

Agenda item 15 Street Lighting

Summary

Copeland is looking to considering the possibility of transferring certain lighting obligations, that have been with its Council for many years, to Parish Councils. This report sets out the situation.

Background

There has been a change in regional and local governance taking place all over England in recent years as central Government squeezes budgets, reduces its financial support to District Councils and limits District Council to a certain % increase in its Council Tax without a referendum. Many a District/County Council has been looking towards Parish Councils to transfer some of their duties to as a parish can raise its precept without limit – other than what the public may wish to see as a limit. Without Parish Council's properly planning for any such transfer they can find themselves in financial difficulty having to fund services they have not budgeted for. Copeland Borough Council is no different.

At our last Council meeting Councillor Banks raised the Mayor's proposal to transfer lighting responsibilities to Parish Councils. Councillor Bank's views are in the minutes of that meeting. We have now received a letter from CALC in this regard and which is set out in Appendix One below. CALC has asked that we bring it to the attention of our Members.

Members are reminded of the Borough Council's grass cutting arrangements (see previous report) and how that appeared to have been devolved to our Council contrary to due process.

Legal

The Local Government Act 1966 transferred responsibility for street lighting from Parish Councils to the Highway Authority. The 1966 Act has now been replaced with section 97 and 98 of the Highways Act 1980, which indicates that that Highway Authority (Cumbria County Council) has a discretionary power to provide highway lighting.

Public Health Act 1875 appears to be the legislation that gives the Borough Council similar discretionary powers to provide lighting

Parish Council's Act 1957 s3 is a discretionary power for Parish Councils to light roads and other public places. There may be obligations here to comply with any directions from the Highway Authority in this regard and which may dictate the level of expenditure the a parish should incur.

Details

With District Council's budgets being squeezed, and its ability raise its Council Tax levy limited to 2% many a District Council is looking to cascade down to Parish Council's some of its responsibilities in the hope that local Council's will fund what is presently a Borough Council service. The logic to District Council's is obvious but the Borough Council needs to appreciate that there can be no compulsion in relation to a Parish using its discretionary powers or where it has no legal power at all. Then, of course, the determination of our precept is wholly within our discretion and not that of the Borough Council.

Parton is classified as a smaller Parish as its expenditure is less than £25,000. If more Borough responsibility is taken on by Parton then our expenditure will increase. Once we are over that £25,000 mark we change our designation and need to pay an external auditor to audit our accounts. That will increase our expenditure again. Then, once we cease to be a "smaller Council," our Clerk is

entitled to be on a different grade and that increases our expenditure. Then, with more of the Borough Council's work, if we accept, we may need more meetings and that increases our expenditure. Just these elements increase our expenditure on administration rather than actual service delivery. Just a thought.

In any proposal to transfer Borough services to a Parish there are many other issues to consider and these take time.

The Mayor indicated fairly recently that he was looking for Parish Council's to accept responsibility for what is presently Copeland's street lighting. I refer members to a letter from CALC in this regard in Appendix One and which CALC asked that we place before Members.

That indication from the Mayor, to transfer lighting, was made at a time when Parish Council's had already determined their budgets and precept for the forthcoming year and will not have taken on board any potential additional costs for taking on some street lighting responsibilities.

As far as I am aware the Parish does not own any lighting units. There is nothing listed in our asset register. A survey undertaken by Copeland lists many lights in "unknown ownership"

A press report can be found here (<https://www.newsandstar.co.uk/news/18149794.council-bid-save-cash-lights/>) and as the newspaper put it –

COPELAND council wants to hand over management of footway lighting around the borough in a bid to save money.

Mayor Mike Starkie sent letters to parish and town councils asking that they consider taking over management and running costs and maintenance of the lights, which is estimated at around £146 each.

These include lights in council-owned car parks, footpaths and smaller pockets of land formerly owned by the council.

I will pick out here what appear to be three key passages in the email in Appendix One

1. Copeland is preparing a report which is to include a map of the lights in your parish, and their current ownership.

I suggest that the Council cannot accept any determination on light ownership by the Parish Council without agreement after considering the evidence.

2. only when all other possibilities have been considered should lighting assets be transferred and only when they have been remediated, ie; upgraded to LED and with their electrical safety test completed

This again suggests a unilateral approach. The Borough cannot unilaterally decide that their lights will become our lights. We do not have to accept any lighting responsibilities. I am mindful here of our current financial position and the potential cost implications to our future budgets.

3. Parishes will also need a far more detailed understanding of electricity, maintenance and decommissioning costs that parishes will be taking on.

Please note here the assumption that “parishes will be taking on” lighting responsibilities of the Borough Council. This Council simply does not have the resources or in house expertise to deal with such matters.

Copeland has sent out a questionnaire with one of the questions asking -

“In the unlikely event that you decide you will be unable to consider taking on any responsibility for footway lights or fund the costs, please use the space below to propose any alternative funding or management solutions?”

“In the unlikely event.....” seems somewhat presumptuous.

There is nothing in the note indicating that the Borough Council will be undertaking any greater strategic review other than its questionnaire at this time. Perhaps there should be a strategic overview of lighting needs in the district? For example it may conclude that a parish is better placed to maintain a lighting unit but is it actually required? Should its review of lighting be part and parcel of a broader review to take into consideration such matters as economic pressures such as rising energy prices; environmental concerns about wasted energy and the effects of any carbon emissions and light pollution? None of these issues have been raised by Copeland.

There does not appear to have been any survey of all lighting units to see if they are fit for purpose or to assess their expected life span

If this is a purely money saving exercise perhaps the thrust of the Borough’s investigation should change to consider other means of effecting savings for the Borough rather than to transfer their services to a Parish Council? e.g

- switching selected lights off;
- lighting areas for part of the night only;
- dimming the level of lighting during the early hours of the morning;
- reducing the “burning” time of lamps in the evening and early morning; and / or
- using new and evolving technologies such as a central management system (CMS) or light emitting diodes (LED).

If we were to accept any lighting responsibilities should we consider these factors and have we the resources to do so? Should we not expect Copeland to lay those foundations first?

Should Copeland take a strategic view? This could involve getting an understanding of which services local people consider to be most important to the community and their own quality of life. In short, what are the priorities? Does the focus of the Borough need a change?

Budget Implications

As was evidenced from the Budget report to Council on the 8th January 2020, this Council has suffered a detrimental effect upon its finances as a result of past management of our finances. That will take some time to recover. As a result Council was faced with 10 options for its budget for this year with each one, between option one and option ten, gradually reducing the services we could provide for our electors whilst we recovered. The first option was rejected by all Councillors due to

the increase in Council Tax payments to our residents. This Council opted to be realistic with a view to building for the future a Council based on sound financial and accounting principles.

The Audit report to the January 16th EGM did nothing to lift the financial gloom. The Reserves Policy proposals submitted to this Council starts to build for the future but very slowly at first. Added to that is the report on the Internal Auditor setting out how this Council should more closely monitor its financial position. That will clearly be essential if we were to take on some lighting responsibilities.

This re-building work may be undone if we are to have foisted upon us legal obligations of the Borough Council. Should we do so then will that be the end or will more services of the Borough Council be cascaded down to this and other Parish Councils?

The Mayor suggested that a parish should budget to incur a minimum cost of £146 (estimated by Copeland) as the running cost of each light (electricity and repairs) but he does not say if that is annual or monthly cost. No indication was provided as to costs of repairs, upgrading or replacement. He does not indicate the standard of lighting such that parishes do not know if any or all require upgrading or replacement. The financial risk is clearly too much for any rational minded Council to accept at face value.

I would suggest that this Council agree not to enter into discussion with the Borough at this stage as CALC suggests - other than, perhaps, to pass to it this report. CALC has indicated that it "has experience of similar proposals in Eden and is offering to assist councils in their negotiation with Copeland BC." I do have to ask why there needs to be any negotiations? Parties negotiate to reach an agreement. It may be the wish of our parish not to seek any agreement on the transfer of Borough Council functions to our Parish. Members may wish to express a view at this early stage.

If Council were minded to accept responsibility for some services should we seek some underwriting of costs? Should we seek Help in-kind: rather than pay towards a service, should we seek some indirect assistance with help in-kind to offset the costs. An example may be to not re-charge for local election costs.

Risk Management Implications if any

Other factors to consider

Overheads: when planning or applying to run a service, local councils need to take proper account of the likely management overhead costs, as well as the running costs. This includes things such as administrative effort, extra office costs and insurance.

One-off costs: they should also consider what large one-off costs may arise from time to time and how they will be funded e.g. replacing equipment, maintaining a building. It could be that the principal local authority is prepared to retain this responsibility.

Building up ear marked reserves for future possible liabilities. This means taking money from Tax payers to hold for the future so as to avoid some huge expenditure in the future being funded in one year.

Double taxation: Double taxation arises when council tax payers contribute towards the cost of a service (via the parish precept) which is being provided by their parish council and also contribute (via the District Council precept) to the same service being provided in other parts of the District). There needs to be transparency to show that this will not arise. Broadly – why should we pay for our lighting if others parishes don't and we have to contribute

towards their costs? The Mayor provides no assurances in this regard at all. It appears inequitable if taxpayers are treated differently for no good reason. Residents in certain areas should not be paying both (in full) for the service in their locality as well as contributing to its provision elsewhere.

Recommendation

That the Council follows CALC's advice to do nothing at this stage and holds a watching brief on developments.

Appendix One

From:

Date: 14 January 2020 at 15:02:57 GMT

To: "Cumbria Association, of Local Councils" <calc@cumbria.gov.uk>

Subject: Copeland BC's Footway Lighting Proposals

Dear Colleague –

To clerks and chairmen town and parish councils in Copeland

You will have all received the undated letter from the Elected Mayor concerning footway lighting and your council may have had an opportunity to discuss the matter.

The letter was discussed at the three tier meeting on the 9th January 2020. Mike Starkie was at the meeting and he clarified some issues which had already been raised by parishes. As a result, there will be no change to the current arrangements for the financial year beginning on the 1st April 2020. There is therefore no reason why you should alter your precept proposals for this year. The status quo will prevail.

We believe that an ownership mapping exercise will be required first and the outcome will need to be agreed with Electricity North West, the county council and any social housing organisations who may have responsibility for some lights in your parish. Consequently, Copeland is preparing a report which is to include a map of the lights in your parish, and their current ownership. This will give you some further information and until this is available and agreed by all parties, we urge you not to enter into any discussion with the district council as is suggested in the last paragraph of the Mayor's letter.

CALC has experience of similar proposals in Eden and is offering to assist councils in their negotiation with Copeland BC. We consider that parish and town councils are not the appropriate body to take on footway lighting and other options must be considered before any discussions of transfers to parish councils can be considered. And only when all other possibilities have been considered should lighting assets be transferred and only when they have been remediated, ie; upgraded to LED and with their electrical safety test completed. Parishes will also need a far more detailed understanding of electricity, maintenance and decommissioning costs that parishes will be taking on. Eden DC also provided a financial 'dowry' (funding over 4 years to allow parishes to raise their precept in gradual stages) as an encouragement to local councils to take on the assets.

Please take this letter to your next council meeting or circulate it beforehand so that the current situation can be understood. At the moment there is insufficient information to go further. We shall keep you advised as matters progress.