

Record of Officer's Decision

The Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Date of Decision:	23/10/2025
Decision Maker (Officer):	Lee Heley, Deputy Chief Executive and Corporate Director, Place and Wellbeing
Authority for Delegated Decision (Cabinet/Committee Decision or Scheme of Delegation – provide reference):	Cabinet Decision 6th October 2023 - Minute No. 38 (c) (d) Cabinet Decision 20th December 2024 – Minute No. 100 (2) Part 3, Schedule 3 – Responsibility for Executive Functions delegated to Officers paragraph 4.3 (1) – the Corporate Director has delegated authority to discharge executive functions within their respective service areas (Part 3.43). All delegations are subject to consultation where considered appropriate in the circumstances (paragraph 4.3 (4(ii))).
Identify which Portfolio Holder(s)/Committee Chairman consulted?	Cllr Ivan Henderson, Deputy Leader of the Council and Portfolio Holder for Economic Growth, Regeneration and Tourism
Ward Member(s) consulted?	n/a
Is it a Key Decision?	No
Is it subject to call-in?	No
Decision Made:	To extend the Council's contract with Right of Light Consulting for the provision of rights of light services for the Carnarvon Terrace project, which is being delivered as part of the LUF scheme, including: - Fixed fee for detailed survey + initial negotiations = £3,000 + VAT - Capped fee allowance for negotiations = £3,500 + VAT
Reason for Decision (if a report was produced to	On 6 October 2023 Cabinet considered a report titled 'Levelling Up Fund and Capital Regeneration Projects -

support the Decision, refer to or attach it):	Progressing the Projects to Planning Permission'. As part of that report, Cabinet delegated authority to the Corporate Director Place and Economy in consultation with the Portfolio Holder for Economic Growth, Regeneration and Tourism to procure appropriate resources and commission a project team to carry out the associated work including for the design briefs. On 9 Oct 2025 a Letter of Claim (LOC) was received from 'The Property Lawyers' acting on behalf of leaseholders at Flat 2, 39 Carnarvon Road, Clacton-on-Sea. The LOC asserts a right of light injury from the Development, and requests information in order to assess the full extent of that injury. Rights of light were considered during the design phase in order to minimise risk of claim however it was not possible to fully design out the risk within the parameters of the deliverables of the Memorandum of Understanding for the funding, as it would have required reduction in the number of housing units created. This appointment allows the 'rights of light' aspect of the design briefs to be progressed further to the above claim, to: - Consider whether there is a right of light through the relevant window(s); - Consider whether the proposed development will cause an actionable injury to such right; - Consider options and next steps for TDC's position.
Highlight any associated risks/finance/legal/equality considerations:	Procurement This appointment is proposed under the terms of an Section 2 Exemption From Procurement Rules: <i>2.1 The Corporate Directors/Heads of Department shall be exempt from the need to obtain competitive quotations/prices where any of the following circumstances apply:</i> The above defines the decision maker as the Corporate Director for Place & Wellbeing which aligns with the delegations for appointing consultants for the wider programme. <i>(c) The matter is one of urgency as determined by the appropriate Corporate Director/Head of Department</i>

	<i>following consultation with the responsible Portfolio Holder or the Leader of the Council</i> A claim has been received and therefore a surveyor is required to be appointed for survey and negotiations as a matter of urgency so as to enable the Council to respond. <i>(e) Where the work is of a specialist nature and the Corporate Director/Head of Department can demonstrate that it is not possible to obtain more than one quotation or tender.</i> This decision relates to extending the appointment of a supplier who has previously carried out rights of light surveys for the site and informed the design development of the scheme. Though other surveyors exist in the market they would not bring an existing understanding and knowledge of the scheme and work to date. Finance The appointment set out within this decision falls within the overall budget for consultant appointments on the project. Legal This decision will enable the Project Delivery Unit to consider next steps to protect TDC's position.
Details of any Alternative Options Considered and rejected (together with reasons):	Not appointing a consultant. Taking this approach would mean the works did not progress.
Details of any declarations of interest (by Portfolio Holder/Committee Chairman who was consulted by the officer, which related to the decision)	N/A
If relevant, a note of the dispensation granted by the Monitoring Officer:	

Reason Decision, or supporting Report, is not published: <i>Tick one or more of the specific exemptions,</i> <u>and</u> <i>Give more information in the final box with regards to why the exemption applies and outweighs the public interest test (which is in favour of disclosure).</i>	x	Not applicable – Decision [and report] to be published
	If Report is not to be published – tick one of the following boxes:	
		The report supporting the Decision contains confidential information
		The Report supporting the Decision falls within an exemption pursuant to Schedule 12A of the Local Government Act 1972 Information:
		Relates to an individual
		Likely to reveal the identity of an individual
		Relating to financial or business affairs of a person or organisation
		Relates to a claim for legal professional privilege in legal proceedings
		Reveals that the Council proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment
		Relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
<u>And</u> is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information Reasons: [insert]		

Officer

Signed: [confirmed via email]
Wellbeing

Title: Deputy Chief Executive, Corporate Director Place and

In consultation with:

Signed: [confirmed via email]
Regeneration & Tourism

Title: Portfolio Holder for Economic Growth,

Dated: 23/10/25