

HAVANT BOROUGH COUNCIL

Delegated Decision by Cabinet Lead

**Decision By: Leader and Cabinet Lead for
Corporate Strategy, Finance, and
Devolution**

Commercialisation of Planning Service

Report by: Andrew Biltcliffe, Mark Gregory

Key Decision: No

1.0 Purpose of Report

- 1.1 To agree to the creation of HBC Commercial Limited, a Local Authority Trading Company which is limited by shares

2.0 Recommendation

- 2.1 That the Leader of the Council, under delegated powers approve the incorporation of HBC Commercial Limited (the Company) wholly owned by the Council so as to allow the Council to exercise the power to trade contained in the Local Government Act 2003 and the Localism Act 2011. The detailed Governance structure to be settled by the Head of Legal in consultation with the Head of Planning

4.0 Subject of Report

- 4.1 The setting up of a company is in response to a request from a private company to supply resource to a nearby Local Planning Authority in processing a backlog in planning applications. Once established the Company will enable the Council's planning service to process all types of planning applications and the preparation of planning policy documents for other planning authorities.
- 4.2 Details of the company is attached.

5.0 Implications

- 5.1 **Resources:**

- 5.2 These proposals should not have any direct implications for staff currently employed by the Council as it is not proposed that any staff transfer to the Company. Staff may well be working on specific work relating to the Company but all time and resources will be specifically accounted for and charged to the Company. If the Company does decide to employ staff directly, and former HBC staff are transferred to the Company under TUPE, the Company will be required to offer any new staff comparable terms and conditions including pension rights.
- 5.2 **Legal:**
- 5.4 Housing and Planning Act 2016 - S161 establishes the principle of privatising the processing of planning applications
- 5.5 A local authority is able to establish a Local Authority Trading Company ("LATC") through powers in section 95 of the Local Government Act 2003. A local authority is permitted to trade in anything that it is authorised to do under its ordinary functions. The company can with good business planning generate a surplus which can be re-invested into services, or the council, being the single shareholder.
- 5.6 The Local Authorities (Goods and Services) Act 1970 (the 1970 Act) continues in force and it enables councils to provide services to other councils and to other public bodies but not to the private sector or the public in general. Successful trading has been undertaken by this authority under this legislation since 1970 enabling the saving of money and the achievement of efficiencies through economies of scale. The trading company will enable the authority to take advantage of trading opportunities that cannot be undertaken using the powers within the 1970 Act. However, it is anticipated that existing trading will continue to happen as it currently does under the 1970 Act as this is the most cost effective way to trade with other local authorities and public bodies.
- 5.7 Under section 1 of the Localism Act 2011 Local Authorities now have a general power that enables them to do anything that a private individual is entitled to do, as long as it is not expressly prohibited by other legislation.
- 5.8 The Company is a "controlled company" as defined in the Local Government and Housing Act 1989 as it is a subsidiary company of a local authority and as such the shareholder (Members of SDC) can have ultimate control over the activities and operational matters of the Company.
- 5.9 **Strategy:**
- 5.10 The proposal provides a real opportunity that positively impacts on
- Financial Sustainability
 - Public Service Excellence
 - Creativity & Innovation
- 5.4 **Risks:** (Environmental, Health & Safety and Customer Access Impact Assessment)

5.5 Communications: N/A

5.6 For the Community:N/A

5.7 The Integrated Impact Assessment (IIA) has been completed and concluded the following:N/A

6.0 Consultation N/A(*to advise who has been consulted*)

Agreed and signed off by:

Team Leader: *Andrew Biltcliffe 11 July 2016*

Head of Legal Services *Abe Ezekiel 11 July 2016*

Cabinet Lead: *Michael Cheshire MBE 11 July 2016*

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