only recovering the costs of discretionary services whilst trading generates surpluses and profits.</p> <p>Under section 93 of the 2003 Act, local authorities can charge for discretionary services on a cost recovery basis. Discretionary services are defined as those services that a local authority has power to provide but are not obliged to provide by law. Where there is a duty to provide a service, the Authority must make this available free of charge, however a charge can be applied for enhancements to the mandatory service, which is to a higher standard than that required by law, and as such considered discretionary, to which a charge can be applied. The position in this respect has not significantly changed since the principle of apT was established.</p> <p>A distinction is also made between providing discretionary services for the private and public sectors. The Local Authorities (Goods and Services) Act 1970 permits the Council to provide discretionary services to a large range of public bodies and there is no limit on the charges that can be made as there is on completing work for the private sector.</p> <p>Together with Planning Committee, the Council's Development Management Team has responsibility to perform the Council's statutory planning functions. The Council also has clear responsibilities as highway authority and in other areas. The proper and independent performance of those statutory functions must be maintained at all times. It is not envisaged that the proposed changes detailed in this report will undermine the fair and independent exercise of the Council's planning, highways, building control etc functions. However, legal advice will be provided to assist the Team if required. Clearly defined working arrangements will need to continue to demonstrate that the Council's statutory functions are being performed properly.</p>

		(IR/EH 21 st Sept 2021)
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	The changes proposed remove any perceptions of a cross over between statutory and non-statutory works, whilst ensuring engagement with applicants and additional fees can still be generated.
IMPACT ON SPECIFIC WARDS	No	

Part B) – ADDITIONAL INFORMATION

3. INFORMATION

Introduction:

- 3.1 Development Management is a statutory and regulatory services provided by the Local Authority. The Service is responsible for ensuring development that accords with local and national planning policy and implementing legislation that maintains the interests and promotes the sustainable growth of our Borough and communities.
- 3.2 It is a service that is used by residents and businesses who live in the Borough or are looking to invest/move into it. It has to ensure its independence and an open and transparent methodology whilst also delivering sustainable growth and the 'Business Winning, Business Supporting' agenda.
- 3.3 The service fulfils a range of statutory duties on behalf of the Council from the determination of planning applications (processing c.1200 applications in 2020/21), planning enforcement, Local Authority Building Control and enforcement, development control highway engineers, Rights of Way and a range of specialist development functions – including ecology and conservation.

The list of statutory services include:

- Local Planning Authority
 - Determination of a range of Planning applications, including prior notifications
 - Discharge of planning conditions
 - Planning Enforcement
- Local Building Control Authority:
 - Building Regulation Applications
 - Enforcement and Regularisation of retrospective works
 - Demolitions
 - Dangerous structures
 - Maintaining records of Initial Notices and Competency
- Local Highway Authority:
 - Consideration of various works made under Highway and Planning legislation:
 - creation of new access points,
 - works to an existing highway,
 - adoption of highways,
 - recording of stopping up and diversion of existing highway, footpaths, bridleways and restricted byways
 - Various Highway licences

- A range of other services including:
 - Street naming and numbering
 - Maintain the Local Land and Property Gazetteer for the Council.
 - Investigation of complaints relating to High Hedges, made under legislation
 - Identification, adoption and management of Conservation Areas
 - Identification and review of any buildings of local interest
 - To maintain the Outstanding Universal Value of the WHS, including the production and delivery of a WHS Management Plan
 - Update the Definitive Map and statement of Public Rights of Way
- 3.4 In addition to the services above the team as Development Management offer additional enhanced discretionary services within the Borough to applicants at an additional charge. Such services are provided to varying degrees by Planning Authorities across England.
- 3.5 Pre-application Planning Advice
 As part of the changes implemented in 2017 the Council introduced charges for pre-application advice and guidance. The changes were necessary as the number of enquires was significantly higher than the number of planning applications made, taking a similar amount of resource and time to consider as a fee paying application. Free pre-application enquiries grew to 1700 enquiries in 2016, compared to the 1200 statutory planning applications. Only 25% of the pre application enquiries then progressed through to a formal fee paying application, meaning resource had been effectively lost on a significant number of enquiries; whilst the service could not support the resource needed, meaning there were delays to responses and processing of applications, in addition to the quality of the response and further impacts on wider planning matters such as the discharge of conditions, delaying developments commencing on site; in addition to increasing enforcement investigations.
- 3.6 The changes sought to focus on the enquires that wanted to invest, by requesting a fee that was proportionate to the actual time spent on the enquiry and provide a more focused, quality and timely service. As part of that change the process was enhanced and clearly defined in terms of the requirements of applicants and the responses given (the template for Pre-application advice is set out Appendix 2). Pre-app is encouraged particularly for the larger or more complex applications where potential barriers, time constrained issues (survey windows for specific ecological species for example), scheme opportunities can be discussed and encouraged prior to planning. Consultation with Parish Council and Ward members is also undertaken as part of the process.
- 3.7 The availability and charging regime of pre-app advice across local authorities varies significantly. Appendix 3 outlines the current position across our neighbouring LPAs. As can be seen the availability of pre-app in some instances is not available at all, whilst our charging regime is in line with others and in fact cost effective in comparison. These fees cover approximately 25% of the actual cost to the Council; full cost recovery has not been sought as there is balance to attract the enquiry verses those who may avoid and go straight to application, or not decide to invest in the Borough.
- 3.8 The service continues to offer a free service to residents where the scheme is associated with residential extensions, alterations to dwellings that are Listed, with Conservation Areas or the World Heritage Area. This was offered face to face at Wellington offices – however with Covid the service has had to adapt and with the role out of Microsoft Teams has enabled officers to continue to provide this service virtually and at any time. The service has also altered in recent months to a Duty planning officer system and available at any time without appointment but is still specifically for the simple enquires focused primarily on householder extensions and building alterations. Such a service is not

provided by many LPAs with a significant number having a policy of no discussions with officers without payment.

- 3.9 Feedback for the service has been positive and compliments / testimonials have been received. The adaptation to access to simplified planning workshops where needed rather than being specific to only large scale major developments has reduced the need for amendments during applications, and the system continues to gain confidence in investors and developers to instruct further services across the service area and outside of the Borough.
- 3.10 Development Briefs:
Where an end user is not known and no proposal has been considered, the LPA is able to prepare a design brief that provides a formal LPAs opinion of what a site could be used for that is in accordance with the development plan, assisting those sites which are for sale. In particular this supports sites which are sold through auction, whereby the LPA received many requests for quick consideration as to the appropriate use of a site, and we were unable to support. This reduces the demand on resource, reduces risk to the end user, giving confidence, and acts as a sale particular for a site, supporting the Councils Business Winning agenda. This service is promoted via land and estate agents.
- 3.11 Planning Performance Agreements (PPAs)
For larger complex planning applications the LPA offer dedicated PPAs. This is where the applicant agrees to pay an enhanced fee in exchange for a specific set of milestones in regard exchange of information and determination dates. As these agreements are based around prioritising and dedicating resource on the application, the service can only engage in four PPAs at any one time – which the four principal Planners deliver. Annually the service only engages in approx. 6 PPAs.
- 3.12 Fast track discharge of condition
Following the statutory decision, a fast track condition service can be accessed to support the applicant in the projects delivery, the aim is to make the legislative matters more responsive. This can be carried out via two options; the first is a design service, whereby details as required by the condition are designed to the satisfactory level to discharge the condition, and the condition is discharged accordingly saving time and reducing the cost of external consultants who may need to redesign any submitted scheme to the requirements of the LPA. The second is a prioritised process, which considers the submitted details on an agreed timetable, and this is resourced accordingly.
- 3.13 Highway Design
As proposed sites are developed support can be accessed in designing highway infrastructure, whether on the adopted highway network, on new roads coming forward for adoption, or on those roads to be maintained privately. The service also includes street lighting design and drainage designs that has limited resource externally and therefore generally have long lead in times. It is suited to small and medium sized developments that do not have the financial resources to access the major development consultancies. DCP (Dynamic Cone Penetrometer) testing has also been made available, carried out by the Highway Site Engineers in the team; whilst inspecting the road works on adopted highways, or in respect of highways coming forward for adoption, the test is used to determine the structural properties of sub-grade materials beneath road pavements, and ensures any highway design is stable and appropriate for the location, reducing future maintenance costs for the Council, or landowner.
- 3.14 Other Services available to customers outside of the Borough:
As part of the 2017 re-structure and creation of the apT brand, a range of new services and service packages were developed for external clients these include:

- Promotion of land for allocation in Local Plans to other LPAs
- Advice and preparation of Neighbourhood Plans on behalf of Town /Parish Councils in other LPA areas.
- Building Regulations to work beyond the authority boundary widening the Market area; working in partnership with other LABCs, as allowed in legislation.
- Ecological Reports and solutions to other LPAs and private developers.
- Transport Assessments and highways design service.
- Fully manage the negotiation and drafting of agreements under S38 and S278 of the Highways Act applications.
- Design, tender and oversee the creation of play areas and open space provision.

3.15 **Performance**

The service is monitored on a monthly basis to ensure high levels of service. Key highlights over the past financial year 2020/21 (noting the service was effected by COVID) include:

- Overall 95% of applications determined in statutory time periods, specifically:
 - 96% of major planning applications in time, against government target of 60%
 - 91% of minor applications determined in statutory time period; against government target of 65%
 - 94% of other applications determined in time,, against a government target of 80%
- Approving detailed applications that generate c10,000m² commercial floor area; and c600 dwellings; and outline and reserved matters applications that generate c1300 dwellings; and applications that indicate the creation of 446 new jobs.
- 71% of appeals were dismissed
- Investigating 748 planning enforcement complaints; and proactively investigating to remove the complaint; however where this had not been resolved serving 55 notices.
- Considering 741 building regulation applications, and increasing our market share from 53% to 61% as more customers chose the Council over Approved Inspectors.
- Reviewing 130 building regulation contraventions.
- Investigating 37 dangerous structures
- Winning a Gold Achievement for the management of Address information and a Gold Achievement for the management of Street information in the Geoplace Exemplar awards 2020
- Commended as the LPA of the year in the RTPi planning excellence awards 2020.
- Having 11 shortlisted awards in the West Midlands LABC awards 2020, winning three of them.

3.16 **Income**

A range of external work has been secured since the creation of apT. The majority of the work has been secured with other public sector partners. This has generated income over the past three years with specific examples including:

- North Kesteven Borough Council: Working in partnership with the biT team a tender was secured for a range of highway & drainage design, infrastructure design, and clerk of works, to support the delivery of a new industrial estate development at a value of c£300k across 3 years
- Cornovii Homes (Wholly owned housing company of Shropshire Council): Providing highway & infrastructure strategy & design; ecology statements; Providing Historic Building and Heritage statements
- Shropshire Council: Providing Ecological and Highway support to planning applications
- Wolverhampton Council: Providing specialist planning support for planning applications

- Herefordshire Council: Providing Ecological support to planning applications
 - Working in partnership with Shropshire Rural Communities Charity to support a number of Parish Councils in Shropshire developing neighbourhood plans.
- 3.17 The addition of external work has generated additional income year on year. Specifically in the first financial year 2017/18 c£125k was generated. By year 4 - 2020/21 the service generated an additional £700k, which has gone towards supporting front line services across the Council whilst also ensuring the service is of a size to react to changes in statutory work.
- 3.18 **Branding**
In 2017 the Development Management function moved away from its traditional Telford & Wrekin Council brand and was replaced by apT for all statutory and non-statutory work either within or outside of the Borough.
- 3.19 The branding of apT had a linkage with biT but was set up separately as a development consultancy. This included the production of a range of new outward facing digital platforms including:
- [apT web site](#)
 - [LinkedIn platform](#)
 - [Twitter feed](#)
- 3.20 Email correspondence was also altered with them being sent from @apt-group.co.uk email addresses.
- 3.21 **Review.**
Concerns have been raised by some Members and public around the perception of apT in relation to the department being outsourced to a third party company and some have quoted that by using apt you will have more chance of a successful planning application. For example a resident who makes an enquiry with the LPA in regard to a planning application at a nearby address would correspond with the relevant planning officer receiving an email from @apt-group.co.uk and a branded signature despite the fact that the correspondence is from the planning officer working on statutory matters.
- 3.22 In the Borough advice is paid for pre application advice and for the fasttrack condition discharge service at either side of a statutory planning application. The pre application advice is confidential and a service that is provided by any LPA at a charge. The fast track condition discharge is evidenced on any planning file and transparent. It is recognised however that the branding used in both cases confuses some and therefore considered appropriate to rename under TWC. The service however as reflected in national planning guidance will remain and people will continue to pay for advice and this service. It is confirmed that on no occasion has the matter been raised with Scrutiny, or the Council Monitoring Officer. Having reviewed complaints, the statutory service receives an expected number of complaints, which due to the nature of the service, it can never satisfy all interested parties all of the time; there is normally an aggrieved objector or a disgruntled applicant. However officers are professional and matters are overseen by a number of supporting senior officers in authorising any decision.
- 3.23 There is however a need for the service to deliver income in addition to covering the growing statutory and non-statutory case load. This can only be achieved by retaining the external income and continuing to market the service. This cannot be achieved under the brand of TWC. As the service area is now aligned with biT there is an opportunity for TWC to have just one dedicated outward facing development consultancy.
- 3.24 There are also risks to this; firstly biT submit planning applications for determination and building regulation applications, both of which are independent statutory processes; the

department must therefore not be associated with this name in this process, and this view has been clear from Members since the conception of apT. Secondly apT has developed a client base and marketed a brand for four years, this will need to be converted into biT's identity to ensure the customers know the service is still accessible, but to also attract new clients. The identity should be as one, and it is suggested a project team is put in place along with a project officer to oversee the conversion of the brand, prepare a new business plan, and marketing strategy and monitoring to ensure its successful delivery. Some employees within apT will need revised job descriptions in association with the new direction, as some elements of the role may be lost. Officers within apT will still be expected to correspond externally for work bases – such as with other authorities, on work not associated with statutory roles, therefore access to a communal email should be provided to continue this work. These will not be personal emails but grouped ie ecology@biT-group.co.uk.

4. Conclusion

- 4.1 Development Management is a high performing service area that achieves standards well above those set by government in terms determination of applications. It is a key 'gateway' for developers/investors to the Council's Enterprise Telford investor services and is supporting the delivery of growth through homes and jobs.
- 4.2 Since its inception apT has grown its external client base driving additional income to the service area that in turn helps to deliver front line services. The move to charging for services has allowed a more focused detailed approach enabling proposed applications to be dealt with in a much more structured way, an enabling developments to deliver quickly without risk.
- 4.4 The use of a brand (apT) for all service activities either for LPA or private work can be misleading in that it is not clear to customers and the general public under what guise the officers are operating. There is a small perception, but one nonetheless that a private company is responding to an LPA matter when in reality it is the designated LPA planning officer who is responding but using the branding/email address of apT. Going forward it is therefore decided that the council has one trade name of biT, to deliver a holistic development consultancy, and the service area of apT: Development management is rebranded to TWC. There are no proposed changes to structures, only communications.
- 4.5 Decisions:
- That the formal brand name of apT is formally withdrawn and the service reverts to TWC.
 - External work should still continue, where appropriate this should be under the established biT brand as part of a wider development consultancy offer with a focus on Highways development design/implementation and specialist skills (including ecology and conservation).
 - That a project team is established to oversee the working across the service, communications and marketing strategy, converting appropriate material to biT brand, and communications to existing clients. The project team shall report to the Director – Prosperity Investment.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

NA

6 PREVIOUS MINUTES

NA

7 BACKGROUND PAPERS

- Cabinet Report 20/04/17 Supporting Growth: Development Management

Report prepared by James Dunn, Director – Prosperity & Investment

**THE FOLLOWING DECISION HAS BEEN TAKEN UNDER:
PART 2 – DECISION MAKING: DELEGATIONS TO CHIEF OFFICERS
OF THE COUNCIL’S CONSTITUTION**

Decision maker:	James Dunn
Position:	Director: Prosperity & Investment
Decision in the matter of:	REVIEW OF DEVELOPMENT MANAGEMENT INCLUDING APT
Decision taken on:	1 st October 2021

The Executive Director is aware of the decision taken.

DECISION:

Having reviewed the Development Management function and having also consulted with Cllr David Wright, Cabinet Member for Economy, Housing, Transport and Infrastructure, I approve the following changes to the Development Management function:

- The brand of apT is withdrawn and the service reverts back to being the T&WC – Development Management Service.
- External work should still continue, where appropriate this should be under the established biT brand as part of a wider development consultancy offer with a focus on Highways development design/implementation and specialist skills (including ecology and conservation).
- That a project team is established to oversee this work, working across the service to deliver combined communications and marketing strategy, converting appropriate material to biT brand, and communications to existing clients. The project team shall report to the Director: Prosperity & Investment

In accordance with the authority granted to me as a Chief Officer under the Constitution of the Council.



Signed:

Director: Prosperity & Investment

Date: 1st October 2021