

# COUNCIL

9 FEBRUARY 2016

## REPORT OF LEADER OF THE COUNCIL

### A.2 PART-NIGHT STREET LIGHTING

(Report prepared by Colin Sweeney, Richard Barrett and Lisa Hastings)

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

To update Members on the current position regarding part-night street lighting following negotiations with Essex County Council (ECC).

##### EXECUTIVE SUMMARY

- The report relates to the Council's decision taken at the meeting on 24 November 2015 and provides details as to further correspondence between the Leader of the Council and the Leader of Essex County Council.
- The report sets out the cost to this Council of committing to paying to have street lights within the District switched back on throughout the night, over a four-year period.
- Council is asked to determine how it wishes to proceed in this regard.
- Although subject to the Council's decision, given ECC's requirement of a minimum 4 year agreement, this matter should be considered as an on-going revenue commitment and therefore funding would need to be identified on an on-going basis via revenue reductions elsewhere in the budget.

##### RECOMMENDATION(S)

It is recommended that:

- (a) Council notes Essex County Council's latest position and the annual cost of £128,600 in this financial year of the lights being turned back on between 1am and 5am each night, for the whole district only and continuing for a minimum period of 4 years; and
- (b) In light of (a) above, Council no longer seeks to fund the cost of turning the District's street lights back on between 1am and 5am each night and urges the County Council to do so as it is their function.

#### PART 2 – IMPLICATIONS OF THE DECISION

##### FINANCE, OTHER RESOURCES AND RISK

Finance and Other Resources

There is a one-off sum of £160,000 identified within the Council's 2015/16 Fit for Purpose Budget, which was set aside pending discussions with ECC and a final decision by this Council (TDC).

Through the work of a Portfolio Holder Working Party the Council has developed proposals for switching the lights back on in certain areas within the district. However ECC has now formally advised the Council that it would not be possible to consider a part-on, part-off proposal. As a result of ECC's latest stance, the Leader of TDC wrote to the Leader of ECC asking for clarification as to what the annual cost would be for all of the district's lights to be switched back on between 1am to 5am each night. ECC have now confirmed a cost of **£128,600** in 2016/17 and perhaps more importantly, they remain committed to their requirement of an agreement for a minimum of four years. This figure is different to the amount quoted earlier this year due to changes to the duration of part-night lighting that ECC introduced i.e. lights to be switched off between 1am to 5am instead of 12am to 5.00am.

After allowing for an estimate for inflation, this would require a sum of **£550,000** to be identified over the 4 year period to enable the Council to accept the agreement from ECC.

The financial context for this decision must be the budget position presented elsewhere on the agenda, which highlights a budget 'gap' of nearly **£300,000** in 2016/17 with a further **£5m** of savings required to be found over the period up to and including 2019/20. This puts the consideration of the Council's ability to fund what is essentially an ECC function into sharp contrast as it would place a significant additional cost pressure on the Council.

Although it is acknowledged that the Council could fund the **£550,000** from reserves / one-off funding, it must be highlighted that it would significantly reduce the ability of the Council to undertake spend to save initiatives which are key to support the delivery of a balanced budget in 2017/18 and beyond.

Given ECC's requirement for a four-year deal, this should also now be considered as a longer term commitment as would be the case for other similar items that are already reflected in the Council's budget. Therefore before any agreement with ECC was finalised, this Council would need to identify corresponding on-going revenue savings elsewhere in the budget to ensure it can be fully funded over the four year period. This also reflects the underlying observation of the External Auditor that the Council must consider very carefully the use of one-off funding to pay for on-going revenue items.

The Council has already had to take the tough decision to cease black sacks to balance the budget, so equally difficult decisions would likely be required to accommodate the cost of street lighting in the budget on an on-going basis.

## LEGAL

The provision of street lighting is an Essex County Council function and not a District Council statutory function but it is within the powers of Tendring District Council to pay for additional street lighting to be provided by ECC for all, should it choose to do so.

The Localism Act 2011 includes a 'general power of competence'. It gives local authorities the legal capacity to do anything that is not specifically prohibited. However, the general power of competence does not remove any duties from local authorities, which are still required to be complied with. This includes the Council's budgetary responsibilities.

Attention is drawn to the Financial Procedure Rules set out in Part 5 of the Constitution, which under Section 5 provides for any expenditure to be incurred the necessary budget must also be in place, this also applies to on-going budgets. If the Council were to determine its policy is to fund the District's street lights being turned back on in accordance with the terms set down by County Council, then prior to this being implemented, corresponding savings must be identified within the Budget to meet the annual cost of the agreement. Further decisions would be required.

This issue can be considered separately from the budget presented earlier on the agenda, not least because Members would need the opportunity to identify and understand the impact of the savings options that would be required to fund the cost of street lighting on an on-going / longer term basis.

#### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

##### **Area or Wards Affected**

All

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

The key milestones in the Council's consideration of the Part-Night Street Lighting issue are as follows:

##### **December 2013**

The Council responded to ECC's initial consultation on the detail of their proposals to cease night-time street lighting (between midnight and 5.00am), with effect from January 2014. TDC had advertised the consultation and sought public contributions regarding which lights met the ECC criteria for being left on and these were incorporated into the TDC response.

##### **25 November 2014**

The Council considered a motion for TDC to fund the lights being switched on for the remainder of the year with funding to be included in future years' budgets until ECC reverses its decision. This motion was referred to Cabinet.

##### **12 December 2014**

Cabinet considered the motion and requested that letters be sent to ECC, Police, Fire and Rescue and Ambulance Services as well as all Town and Parish Councils within the District and the AA, seeking evidence of the impact of the cessation of night time street lighting.

This consultation was subsequently widened to invite submissions from members of the

public.

10 February 2015

£160,000 was set aside in the Budget to meet the costs of restoring night time street lighting.

ECC announced that the period during which the lights would be switched off would be between 1.00am and 5.00am from the end of March 2015.

## **CURRENT POSITION**

### **Conditions imposed by Essex County Council**

Following the Council decision on 24 March 2015 the Leader of TDC, together with the Chief Executive met with the Leader of ECC to inform them of the Council's decision and, as per the Council decision, to discuss the potential terms and funding arrangements for lights to be switched back on. The discussion included the possibility of lighting in some areas being left on whilst left off in others, in accordance with the predominant public views.

The Leader of ECC undertook to look into the issue and whether a partial restoration of night-time lighting could be funded by TDC and to respond formally in due course. Following a reminder letter the County Council's formal response was submitted to TDC on 25 September 2015 and set out four conditions, which the County Council will impose in respect of any agreement, which are as follows:

- Agreement to be for a period of four years;
- Payment to reflect cost of supplying energy and carbon related costs;
- Payment to be made on a quarterly basis;
- Notice of termination of agreement must be at least one year.

At the meeting of the Council held on 24 November 2015, it was moved by Councillor Stock and seconded by Councillor Turner that the recommendations of the Part Night Street Lighting Working Party of the areas to remain lit at night be submitted to Essex County Council, in response to the letter from Councillor Finch.

Councillor I J Henderson moved and Councillor Calver seconded that Councillor Stock's motion be amended by the addition of the following paragraph:

"In the event of ECC refusing to implement all night street lighting in only parts of the Tendring District, the Council instructs the Leader and Chief Executive of Tendring District Council to implement the unanimous decision of the Council taken on 24th March 2015."

Pursuant to the provisions of Council Procedure Rule 15.6, Councillor Stock, with the consent of both the meeting and the seconder, altered his motion to incorporate Councillor Henderson's proposed amendment.

Councillor Stock's motion, as so altered, became the substantive motion, which on being put to the vote, was declared **CARRIED**.

Following the Council's decision on 24 November 2015, the Leader wrote to the Leader of

ECC advising of those areas within Tendring where there was popular support for night-time street lighting to be restored, in order for ECC to be able to provide TDC with a cost for restoring the lighting in those areas. Councillor Stock's letter to the Leader of ECC is attached at **Appendix 1** to this report.

In response, a letter from the Leader of ECC dated 17 December 2015, stated that, having looked at TDC's request, ECC was not willing to consider switching lights back on only in those areas where there was clear support to do so. Details of this and ECC's consideration of part-night street lighting is attached as **Appendix 2** to this report.

In this connection and in response to the letter of 17 December 2015 from Essex County Council, the Leader of the Council wrote to the Leader of Essex County Council on 30 December 2015 asking that, in order for TDC to consider this as part of its budget process, could ECC confirm what the cost to TDC for all night lighting across the District would be based on the terms set out in the letter by the Leader of ECC, dated 25 September 2015. In his letter, the Leader of TDC also sought clarification as to whether the costs to TDC for having the lights switched back on would be £147,000 per year as previously advised and whether this sum would apply for each of the four years if a four-year agreement was entered into. Councillor Stock's letter to the Leader of ECC is attached at **Appendix 3** to this report.

Essex County Council has confirmed that it will only enter into an agreement with Tendring District Council to switch street lights back on throughout the night, where this applies to all lighting within the District. ECC's letter confirming their final position is set out at **Appendix 4**.

#### **BACKGROUND PAPERS FOR THE DECISION**

There are no background papers in relation to this report.

#### **APPENDICES**

**APPENDIX 1 - Letter dated 11.12.15 from Councillor N Stock to Councillor D Finch**  
**APPENDIX 2 – Letter dated 17.12.15 from Councillor D Finch to Councillor N Stock**  
**APPENDIX 3 – Letter dated 30.12.15 from Councillor N Stock to Councillor D Finch**  
**APPENDIX 4 – Letter dated 04.01.16 from Councillor D Finch to Councillor N Stock**



Councillor David Finch  
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Our Ref : NS/MBK/alw

11 December 2015

Dear David

Thank you for your letter dated 25 September 2015 in which you asked me to provide details of the areas in Tendring where there is popular support for night-time street lighting to be restored, in order for the County Council to be able to provide Tendring District Council with a cost for restoring the lighting in those areas.

This issue has been investigated by a cross party Working Party of Councillors and their findings were considered by the Full Council at its meeting on 24 November 2015.

In light of the decision of the Council at that meeting my request to you is that you provide details of the costs which would be incurred by Tendring District Council for the restoration of night lighting in the Tendring District as follows:

Lights to be switched back on all night for the following:

i. All Clacton, Jaywick and Holland on Sea wards namely Alton Park, Bockings Elm, Burrsville, Golf Green, Haven, Peter Bruff, Pier, Rush Green, St Bartholemews, St James, St Johns, St Marys and St Pauls.

ii. All Harwich, Dovercourt and Ramsey and Parkeston wards namely Harwich East, Harwich East Central, Harwich West, Harwich West Central and Ramsey and Parkeston.

iii. The ward of Brightlingsea.

iv. The Parish of Little Oakley.

b. Lights to remain switched off at night for the following:

i. All other wards of the Tendring District namely Alresford, Ardleigh and Little Bromley, Beaumont and Thorpe, Bradfield, Wrabness and Wix, Frinton, Great Bentley, Hamford, Holland and Kirby, Homelands, Lawford, Little Clacton and Weeley, Manningtree, Mistley, Little Bentley and Tendring, St Osyth and Point Clear, Thorrington, Frating, Elmstead and Great Bromley and Walton.

Leader of the Council  
Councillor Neil Stock

Chief Executive  
Ian Davidson

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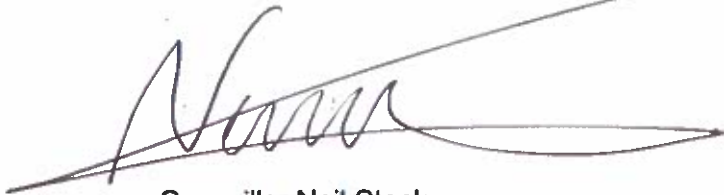
ii. The Parish of Great Oakley

I note that the costings will be based on the terms set out in your letter.

In the event that the County Council is not able to implement all night street lighting in only parts of the Tendring District, please provide the costings for the restoration of all night street lighting for all areas of the Tendring District. I assume that these costings will be based on the terms set out in your letter. We have previously been advised that the cost would be £147,000 per year. Is that still the case and would that apply for each of the four years, if a four year agreement was entered into?

I look forward to hearing from you with the costings.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Neil Stock', written over a horizontal line. The signature is stylized and cursive.

**Councillor Neil Stock**  
**Leader of the Council**

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Leaders Office  
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Received



Essex County Council

22 DEC 2015

Cllr Neil Stock  
Leader of the Council  
Tendring District Council  
Town Hall  
Station Road  
Clacton on Sea CO15 1SE

Leader of the  
Council's office

Date: 17 December 2015

Our Ref: DF/AC

Your Ref: NS/MBK/alw

A2 APPENDIX 2

Dear *Neill*

Thank you for your letter regarding your request for the re-instigation of all night street lighting in Tendring. I understand that your request is in two parts, the first being identifying what areas (predominantly urban) you would like to see the lights being re-instigated and the second regarding the cost of such a request.

Street lighting is an Essex County Council function which forms part of the Council's revenue budget. Essex County Council is required to make significant savings as a result of funding reductions. In order to make significant savings the Council has looked at a range of areas for service reductions, and the reduction of street lighting in some areas between 1.00 a.m. and 5.00 a.m. was one such saving and seen as having a minimal effect compared to other savings options and has, therefore, formed part of our savings programme.

I have concluded that districts who wish to see the lights re-instigated will need to commit to the total cost of lighting. To define which street lights are on or off, area and street by street, will be administratively costly and unworkable.

Turning to your request, should any district wish to see the lights re-instigated it will be on the basis of whole district and a four year commitment to give Essex County Council the surety of making its budget savings.

There is clearly a mixed demand by Tendring residents for the lights to be re-instigated and, as I have said previously, it is not feasible to re-instigate the lights in only parts of the district. Therefore having looked at your request, I do not feel that the re-introduction of all night street lighting on the basis you have requested is feasible for Tendring.

I know this may be disappointing for some of your residents but I am sure you will understand that in having to make substantial budget savings the County Council is having to make difficult decisions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Finch'.

**Cllr David Finch**  
**Leader of the Council**

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Our Ref : NS/MBK/alw

30 December 2015

Dear David

Thank you for your letter dated 17 December 2015 in response to mine of 11 December, the content of which has been noted.

In order for us to consider this as part of our budget process, could you please confirm that, the cost to Tendring District Council for all night lighting across the District will be based on the terms set out in your letter of 25 September 2015.

We have previously been advised that the cost would be £147,000 per year. Is that still the case and would that apply for each of the four years, if a four year agreement was entered into?

I look forward to hearing from you.

Yours sincerely

Councillor Neil Stock  
**Leader of the Council**

Leader of the Council  
**Councillor Neil Stock**

Chief Executive  
**Ian Davidson**

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Cllr Neil Stock  
Leader - Tendring District Council  
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Station Road  
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Essex CO15 1SE

Date: 4 January 2016  
Our Ref: DF/AC  
Your Ref: NS/MBK/alw

A2 APPENDIX 4

Dear Neil

**Re: Part Night Lighting**

I would confirm that an agreement to override part night lighting across the whole of Tendring District will be based on the principles outlined in my letter dated 25 September 2015 as below:

- Agreement to be for a period of 4 years
- Payment to reflect cost of supplying energy, and carbon tax related costs
- Payment to be made on a quarterly basis
- Notice of termination of agreement must be at least one year

The energy costs for lighting will be re calculated at the beginning of each financial year and will be based on the actual energy costs incurred by ECC and associated Carbon Tax. The figures for Tendring District Council for this financial year are £116,991.80 for energy and £11,608.07 Carbon Tax giving a total of £128,599.87. These figures are different to those quoted to you earlier this year due to the changes to the duration of part night lighting that we introduced from 1.00am to 5.00am (previously 12.00am to 5.00am).

Yours sincerely

A handwritten signature in black ink, appearing to read "David Finch".

**Councillor David Finch**  
**Leader of the Council**

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