

## BARNSELEY METROPOLITAN BOROUGH COUNCIL

REPORT OF: EXECUTIVE DIRECTOR OF PLACE

TITLE: Barnsley Norse – The Way Forward

<b>REPORT TO:</b>	<b>CABINET</b>
<b>Date of Meeting</b>	<b>1 June 2022</b>
<b>Cabinet Member Portfolio</b>	<b>Place (Regeneration &amp; Culture)</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Public or Private</b>	<b>Part Exempt</b> Open report with exempt appendices - by virtue of paragraph(s) 3 and 4 of Part 1 of Schedule 12A of the Local Government Act 1972

### **Purpose of report**

The purpose of this report is to seek Cabinet approval for the Council to amend the existing Joint Venture agreements with Barnsley Norse, with an effective date of 1<sup>st</sup> August 2022.

### **Council Plan priority**

Enabling

### **Recommendations**

That Cabinet:

- 1. Authorises the Executive Director Place to negotiate and agree with NPS Barnsley (on behalf of Norse) to vary the service agreement to ensure the contract meets the current strategic needs of the Council.**
- 2. Authorises the Executive Director Place to (1) agree extensions to the termination date of the Service Agreement until such time as there are legal arrangements in place to vary the service agreement to allow for the services in Option C to be provided by BMBC and (2) thereafter agree with NPS Barnsley to withdraw the notice to terminate.**
- 3. Recognises that the Trade Unions are continually engaged with and actively included throughout the remainder of the process.**

## 1. INTRODUCTION

- 1.1 On 1<sup>st</sup> November 2011, BMBC entered a contract with NPS Barnsley Ltd to provide cleaning, catering, mobile catering and courier services. Under this agreement NPS Barnsley subcontracted the entire work to Barnsley Norse Ltd. Staff transferred over to Barnsley Norse.
- 1.2 The contract was due to end on 31<sup>st</sup> January 2026, however there was an option for early termination (to break) on the 10<sup>th</sup> anniversary of the term with 6 months' notice.
- 1.3 Back in July 2020, cabinet agreed that the arrangements with NPS Barnsley Ltd no longer provided a strategic-fit and the recommendation to terminate the contracts with both companies was approved. Notice to terminate the contract was served in accordance with the break clause and the contract was due to finish on 31<sup>st</sup> October 2021. The termination date has been extended twice since then and is due to finish on 31<sup>st</sup> July 2022
- 1.4 On 1<sup>st</sup> April 2021, NPS colleagues who were solely working on behalf of BMBC (construction and design services) successfully came back to the Council and many positives have already been demonstrated, which include:
  - Driving efficiency through best practice contract management.
  - Removing the mentality to drive profit and instead focus on delivering quality outcomes.
  - Improving efficiency and reducing costs [delivered £500k efficiencies for Council's MTFS].
  - The ability to integrate a range of services and removal of duplication.
  - Merging and aligning services allowing greater economies of scale.
  - Enhanced flexibility and agility.
  - Regaining control and focus on operational activity.
  - Greater staff motivation and improved service quality.
- 1.5 Whilst it was appropriate to bring the functions carried out by NPS Ltd back to the Council, the rationale to terminate the Services agreement with NPS Barnsley that was subcontracted to Barnsley Norse was revisited and this has effectively changed the direction, based on evidence. The main rationale is that the relationship with Barnsley Norse still provides a strategic fit, though a review of the services delivered, and corresponding costs, was needed to ensure VFM is driven from the contract arrangements.
- 1.6 Therefore, in June 2021, BMBC met with representatives from Norse and agreed there was appetite from both parties to jointly explore the following options to revise but continue with the arrangements:

### **Option A**

Revoke the decision made and continue with the existing arrangements.

### **Option B**

As A) above but review the specification and associated costs of all services delivered.

### **Option C**

As A) above but also look to insource those activities that naturally align to the BMBC FM function, whilst other staff remain within Norse.

- 1.7 There is a continued commitment to reduce the impact for all affected employees.

## **2. PROPOSAL**

- 2.1 The preferred option and proposal for consideration is Option C. The details of this option are included in Appendix C (exempt).

- 2.2 The justification for these decisions are:

- 2.3 Roles which are a clear extension of an FM function are brought in house to make the management of our assets more agile, providing the opportunity to manage the delivery of our services across the wider asset base. It also allows better deployment of resources and improved VFM.

- 2.4 The Council does not have a management system that would enable the resource of hundreds of employees to operate on a rota basis. This would require significant investment and would be difficult to embed before 1<sup>st</sup> August 2022.

- 2.5 Many staff employed by Norse are currently operating on numerous contracts; not solely working for BMBC. Norse deploy the staff based on locality area to minimise the impact on the individual and the environment through travelling, as well as being able to call on a bigger workforce to cover sickness, leave and ad hoc requirements. The Council would not be able to facilitate this.

- 2.6 Given the points discussed above, if certain roles were to be insourced it is likely that the Council would have to go out to market for an alternative provider which would have TUPE implications for the employees.

- 2.7 Adopting this proposal means the Council can now drive VFM and demonstrate transparency in relation to the operations of the activities delivered on site, including unit costs per building.

- 2.8 This proposal has been considered within the context of Barnsley is our office and the changing needs of the portfolio. It will provide greater ability to flex to the needs of the organisation and should be aligned to the Asset Management Strategy and the MTFS.

- 2.9 In addition, the specification for the services delivered has been redefined for each building including frequency based on usage. This means that all our buildings comply with the statutory requirements. The proposed arrangements have built in the additional work that Norse currently provides on an ad-hoc basis ensuring there is full transparency on all services provided.

- 2.10 Norse have worked with the Council to make the contract as lean as possible to demonstrate their ongoing commitment to the partnership. Along with using their expertise and knowledge in the field to help shape the provision required by the Council.
- 2.11 And finally, Norse have continued to provide a good service throughout the life of the JV and have been exemplar during the pandemic in keeping our workspaces clean and safe. In our view they are best placed to continue to deliver services in partnership with the Council.

### **3 IMPLICATIONS OF THE DECISION**

#### **3.1 Financial and Risk**

- 3.1.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).
- 3.1.2 In July 2020, cabinet agreed that the JV arrangements with NPS Barnsley Ltd & Norse no longer provided a strategic-fit and approved the recommendations to terminate the contracts with both NPS Barnsley with effect from 31/01/21 (extended to 31/03/21) and Norse 31/10/21 (extended to 31/07/22).
- 3.1.3 This report recommends that the decision to terminate the contract with Norse is revoked and that we continue with the existing JV arrangements but agree to insource those activities that naturally align to the BMBC FM function with the others remaining with Norse.
- 3.1.4 The main rationale is that the relationship with Barnsley Norse still provides a strategic fit, though a review of the services delivered, and corresponding costs, was needed to ensure VFM is achieved from the contract arrangements. Also, the Council does not have the IT infrastructure or system to manage employees that operate on a rota basis. This would require significant investment and would be difficult to embed before 1<sup>st</sup> August 2022.
- 3.1.5 Appendix A and B (exempt) set out the actual and projected costs of the new hybrid working arrangements alongside the other main financial implications. The new service levels agreed with Norse from 1<sup>st</sup> August 2022 are comparable with those which existed in 2020-21 during the Covid-19 epidemic. Hence the projected costs / Norse proposals need to be compared with the 2020-21 outturn costs uplifted for inflation.

#### **3.2 Legal**

- 3.2.1 There are no legal restrictions that would influence this proposal; however, the legal and contractual documents will need amending to reflect the new working arrangements, flexibility and enable performance management of Norse. They may also need varying and/or monitoring to ensure that overall, the service agreement remains Teckal compliant

To implement Option C in a situation where a notice of termination has been served the Council will have to vary the service agreement to identify the

services to be provided inhouse and those to be provided by NPS Barnsley/Norse and ensure the services continue until new legal arrangements are in place.

This will require the termination date to be extended (by agreement with NPS Barnsley) until such time as the varied service agreement is in place and the insourced services arrangements are ready to be delivered.

### 3.3 Equality

3.3.1 Full Equality Impact Assessment is not applicable due to the proposal being a continuation of the current service delivery, albeit it will be delivered in a much more modern and efficient way.

### 3.4 Sustainability

Decision-making wheel completed 20th April 2022 and included below:



### 3.5 Employee

3.5.1 Employees identified under the proposal will be protected by TUPE and therefore would transfer back to the Council. The exact number cannot be quantified in full until the negotiations with the Norse have been finalised.

### 3.6 Communications

3.6.1 The Council recognises the changes to the current JV arrangements will create some anxiety for existing employees. As such the Council has continued to communicate and engage with those affected as a collaborative effort with the Norse.

3.6.2 Both the Council and Norse have engaged with Trade Unions and will continue to keep them informed of progress and any relevant updates.

#### **4. CONSULTATION**

4.1 Internal consultation has taken place with SMT, Legal, Finance and HR.

#### **5. ALTERNATIVE OPTIONS CONSIDERED**

5.1 The alternative options considered are as follows:

5.2 To continue with the termination of the JV, however this would have a detrimental impact on the clean and safe environment that has been developed during the pandemic.

5.3 To revoke the cabinet decision made in July 2020 and seek to continue with the existing JV for the remainder of the term (5 Years). This approach would be hampering the Council's ability to fully react to emerging strategic priorities and the implications of COVID-19.

5.4 All alternative approaches have been considered but discounted due to the viability and impact on employees.

#### **6. REASONS FOR RECOMMENDATIONS**

6.1 The justification for the recommendations has been outlined below:

- The scope and specification for all methods of delivery have been redefined based on the needs of the organisation.
- The service provision has been broken down into activity, frequency, and delivery method, providing greater clarity and flexibility in the future for provision to be amended to meet the requirements of the Council's changing portfolio (linked to Barnsley is our office).
- Norse costings are now available for each asset as standalone units, with transparency on the profit to be generated from the JV.
- And finally, there is minimal impact to the workforce.

#### **7. GLOSSARY**

7.1 N/A

#### **8. LIST OF APPENDICES**

8.1 Appendix A: Financial Implications (Exempt)

8.2 Appendix B: Financial Details (Exempt)

8.3 Appendix C: HR Implications (Exempt)

#### **9. BACKGROUND PAPERS**

9.1 There are no background papers associated with this report.

**10. REPORT SIGN OFF**

<b>Financial consultation &amp; sign off</b>	Senior Financial Services officer consulted and date  <b><i>Neil Copley 09/05/22</i></b>
<b>Legal consultation &amp; sign off</b>	Legal Services officer consulted and date  <b><i>Jason Field 06/05/22</i></b>

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**Post:** Group Leader FM

**Date:** 09/05/2022