

<b>South Thames Gateway Building Control Partnership Joint Committee Meeting</b>	<b>Agenda Item:</b>
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<b>Meeting Date</b>	20 September 2012
<b>Report Title</b>	<b>Swale Borough Council Audit Review of the South Thames Gateway Building Control Partnership</b>
<b>Portfolio Holder</b>	Cllr G Lewin – Planning Portfolio Holder
<b>SMT Lead</b>	Pete Raine – Director of Planning
<b>Head of Service</b>	James Freeman – Head of Planning Services
<b>Lead Officer</b>	James Freeman
<b>Key Decision</b>	<b>No</b>
<b>Classification</b>	<b>Open</b>
<b>Forward Plan</b>	<b>Reference number:</b>

<b>Recommendations</b>	1. To note/comment on the contents of the Mid Kent Audit review of the South Thames Gateway Building Control Partnership
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## **1 Purpose of Report and Executive Summary**

- 1.1 The purpose of this report is to bring the Audit review to the attention of the Joint Committee given that the high level of assurance secured reflects the good work carried out by the building control service and the efforts made by officers and members across the three local Authorities.
- 1.2 The audit review concludes ‘..that the controls surrounding the Building Control partnership provides a substantial level of assurance. The assurance level has been awarded because there are strong controls in place but a few minor improvements would be beneficial’.
- 1.3 Additionally, many of the proposed improvements would also apply to all 3 Local Authority partners.

## **2 Background**

- 2.1 During May and June the Mid Kent Audit team carried out an internal review of the adequacy of arrangements in relation to Swale Borough Council’s Building Control responsibilities and commitments. The objectives of the review were:

- To identify and evaluate the governance arrangements surrounding the building control service
- To consider the financial arrangements surrounding the building control partnership (fee and non fee earning)
- To establish whether the building control service provided through the partnership enables the Council to meet its statutory responsibilities
- To establish whether the building control service provided through the partnership enables the Council to meet its non-statutory, fee earning, value for money and customer care performance objectives

2.2 The full Report is attached in Appendix I.

### **3 The Audit Review and its Implications**

3.1 The audit review concludes ‘..that the controls surrounding the Building Control partnership provides a substantial level of assurance. This assurance level has been awarded because there are strong controls in place but a few minor improvements would be beneficial’. It is the second highest possible assessment.

3.2 Appendix II sets out the improvements sought by the audit review and the response from Swale’s Head of Planning Service.

3.3 Appendix III sets out proposed additional risk assessments regarding South Thames Gateway Building Control Partnership to be included within Planning Services Service Plan in 2013/14

3.4 Discussions are taking place with the head of Finance with regard to setting out a procedure note / flow chart procedure for dealing with Dangerous structures as required by the Action Plan item 5.1. This is due to be completed by the end of September 12.

3.5 The Action Plan has been returned to Mid Kent Audit Team and I should be in the position of verbally updating the Committee on whether the Audit Team believe that the actions proposed will provide the assurances required.

3.3 It should be noted that many of the actions for improvement would apply across all 3 Local Authority partners.

### **4 Alternative Options**

4.1 None.

### **5 Consultation Undertaken or Proposed**

- 5.1 Cllr G Lewin as Swale Council's representative on the Joint Committee and as the current Chair of the Joint Committee has been consulted on the outcome of the Audit review and the preparation of this report.

## 6 Implications

Issue	Implications
Corporate Plan	Conforms with the Council's objective of being a high performing local authority.
Financial, Resource and Property	There are no additional financial implications beyond that budgeted at this stage. New procedures with regard to dealing with the recovery of dangerous structures abatement costs have been agreed with the Head of Finance.
Legal and Statutory	There are no legal implications at this stage
Crime and Disorder	None at this stage.
Risk Management and Health and Safety	See Report – new risk assessment items to be included in service Plan for 2013/14
Equality and Diversity	None at this stage.
Sustainability	None at this stage.

## 7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report
- Appendix I: Mid Kent Audit report: Building Control Partnership, June 2012
  - Appendix II: Management Action plan: Building Control Partnership, August 2012
  - Appendix III: Additional Risk Assessments regarding South Thames Gateway Building Control Partnership - August 2012
  - Appendix IV: Dangerous Structures Flow Chart procedure Note

## 8 Background Papers

- 8.1 None.

**Memorandum**

**To:** James Freeman - Head of Planning Services

**From:** Brian Parsons – Head of Internal Audit Partnership

**Copies to:** Pete Raine – Director of Regeneration  
Abdool Kara – Chief Executive  
Nick Vickers – Head of Finance

**Ref:** SBC05(2012-13)

**Date:** 29 June 2012

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**Audit Review – Building Control Partnership**

The attached report documents the findings, conclusions and recommendations arising from the recent Internal Audit review of the Building Control Partnership.

It is concluded that the controls surrounding the Building Control Partnership provide a **substantial** level of assurance overall (See appendix B for definitions of assurance levels).

Recommendations are included in the report to assist you in considering possible control improvements. An Action Plan has been issued with the report for you to use for your response.

I would be grateful for your views and details of any intended action on the recommendations by 10 August 2012. If circumstances are such that you are unable to respond within that period, please let me know so that I can reset the response period to reflect your circumstances.

In the meantime, I will of course be happy to discuss or advise further on any matter arising from this report if you would find this helpful.

I am grateful for the assistance of your staff during the course of the audit.

B J Parsons  
Head of Audit Partnership

# MID KENT AUDIT

## **Audit Report: Building Control Partnership**

**Service:** Planning Services  
**Ref:** SBC05(2012-13)

**Auditor:** Frankie Smith  
**Audit Manager:** Jennifer Daughtry

**Date of Report:** June 2012



## **AUDIT REVIEW: Building Control Partnership**

### **1. BACKGROUND**

Building Control is an advisory and enforcement function which ensures that the construction of new buildings, and alterations and extensions to existing buildings, are completed in accordance with the health, safety and convenience of the people in and around the buildings. Private and commercial developers are required to obtain building regulations approval for building works. Successful applications are subject to works inspection at key stages, for which fees are payable.

A building control partnership was set up between Gravesham Borough Council, Medway Council and Swale Borough Council in October 2007. The Partnership, named the South Thames Gateway (STG) was originally agreed for a 5 year term and was extended in December 2011 for a further 5 years. The Partnership is hosted by Medway Council and all of staff have been transferred to Medway Council.

The Partnership brings together the main functions of the Building Control service - the building regulation service and a public protection service - and provides a consultancy service for advice relating to discretionary services such as energy, fire risk, access and Code for Sustainable Homes and Party Wall surveying work.

The STG Partnership is led by a Joint Authority Committee advised by a steering group of senior officers. The Committee will be chaired by Swale Councillor, Gerry Lewin from June 2012.

The income for the whole partnership from fees is estimated to be £1,102,052.

The annual cost of the STG Partnership for 2012/13 is estimated to be £352k. Swale Borough Council contributes 27% (£95k) towards this cost. The current partnership business case estimates that Swale's contribution will reduce by 7.8% by 2014/15.

This audit will review the adequacy of arrangements in relation to Swale Borough Council's responsibilities and commitments.

### **2. AUDIT OBJECTIVES**

- To identify and evaluate the governance arrangements surrounding the building control partnership
- To consider the financial arrangements surrounding the building control partnership (fee and non fee earning services)
- To establish whether the building control service provided through the partnership enables the Council to meet its statutory responsibilities
- To establish whether the building control service provided through the partnership enables the Council to meet its non-statutory, fee earning, value for money and customer care performance objectives

### **3.**

### **MANAGEMENT SUMMARY**

The review considered the adequacy of the governance arrangements surrounding the building control partnership; the adequacy of the financial arrangements surrounding the building control partnership and whether the partnership enables the Council to meet its statutory and non statutory responsibilities for building control.

It is concluded that the controls surrounding the Building Control Partnership provides a **substantial** level of assurance. This assurance level has been awarded because there are strong controls in place but a few minor improvements would be beneficial. (See appendix B for definitions of assurance levels.)

Recommendations have been made within the report to ensure that the Council continues to fulfil its statutory obligations for the building control function in the future. The main issues arising are:

- The provision of the building control service through a partnership arrangement has not been fully risk assessed from Swale's perspective.
- There are initial plans in place to change the business model of the building control partnership so that it can be set up as its own local authority organisation. Before this proposal progresses, legal advice should be sought to ensure the proposed business model is lawful and to ensure that the service provided through the new business model continues to be adequately insured.
- The performance targets set for the building control operations are not being achieved. This suggests that the performance targets need to be reconsidered and possibly revised.
- Costs incurred from the abatement of dangerous structures are not always being recovered from the property owner in a consistent manner. This means some income due to the Council is not received. Currently there is no formal procedure in place setting out the process for the recovery of abatement costs.

#### **4. SUMMARY OF AUDIT FINDINGS**

##### **Key Control Objective 1**

##### **That there are adequate governance arrangements surrounding the Building Control Partnership**

The audit has established that there are strong governance arrangements surrounding the building control partnership. A summary of the key aspects considered during the audit is shown below:

##### **Partnership approval**

The building control partnership commenced on 1 October 2007. The partner authorities are Medway, Gravesham and Swale Borough Council. The partnership is hosted at Medway Council, under the name of South Thames Gateway Building Control (STG).

The decision to enter into the Building Control Partnership, originally for a 5 year term, was agreed by the Swale Executive on 13 December 2006. A second 5 year term was subsequently agreed by Swale Cabinet on 8 February 2012.

##### **Legal status of the partnership**

The provision of the Building Control service through a partnership arrangement is permitted under the relevant Local Government Act. The audit has confirmed that the legalities surrounding the partnership were fully considered as part of the original business case and risk assessment process (November 2006).

However, discussions during the audit identified that there are plans in the future for the building control partnership to become its own Local Authority organisation. Discussions with the Legal Services lead for the partnership (Gravesham) during the audit confirmed that although the current business model is lawful, further advice should be sought from Legal Services if and when the current business model is changed. **See Appendix A (ISS.1)**

##### **Partnership contract**

There is a comprehensive Memorandum of Agreement (MoA) in place covering the partnership. This agreement sets out the contractual requirements of all parties. The MoA also includes a full exit strategy to protect all partners. The MoA is supported by a full business and financial plan. The current plan covers the period 2011-2015. This plan is reviewed and updated by the Director of STG on an annual basis and any relevant changes to the plan are reported back to the Joint Committee for endorsement.

##### **Partnership Board**

The Partnership is governed by a Steering Group and Joint Committee.

The Joint Committee has its own constitution and is made up of Members and officers from each partner authority and the Director of STG. The Joint Committee meets on a quarterly basis.

The Steering Group is made up of officers from each partner authority and STG. The Steering Group meets on a quarterly basis, inline with the Joint Committee timetable.

All of the Joint Committee and Steering Group meetings are minuted.



Other, more general, governance arrangements in place over the partnership include:

- Partnership and partner roles and responsibilities have been clearly defined e.g. responsibility for Section 151 and Monitoring Officer
- Responsibility for support services for the partnership, such as legal services, democratic services, HR and IT, has been clearly defined and there is adequate resource for the support services
- The reporting process between STG, the steering group, the Joint Committee and senior management at the respective partner sites is clearly set out.
- The decision-making process over partnership matters has been clearly defined, all partners have equal votes and operational decisions have been delegated to the Director of STG.

### **Risk Management**

A full risk assessment was completed on the partnership arrangements as part of the original business case in November 2006 and as part of the recent business plan which was prepared in 2011. However, a full risk assessment has not been completed, from Swale's perspective, on the partnership arrangement to ensure all of the Swale specific risks have been identified and mitigated. **See Appendix A (ISS.2)**

### **Performance monitoring**

The building control service, provided through the partnership is monitored against a suite of performance indicators which have been set by the Department of Communities and Local Government (DCLG). Performance monitoring of the partnership is a standing item of the Joint Committee and the Steering Group agenda. The performance monitoring reports reported to the Joint Committee and the steering group are extracted directly from the building control system.

Audit review of the performance statistics reported in 2011/12 shows that some of the targets are not being met. However, this is because the targets have been set at 100% and therefore the actual performance achieved does not represent a significant performance issue. The Joint Committee, meeting in March 2012 agreed that the current level of performance is acceptable and the justifications for 'under-performance' was that resources (as previously agreed by the Joint Committee) are being re-directed to other work such as the Decent Homes programme. A review of the performance targets is considered necessary to ensure the targets set are achievable. **See Appendix A (ISS.3)**

'Quality standards' maintained by the partnership are confirmed to be high – with the STG Building Control Partnership being awarded the international standard ISO 9001 - Quality Management. The scope of the ISO includes: the processing of applications; inspection works; enforcement action and dangerous structures demolitions. A full inspection by the BSI inspectors in May 2012 confirmed that the ISO standard is still being fully met.

### **Future plans**

The partnership business plan includes a list of future projects to be considered / implemented by the partnership. Examples of the projects currently being considered include further diversification of building control (income generating) services provided by STG, the STG becoming its own local authority company: bringing another partner authority into the arrangements and implementing a new building control IT system.

All decisions relating to future projects / proposals are subject to formal approval by the Joint Committee and all partners have equal votes on any decisions.

## Key Control Objective 2 -

**That the financial arrangements surrounding the building control partnership are adequate**

**That the building control partnership provides good value for money**

The audit has confirmed that there are strong financial controls surrounding the building control partnership.

### **Financial Plan**

The financial arrangements for the building control partnership have been set out in a business plan. The business plan covers the period 2011-15. The business plan is updated and reported to Joint Committee each year. The business plan was last reported and duly agreed by the Joint Committee in December 2011.

The financial plan is also reported to the Head of Finance at Swale Borough Council for review / consideration each year. The Head of Finance confirmed during the audit that he is satisfied with the financial arrangements surrounding the building control partnership.

### **Partner contributions**

Each partner is required to contribute an agreed percentage of the partnership's annual non-fee earning service costs. The total non-fee earning cost reported for 2012-13 is £351,772. Each partner contribution is based on the number of residential and commercial properties in each borough. Swale is liable for 27% of the total costs. Swale's contribution for 2012/13 is therefore £94,978. However, the financial plan sets out that the agreed costs for 2013/14 and 2014/15 will reduce to £88,323 and £81,405 respectively. The MoA sets out that partner contributions are payable in two equal sums in April and October of each year.

Audit testing on the partner contribution payments paid since 01 April 2011 confirmed that the invoices had been correctly calculated, all payments were correct and authorised and all payments due to STG were up-to-date.

### **Budgetary control**

The Head of Planning Services is the budget holder for the building control budget.

The original budget for building control in 2011/12 was £193,580. The actual spend at the end of the year was £105,760. The under-spend of £87,820 related to contract variations which were not actually needed. This has been taken into account with the 2012/13 budget, which has been set at £148,400

A review of budget expenditure incurred during 2011/12 confirmed that all expenditure incurred by Swale, in respect of the building control service, was authorised and accurately paid.

### **Value for money**

At the time of the audit, the Head of Planning Services was completing a review of the building control partnership, to consider whether the partnership could be provided through a more cost effective model or framework. The results of this review are expected to be reported later in 2012.

During the audit, the Auditor considered whether the building control service, provided through the partnership arrangement provides good value for money. This exercise was completed in two parts:

- Firstly, a comparison was made between the cost of the service now, compared to the cost of the service when it was provided in-house. The cost of the in-house service reported in 2005/06 was £90k. Taking inflation into account (at an average rate of 3.4%) the cost of the in-house service would have been £107k. The actual cost to Swale of the new service in 2012/13 is estimated to be £95k, with a reported reduction in fees over the next two years. This indicates that the service provision through a partnership arrangement is more cost effective.
- Secondly the Auditor considered how much it would cost the Council to provide statutory services, such as disabled applications, dangerous structures and unauthorised works, if the service was provided through an in-house service. Based on an average cost per case and the number of cases reported in 2011/12, the estimated costs of all statutory services would have been in the region of £150k. It is therefore considered that the cost of the service through the partnership of £95k for 2012/13 provides good value for money.

### **Benchmarking**

A full benchmarking exercise was completed across a number of Building Control teams within Kent at the end of 2010/11. This exercise compared the cost of service, number of applications and the percentage of fee earning work. Due to the size of the STG service, in comparison to the other stand alone services, the benchmarking exercise was not comparing like for like. However, based on the cost of service per full time equivalent staff (FTE) STG were reported to have the lowest cost of service.

### **Income**

The partnership agreement sets out that all of the income received for fee earning services and discretionary services is to be retained by STG to offset the total cost of the overall building control service. As Swale is not due to receive any income back from the building control service no further audit testing was completed on income.

However, the Director of STG confirmed during the audit that if the building control partnership enters into a local authority company arrangement in the future, the Council can be reimbursed for any of the original partnership set up costs.

### **Building Control fees**

Audit testing confirmed that building control fees charged by STG are in line with national building control fees guidelines. The Director of STG has been given delegated authority by the Joint Committee to review and update the building control fees as necessary. The building control fees were last updated in 2011/12 to reflect the change in VAT rates. An up to date copy of the building control fees is published on the STG website and information on the current fees is available from the customer services teams / reception at Swale Borough Council.

### **Insurance**

The building control service, including all professional indemnity insurance, is insured through Medway Council. There have been no insurance claims in the last two years.

The Insurance Officer at Medway Council stated that the insurance arrangements will need to be reviewed if and when the organisation becomes a local authority organisation in its own right. **See Appendix A (ISS.4)**

### Key Control Objective 3 –

#### That the building control partnership allows the Council to satisfy its statutory responsibilities for building control (fee earning and non fee earning)

The audit confirmed that the building control partnership, provided through the South Thames Gateway Building Control Partnership does allow the Council to meet its statutory responsibilities for building control. This conclusion has been made on the basis of the following:

- The statutory duties to be fulfilled through the building control partnership have been set out in the Memorandum of Agreement. Examples of the services include passing / rejection of plans and site inspections, inspecting demolitions, overseeing disabled applications, unauthorised works and dangerous structures.
- The Head of Planning Services at Swale is responsible for monitoring the building control partnership, from Swale's perspective, to ensure that all of the Council's statutory duties are being fulfilled. The Head of Planning Services is satisfied that the building control partnership satisfies all of the Council's responsibilities for building control. There have been no reported failures to fulfil Swale's responsibilities for the building control service since the commencement of the partnership.
- All cases (statutory and non statutory) are logged onto the partnership building control system and the Operations Manager and the team leaders at STG monitor all outstanding cases on a weekly basis to establish if work is being completed in accordance with agreed targets and that statutory and non statutory obligations are being met. Issues with individual cases are reported to the STG Management Team and the Head of Planning Services at Swale if and when necessary.
- Management information is extracted from the building control system at regular intervals, showing the number of cases processed on behalf of each Council for a given period. This management information is reported to STG Management Team on a monthly basis. A summary of the overall position in terms of cases processed is reported at the quarterly Steering Group meetings.
- The larger team structure at STG provides greater resilience and resources to deal with urgent and more complex statutory cases and a larger pool of resources provides improved flexibility over the allocation of work, to ensure workloads are shared out to achieve agreed target dates.
- All of the officers working within the building control partnership are qualified or are working towards a recognised professional qualification; thereby providing a wide skills base.
- The building control partnership provides an out-of-hours / emergency service. This is an improved / responsive service in terms of statutory duties such as dangerous structures, and ensures that urgent jobs are responded to within agreed targets.

#### **Dangerous structures**

The cost of securing / abating dangerous structures is, in the first instance, the liability of the property owner. However, if the owner cannot be found / identified, the Council is liable for the cost of this work. It is then up to the Council to recover any costs incurred from the owner retrospectively via the Council's debtors system.

Audit testing on the dangerous building invoices received in 2011/12 identified that one invoice, totalling £340.25 from B W May, had been paid but a debtors invoice had not been raised to the property owner. The officer responsible for raising these invoices confirmed during the audit that there is currently no guidance or procedures setting out when / if these costs should be recovered from the property owner and therefore, whether debtor's invoices are raised in every case. A formal procedure on recovering abatement costs from the property owner is recommended to ensure the Council is reimbursed for costs incurred and all cases are dealt with consistently. **See Appendix A (ISS.5)**

#### **Freedom of Information**

All Freedom of Information (FOI) requests are processed directly by STG.

Since the commencement of the partnership, there have been 7 FOI requests in respect of Swale Building Control operations. Audit testing confirmed that all of the FOI requests were answered in accordance with the statutory timetable, and all of the FOI requests had been fully satisfied. At the time of the audit, the number of Swale specific FOI requests was not being reported to Swale Borough Council to enable these cases to be incorporated into Swale's corporate FOI reporting. **See Appendix A (ISS.6)**

#### **Data Protection Act**

Monitoring Officer responsibilities for the building control partnership have been clearly defined within the Memorandum of Agreement.

The information held within the building control partnership and the building control system is registered with the Information Commissioner, under Swale Borough Council. Swale Borough Council therefore remains the data controller for all building control data. It was noted during the audit that the current registration with the Information Commissioner, for the Council's, expires on 22 October 2012.

#### **Key Control Objective 4 –**

#### **That the building control partnership allows the Council to provide a range of discretionary and consultancy based services to the residents of Swale Borough**

The audit has confirmed that the building control partnership enables the Council to provide a diverse range of discretionary / consultancy services to the residents of Swale. All discretionary services provided have been set out in the Memorandum of Agreement. Examples of the services currently available are: fire precaution inspections, Standard Assessment Procedures (SAP), Energy Performance Certificates (EPC), sustainability assessment and party wall surveying work.

All discretionary / consultancy cases are recorded on the building control system and are subject to weekly and monthly monitoring by the Building Control Operations Manager and the Building Control Team Leaders.

Management information on the number of cases received and processed is reported to the STG Management Team at regular intervals and a summary of the current position in terms of increases and decreases in case loads is reported at the quarterly Steering Group meetings. The management information available from the system can be categorised according to the respective Council.

The Director of STG has plans to add new consultancy services in the future. Decisions to diversify into other / new discretionary services are discussed and agreed at the officer steering group and Joint Committee meetings.

The resources currently available through the building control partnership means that the discretionary services can be provided to Swale residents in additional to the statutory and non statutory services.

## Key Control Objective 5 –

### That the partnership delivers building control services (on behalf of Swale Borough Council) to a high standard

The audit has confirmed that the level and quality of the customer service provided through the building control partnership is high. This conclusion has been based on the following:

#### **Customer satisfaction**

During the audit it was confirmed that STG conduct a full customer satisfaction survey on an annual basis and the results of the analysis of the responses are reported to the Joint Committee for information. The survey is based around a template provided by the Department of Communities and Local Government (DCLG). The survey results reported for 2011-12 was favourable; 68% of the people surveyed felt that the overall level of service provided through the building control partnership was excellent.

The Business and Administration Manager at STG is responsible for analysing the results of the customer satisfaction survey. She confirmed during the audit that issues arising from the surveys are fully considered and improvements are made to operational procedures where necessary to ensure continuous improvement.

The Head of Planning Services confirmed during the audit, that he was fully satisfied with the 2011/12 customer satisfaction results.

During the audit, the Auditor completed a mystery shopper exercise on the building control service.

The exercise considered the quality of the service received through face-to-face contact and telephone and email enquiries received both directly at the Council offices and at the South Thames Gateway Building Control office.

The results of this exercise confirmed that the level of customer service received directly for the building control service at both the Council and through the STG office is excellent. Emails and telephone calls were picked up and responded to in a timely manner and face-to-face queries were dealt with courteously and promptly.

#### **STG website**

The Auditor also considered the usefulness of the information displayed on the Council's website in terms of the building control service. The Council's web page directs customers through to the STG website. The STG website is informative, user friendly and up-to-date. Furthermore the STG website provides a mechanism for customers to raise queries and complaints directly with STG. A test enquiry posted via the website, during the audit, was dealt with promptly and courteously.

#### **Mystery shopper**

A full mystery shopper exercise was completed across the Kent Building Control teams in 2011. This exercise was completed by an independent consultancy firm. The exercise included 5 tests including promptness of dealing with an email or telephone enquiry, the adequacy of the website and the response to a request for a site visit. Overall STG ranked 5<sup>th</sup>, out of 11 authorities. Areas that scored particularly highly was the internet site and dealing with telephone enquiries / requests. Discussions with the Business & Administration Manager at STG during the audit confirmed that the findings from the mystery shopper exercise have now been incorporated into service improvements and are now covered as part of the annual customer satisfaction survey.

## **Complaints**

All complaints relating to the building control service are dealt with by STG directly. However, details of complaints received will be reported to the Head of Planning Services if necessary and on occasion to the Chief Executive.

Since the commencement of the building control partnership in 2007, there have been 14 complaints in relation to Swale cases. Only 4 of these complaints were received in 2011/12. Testing completed during the audit confirmed that all of the complaints had been dealt with in a timely manner and all of the complaints had been fully resolved. However, at the time of the audit those complaints, specific to Swale, were not being reported to Swale Borough Council to enable the cases to be incorporated into the Swale annual complaints report. **See Appendix A (ISS.7)**

## **5. ACKNOWLEDGEMENTS**

The Auditor would like to particularly thank the following members of staff for their help and assistance during the audit

- Head of Planning Services – James Freeman
- Accountant - Caroline Frampton
- Director of STG – Tony Van Veghel
- Building Control Operations Manager (STG) - Phil Harris
- Head of Administration & Business Development (STG) - Janine Boughton

## **6. RECOMMENDATION REPORT**

The attached report (Appendix A) highlights 7 weaknesses identified during the course of the review together with recommendations for improvement.



## RECOMMENDATION REPORT: Building Control Partnership

The **Risk Level** identifies the auditor's opinion as to the level of risk for each recommendation:  
**H** (High) - a fundamental weakness in the system which puts the Council at risk  
**M** (Medium) - a weakness within the system which leaves the system open to risk  
**L** (Low) - desirable improvement to the system

<b>ISS.1</b> <b>Legality of the building control partnership model</b>	<b>Risk Level:</b> <b>Medium</b>
<p><b><u>Finding</u></b>  The audit has confirmed that the provision of the building control service through the partnership model is lawful under the relevant Local Government Act. However, further legal advice will be needed before any decision can be made in terms of developing the partnership into its own Local Authority organisation.</p>	<p><b><u>Recommendation</u></b>  The Head of Planning Services should ensure that specialist legal advice is sought before plans to develop the building control partnership into a local authority organisation progress; to ensure that the Council's legislative and statutory responsibilities for the building control service continue to be satisfied.</p>
<b>ISS.2</b> <b>Risk assessment</b>	<b>Risk Level:</b> <b>Medium</b>
<p><b><u>Finding</u></b>  A full risk assessment (from Swale's perspective) has not been completed on the provision of the building control service through the STG partnership to ensure that the key risks associated with providing the building control service through a partnership have been fully assessed and mitigated.</p>	<p><b><u>Recommendation</u></b>  The Head of Planning Services should complete a full risk assessment for the building control service, from Swale's perspective, to ensure that all of the risks associated with providing the service through a partnership arrangement have been fully considered e.g. the cessation of the partnership, increase contribution costs or a breach of statutory obligations.</p>

RECOMMENDATION REPORT: Building Control Partnership

The **Risk Level** identifies the auditor's opinion as to the level of risk for each recommendation:  
**H** (High) - a fundamental weakness in the system which puts the Council at risk  
**M** (Medium) - a weakness within the system which leaves the system open to risk  
**L** (Low) - desirable improvement to the system

<u>ISS.3</u>	Performance targets	<u>Risk Level:</u>	Medium
<p><b><u>Finding</u></b>                      The performance of the building control partnership is monitored against a suite of performance indicators which are suggested by the Department of Communities and Local Government (DCLG). The targets for some of these indicators, which are set locally, have been set at 100%. The performance reported for the whole of 2011/12 identified a number of instances where the targets are not being met. This suggests that the 100% targets need to be reviewed and potentially revised to ensure the targets are potentially achievable.</p>	<p><b><u>Recommendation</u></b>                      The Head of Planning Services should submit a proposal through the Steering Group that the performance targets, currently set at 100%, are reviewed and where appropriate revised to ensure all performance targets are potentially achievable.</p>		

RECOMMENDATION REPORT: Building Control Partnership

The **Risk Level** identifies the auditor’s opinion as to the level of risk for each recommendation:  
**H (High)** - a fundamental weakness in the system which puts the Council at risk  
**M (Medium)** - a weakness within the system which leaves the system open to risk  
**L (Low)** - desirable improvement to the system

<u>ISS.4</u>	Insurance	<u>Risk Level:</u>	Medium
<p><b><u>Finding</u></b>                      During the audit it was confirmed that the building control partnership is fully insured through Medway Council Policies. This includes all professional indemnity insurance. However, the Insurance Officer at Medway Council confirmed during the audit, that this insurance cover would not continue if and when the building control partnership becomes its own local authority organisation as the staff within the building control team will no longer be employed by Medway Council.</p>	<p><b><u>Recommendation</u></b>                      The Head of Planning Services should ensure that the business case to develop the building control partnership into its own local authority organisation fully considers the insurance requirements surrounding the building control service.</p>		

RECOMMENDATION REPORT: Building Control Partnership

The **Risk Level** identifies the auditor's opinion as to the level of risk for each recommendation:  
**H** (High) - a fundamental weakness in the system which puts the Council at risk  
**M** (Medium) - a weakness within the system which leaves the system open to risk  
**L** (Low) - desirable improvement to the system

<u>ISS.5</u>	Recovery of dangerous structure abatement costs	<u>Risk Level:</u>	Medium
<p><b><u>Finding</u></b>                      There is currently no procedure in place to ensure that all abatement costs incurred by the Council, in relation to dangerous structures, are recovered from each respective property owner. This has led to inconsistency in the recovery of costs between individual cases.</p>		<p><b><u>Recommendation</u></b>                      The Head of Planning Services should produce a procedure note setting out the process to follow on the recovery of costs incurred, from the property owner, for the abatement of dangerous structures. A copy of this procedure note should be provided to the relevant officer for reference / implementation.</p> <p>The Head of Planning Services should review all of the invoices received in respect of abatement costs on dangerous structures from 01 April 2011 to consider if the costs incurred should be recovered retrospectively from the property owner.</p>	

<b>ISS.6</b> <b>Complaints</b>	<b>Risk Level:</b> <b>Low</b>
<p><b><u>Finding</u></b>  During the audit it was confirmed that the number of Swale specific complaints are not being reported to the Council at agreed intervals. This means that Swale’s building control complaints are not being incorporated into the Swale annual corporate complaints report.</p>	<p><b><u>Recommendation</u></b>  The Head of Planning Services should request an annual report from South Thames Gateway Partnership of all Swale related complaints. These cases should then be incorporated into the corporate complaints reporting process</p>

<b>ISS.7</b> <b>Freedom of Information requests</b>	<b>Risk Level:</b> <b>Low</b>
<p><b><u>Finding</u></b>  During the audit it was established that the number of Swale specific Freedom of Information (FOI) requests is not being reported to the Council. This means the number of Swale related building control related FOI requests is not being included within the Council’s corporate FOI reports.</p>	<p><b><u>Recommendation</u></b>  The Head of Planning Services should request an annual report from South Thames Gateway Partnership of all Swale related Freedom of Information requests. These cases should then be incorporated into the corporate annual FOI reporting process.</p>

## **Definitions of Assurance Levels**

Our opinion on the adequacy and effectiveness of controls for an audited activity is shown as an **assurance level** within four categories. The use of an **assurance level** is more consistent with the requirement for managers (and Members) to consider the degree to which controls and processes can be relied upon to achieve the objectives of the reviewed activity. The assessment is largely based on the adequacy of the controls over risks but also includes consideration of the adequacy of controls that promote efficiency and value for money. The definitions of assurance levels are provided below:

<b>Controls Assurance Level</b>	<b>Summary description</b>	<b>Detailed definition</b>
Minimal	Urgent improvements in controls or in the application of controls are required	<p>The authority and/or service is exposed to a significant risk that could lead to failure to achieve key authority/service objectives, major loss/error, fraud/impropriety or damage to reputation.</p> <p>This is because key controls do not exist with the absence of at least one critical control <b>or</b> there is evidence that there is significant non-compliance with key controls.</p> <p>The control arrangements are of a poor standard.</p>
Limited	Improvements in controls or in the application of controls are required	<p>The area/system is exposed to risks that could lead to failure to achieve the objectives of the area/system under review. This is because, key controls exist but they are not applied, or there is significant evidence that they are not applied consistently and effectively.</p> <p>The control arrangements are below an acceptable standard.</p>
Substantial	Controls are in place but improvements would be beneficial	<p>There is some limited exposure to risk which can be mitigated by achievable measures. Key or compensating controls exist but there may be some inconsistency in application.</p> <p>The control arrangements are of an acceptable standard.</p>
High	Strong controls are in place and are complied with	<p>The systems/area under review is not exposed to foreseeable risk, as key controls exist and are applied consistently and effectively.</p> <p>The control arrangements are of a high standard.</p>

**Management Action Plan:**

**Building Control Partnership**

<b>Ref:</b>	<b>SBC05(2012-13)</b>
<b>Report Issued Date:</b>	<b>June 2012</b>
<b>Completed Action Plan Due:</b>	<b>10 August 2012</b>



## **Management Action Plan**

**Audit Subject: Building Control Partnership**

### **Head of Service – Statement of Responsibility**

This Action Plan has been completed to show the actions that will be taken by me and members of my staff in relation to the recommendations shown in the corresponding Internal Audit Report.

The Plan also sets out who will take the action and when the action will be taken.

While I understand that it is possible to delegate the actual completion of the Action Plan, I accept that it is not possible to delegate the responsibility for the actions. I therefore confirm that the actions shown in the Plan are approved by me and that it is my responsibility to ensure that the stated actions are taken.

**MANAGEMENT ACTION PLAN: 2012/13**

**AUDIT: BUILDING CONTROL PARTNERSHIP**

**REF: SBC05(2012-13)**

**THE Risk** column identifies the auditor's opinion as to the level of risk for each recommendation:

**H (High)** - a fundamental weakness in the system which puts the Council at risk

**M (Medium)** - a weakness within the system which leaves the system

<b>ISS.</b>	<b>RECOMMENDATION</b>	<b>RISK</b>	<b>AGREED YES/NO</b>	<b>MANAGEMENT ACTION PLAN</b>	<b>RESPONSIBLE OFFICER</b>	<b>DATE TO BE ACTIONED</b>
1	The Head of Planning Services should ensure that specialist legal advice is sought before plans to develop the building control partnership into a local authority organisation progress; to ensure that the Council's legislative and statutory responsibilities for the building control service continue to be satisfied.	M	YES	Any proposed changes to the Building Control partnership will be subject to full business case review allied to full consideration of the legal implications across the partnership and for each individual Local Authority.	Head of Planning Services	In accordance with programme for reviewing service

ISS.	RECOMMENDATION	RISK	AGREED YES/NO	MANAGEMENT ACTION PLAN	RESPONSIBLE OFFICER	DATE TO BE ACTIONED
2	The Head of Planning Services should complete a full risk assessment for the building control service, from Swale's perspective, to ensure that all of the risks associated with providing the service through a partnership arrangement have been fully considered e.g. the cessation of the partnership, increase contribution costs or a breach of statutory obligations.	M	YES	Draft risk assessment in place and to be included in Service Plan for 2013/14.	Head of Planning Services	Draft completed and to be incorporated into next version of Service Plan

ISS.	RECOMMENDATION	RISK	AGREED YES/NO	MANAGEMENT ACTION PLAN	RESPONSIBLE OFFICER	DATE TO BE ACTIONED
3	The Head of Planning Services should submit a proposal through the Steering Group that the performance targets, currently set at 100%, are reviewed and where appropriate revised to ensure all performance targets are potentially achievable.	M	YES	<p>Previous discussion had taken place at the officer steering Group at its meeting in March 2012 where this was raised by the Swale HoPS. The Director was tasked with raising the issue with the Kent benchmarking Group. However, information across the Kent Authorities was fragmented. As a consequence, action has been taken by the Director to revise the targets from August 2012 onwards including:</p> <p>85% of plans vetted within 15 working days; and</p> <p>70% of plans vetted within 10 working days.</p>	Head of Planning Services	August 12
4	The Head of Planning Services should ensure that the business case to develop the building control partnership into its own local authority organisation fully considers the insurance requirements surrounding the building control service.	M	YES	As in 1.	Head of Planning Services	As in 1.

ISS.	RECOMMENDATION	RISK	AGREED YES/NO	MANAGEMENT ACTION PLAN	RESPONSIBLE OFFICER	DATE TO BE ACTIONED
5.1	The Head of Planning Services should produce a procedure note setting out the process to follow on the recovery of costs incurred, from the property owner, for the abatement of dangerous structures. A copy of this procedure note should be provided to the relevant officer for reference / implementation.	M	YES	Draft Procedure Note currently being circulated To Head of Legal services and Head of Finance services with the aim of agreement by end August 12	Head of Planning Services	August 12
5.2	The Head of Planning Services should review all of the invoices received in respect of abatement costs on dangerous structures from 01 April 2011 to consider if the costs incurred should be recovered retrospectively from the property owner.	M	YES	All cases reviewed with Head of Finance – included as part of procedure note following from action 5.1	Head of Planning Services	September 12

ISS.	RECOMMENDATION	RISK	AGREED YES/NO	MANAGEMENT ACTION PLAN	RESPONSIBLE OFFICER	DATE TO BE ACTIONED
6	The Head of Planning Services should request an annual report from South Thames Gateway Partnership of all Swale related complaints. These cases should then be incorporated into the corporate complaints reporting process	L	YES	STGB Director to include list of all complaints received by each Local Authority for Steering Group meetings  STGB Director to ensure all final complaint responses are copied into relevant Steering group representative.	Head of Planning Services	September 12
7	The Head of Planning Services should request an annual report from South Thames Gateway Partnership of all Swale related Freedom of Information requests. These cases should then be incorporated into the corporate annual FOI reporting process.	L	YES	As above - 6	Head of Planning Services	August 12

## Additional Risk Assessments regarding South Thames Gateway Building Control Partnership - August 2012

Risk Profile					
Risk Title	Risk Description	CURRENT Likelihood	SCORE Impact	Controlled/ accepted	ISSUES/ GAPS
[Insert a short name for the risk - 2 or 3 words only]	[Insert a more detailed explanation of risk title ]	[Insert your score (1 – 6)]	[Insert your score (1 – 4)]	[tick if adequately controlled or accepted]	[Insert a summary of any issues or gaps that arise as a result of a detailed risk log analysis of Vulnerabilities, triggers, consequences and <b>internal controls</b> , which should then be translated into actions in your service level action plan]
Cessation of Building Control Partnership	Whereby the Partnership members decide to withdraw from the partnership and return to providing in-house or alternative service delivery	1	5	X	Major issues would arise should cessation of partnership be agreed including: <ul style="list-style-type: none"> <li>• Accommodation needs</li> <li>• Re-employment issues incl TUPE</li> <li>• Funding implications – likely to give rise to increased costs, particularly if early years</li> <li>• Need to set up in house support – finance, IT etc</li> </ul>
Significant increased costs to Building control partnership arising from	The current economic / market conditions hightens risk of potential for drop in	3	3	X	<ul style="list-style-type: none"> <li>• Previous experience sugge4st that the maximum threat likely</li> </ul>

drop of income	income as development sector could further slow-up.				<p>to arise from any further significant decline in income should not exceed £30 to £50 for any one authority.</p> <ul style="list-style-type: none"> <li>• Significant in roads secured by the resilience that the partnership offers, has meant the partnership has managed to decrease costs significantly in line with the drop in income</li> <li>• Current business plan aims to secure other new income streams e.g. consultancy.</li> </ul>
Breach of statutory building control duties	The building control service does not provide the minimum statutory service required	1	3 (dependant on scale of breach)	X	<ul style="list-style-type: none"> <li>• Procedures/practices in place aimed to limit such instances occurring</li> <li>• The partnership provides greater resilience into ensuring resources are available to cover all statutory responsibilities.</li> <li>•</li> </ul>

James Freeman  
Head of Planning Services  
Swale Council / August 2012