

MELBOURN PARISH COUNCIL

Clerk: Sarah Adam
Melbourn Parish Council
Melbourn Community Hub
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Melbourn
SG8 6DZ

E-mail: parishclerk@melbournpc.co.uk

Telephone: 01763 263303

<http://www.melbournparishcouncil.co.uk>

Please note: New Parish Office opening hours:

Monday: 10.00am-1.00pm, Wednesday: 1.00pm-3.00pm, Friday: 10.00am-1.00pm

Alternatively, please call to arrange an appointment.

3rd November 2017

Dear Councillors and Members of the Public

At its meeting on 23rd October 2017, the Parish Council voted to accept the report of the Car Park Working Group (CPWG), with the intention of publishing it (and a number of other associated documents) for discussion of the contents at the November Parish Council meeting.

The report covers Phase 2 of the CPWG's work. Phase 1 (included as Appendix 3 to the CPWG's report) was presented to the Parish Council on 12th December 2016. The Parish Council subsequently accepted the recommendation of Currie and Brown to accept the final account of Interserve of £344,980.

The documents published are:

1. The covering letter to the report sent by the CPWG to the PC. As a result of comments from Councillors this letter now clarifies that appendices included within the report were considered by the CPWG to be already in the public domain. **Appendix 1.**
2. Mr Potter's resignation e-mail. **Appendix 2.**
3. Mr Potter's initial draft report for the Group to comment on. **Appendix 3.**
4. Mr Potter's amended draft following comments from CPWG members. **Appendix 4.**
5. The report agreed by the CPWG following the resignation of the independent Chair, Roland Potter. **Appendix 5.**
6. The Terms of Reference of the Car Park Working Group. **Appendix 6.**
7. A list of all Councillors (past and current) who were involved with the Car Park project. **Appendix 7.**

Councillor Hales and Councillor Regan have asked that their comments on the CPWG report also be published.

The CPWG has now discharged its task. If members of the public have questions about the work of the Car Park Working Group, they should submit them to me *in writing* by Friday 10th November 2017. Written responses will be provided. The Working Group members will not answer questions at the Parish Council meeting.

At the meeting on 27 November, there will be the usual Public Participation session for members of the public to make comments and pose questions to Councillors. The Chair will reserve the right to extend the session beyond 15 minutes to make sure everyone has an opportunity to speak. The Parish Council has accepted the Phase 2 report and will decide at the meeting how to respond to the recommendations.

Yours sincerely



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Melbourn Parish Clerk

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APPENDIX 1

23 October 2017

Sarah Adam
Melbourn Parish Clerk
Melbourn Parish Council
Melbourn Community Hub
30 High Street, Melbourn
Cambridgeshire
SG8 6DZ

Dear Sarah,

Car Park Working Group – Phase 2 Report

Please find attached the final report from the Car Park Working Group.

The report covers the second phase of investigation, during which the Group considered the processes and management of the car park re-development, rather than the financial aspects already investigated in phase one.

You as Clerk and all councillors should be aware of certain difficulties that arose in finalising the report. These are:

- The Terms of Reference for the Working Group (included with this letter) set out the need for the activities to be led by an independent chair. An independent chair, Roland Potter, was duly appointed.
- Mr Potter discharged his role for phase one of the project and led the review of documentation in phase two, now being reported. Due to his unavailability during 2017 a great deal of time elapsed between the initial documentation reviews and finally achieving a report in draft form.
- The first version of the report, eventually drafted by Mr Potter, was considered incomplete by all other members of the Working Group, and seemed to be missing much detail and commentary. These views were passed to Mr Potter. Unfortunately, the differences of opinion were not resolved, as Mr Potter withdrew his support without another proper discussion having taken place.
- The report now presented contains all material in the original report version from Mr Potter, but also includes the comments and views from other members of the Working Group. All residual Group members support the revised text. It should be noted that, while the main report mentions no individuals' names, some names do appear in one of the appendices. The

appendices are all documents that are assumed by the Working Group to part of a pre-existing public record.

- We draw to your attention that the report is being submitted by the residual Working Group in the knowledge that, because of the withdrawal of the independent chair, we no longer comply with the Terms of Reference originally and formally agreed by the Parish Council. The Terms of Reference had the objective of achieving an unbiased outcome that the Group hopes has been preserved, in spite of the difficulties.
- This report has been reviewed by CAPALC

Melbourn Car Park Phase 2 Working Group

APPENDIX 2

-----Original Message-----

From: Roland Potter XXXXXXXXXXXXXXXXXXXXXXXX

Sent: 24 September 2017 19:56

To: Parish Clerk; Assistant Clerk

Subject: Invoices

Dear Sarah

Please find attached my invoice for services regarding the finance support.

I have still to invoice you for my expenses for the Car Park Working Group.

After careful consideration and taking independent advice, I will not be attending tomorrow's meeting to present the report. As you can see from the report the group wished to have certain additional comments made.

It was during this that I realised that some members of the working party appear to have drawn certain opinions about councillors and their contribution to the current situation.

I was concerned that these appear to be personal and therefore it is only right that the members of the working group present the report to Council as I cannot fully support their enthusiasm to attribute blame..

I realise that the group became frustrated with my availability, but I am not prepared to be the front man for a report when I feel that I may not have the support of the group.

I have not charged the Council for the large number of hours I have done on this project or for the adhoc finance support. However I will be forwarding an additional invoice for my expenses.

Yours sincerely

Roland Potter

APPENDIX 3

Report of the Car Park Working Group
<p>Purpose of the Report</p> <p>This report was commissioned by Melbourne Parish Council because of public concern over the cost of a project to refurbish the Village Car Park.</p> <p>The object of the report is to identify areas of concerns regarding</p> <ul style="list-style-type: none">• The decision-making process for this project from conception to completion and to make recommendations to the Parish Council.• The management of the project.• The ongoing review of the project
<p>History</p>
<p>Methodology</p> <ol style="list-style-type: none">1. The Working Group reviewed the minutes of all meetings over the relevant period and looked for supporting information to support the Council's decision making process.2. The Working Group undertook a survey of the elected councillors during the period of this project to obtain certain views.
<p>Issues for the Working Group</p> <p>The Working Group found that: -</p> <ul style="list-style-type: none">• There were very limited supporting papers to demonstrate the quality of information the Council had received to inform its decision making.• There were no formal records of decisions made by individual Councillors and or officers in the management of the contract.• Considering the value of the project in relation to the Council's budget the management of the project was not the subject of a review by the Internal Auditor.• There were no clear and open lines of reporting to the Council regarding the progress of the project.• The Council often choose to consider items regarding the project confidentially there by removing the public from the debate and the project from public scrutiny
<p>Observations</p> <p>How the Council operates</p> <p>Councillors are not paid employees of the Council.</p> <p>Under the Council's Code of Conduct they have a legal duty to declare and personal or pecuniary interests.</p> <p>Councillors are elected every four years to promote the wellbeing of the community and to manage the Council's finances with due diligence for the benefit of the community.</p> <p>Within any democratic system there will be councillors who do not agree with the decision of the majority. However, Councils operate on the basis that a simple majority will carry the vote on any decision.</p> <p>Any decision of the Council can only be reviewed after 6 months or earlier if there is a required number of councillors requesting for that decision to be reviewed.</p> <p>Decisions of the Council are a shared corporate responsibility and Councillors have a duty to scrutinise and hold to account the Council's actions.</p> <p>The culture of organisations is to look for individuals to blame if things do not turn out as they had expected or if they are challenged. However, without the contribution, professional knowledge and drive of individual councillor's projects would not be delivered.</p>

Public Consultation

Despite the decision-making process outlined above, it is good practice for a Council to consult with the public. This is particularly suggested where it involves major projects and assets or where the cost of a project will have a large impact on the Councils finances.

The Council relied on an earlier consultation to support the need to renovate the car park. *On reflection, it would have been appropriate to consider a wider consultation with the public and relevant agencies to identify the need.*

Tendering

The Council employed a consultant to assist with the tendering process and this complied with the recommended financial regulations. The result of the process was that the Council appointed a project management company and a contractor to complete the work.

The Councils Internal Management of the Project

The Internal Management of the project due to the cost of the project would have been more appropriately managed by the Finance Committee or Full Council.

- *It would have been appropriate for the Council to adopt a simple project management practice to ensure it complied with both due diligence and accountable day to day management.*
- The creation of a specific project management working group to help facilitate a project would be beneficial, however it would have to have clear terms of reference and any delegation would have to be to the Parish Clerk.

It is important that decisions to change the project and or to spend contingency funds are clearly recorded, identified, discussed and agreed. These decisions should not be delegated to one councillor or the Clerk.

The reason for this is to allow the Council the opportunity to review the progress of the project against budget and to be able to halt or review a project should the cost of the project be increasing outside the agreed budget.

As part of this management there should be regular budget reporting of cost against budget to the Finance Committee and the Council.

The Council should not be afraid of scrutiny by other councillors or the public.

Moving items on an Agenda in to Confidential.

The use of the confidential section on an agenda should be used sparingly.

The reports on this type of project should be considered in public, to demonstrate that the Council is being diligent in managing its finances and assets.

Moving items away from public scrutiny can contribute to an air of mistrust between the Council and its residents.

The confidential part of the agenda should only be used for the following;

- Engagement, terms of service, conduct and dismissal of employees.
- Terms of tenders, and proposals and counter proposals in negotiations for contracts.
- Preparation of cases in legal proceedings and
- The early stages of any dispute.

Accountability

The position Melbourne Parish Council has found itself in, is because of several factors all coming together

- The Council pushed forward with the project for the benefit of the community in mind.
- Its desire to complete the project and the constraints of a NJC contract were detrimental to the openness of the Council to the public.
- Ensuring that the Council had a clear mandate from the residents to go ahead with a major project would have been helpful in managing objectors to the project.
- Projects of this size need to be managed in such a way that the residents have confidence in the Council. It is therefore necessary to have a clear and open reporting system which

the public can see and question.

- The Council finances are an important reflection of the capability of the Council and this should be reflected in its financial reporting in general and on specific projects

Summary Recommendations

- The Council should use public consultation as a tool to inform their decision making.
- The results of public consultation should be documented in support of projects.
- The Council should adopt a project management practice for all future projects.
- Projects with a major financial impact should be managed overall by the Finance Committee or Full Council.
- The Council should consider the use of Working Groups including Councillors, The Parish Clerk and other professional to help deliver projects.
- Delegation for these projects should be to the Parish Clerk only, this will protect the integrity of the Councillors and the Council.
- A system of recording decisions and actions should be included in the Project management practice and these should be made available to the Council.
- The Council should reduce the use of the confidential part of the agenda.
- By putting the above in place the Council should encourage scrutiny of its actions and decision making.

Recommendations

APPENDIX 4

Report of the Car Park Working Group

Purpose of the Report

This report was commissioned by Melbourne Parish Council because of public concern over the cost of a project to refurbish the Village Car Park.

The object of the report is to identify areas of concerns regarding

- The decision-making process for this project from conception to completion and to make recommendations to the Parish Council.
- The management of the project.
- The ongoing review of the project

Methodology

3. The Working Group reviewed the minutes of all meetings over the relevant period and looked for supporting information to support the Councils decision making process.
4. The Working Group undertook a survey of the elected councillors during the period of this project to obtain certain views.

Issues for the Working Group

The Working Group found that: -

- There were very limited supporting papers to demonstrate the quality of information the Council had received to inform its decision making.
- There were no formal records of decisions made by individual Councillors and or officers in the management of the contract.
- Considering the value of the project in relation to the Council's budget the management of the project was not the subject of a review by the Internal Auditor.
- There were no clear and open lines of reporting to the Council regarding the progress of the project.
- The Council often choose to consider items regarding the project confidentially there by removing the public from the debate and the project from public scrutiny

Observations

How the Council operates

Councillors are not paid employees of the Council.

Under the Council's Code of Conduct they have a legal duty to declare and personal or pecuniary interests.

Councillors are elected every four years to promote the wellbeing of the community and to manage the Councils finances with due diligence for the benefit of the community.

Within any democratic system there will be councillors who do not agree with the decision of the majority. However, Councils operate on the basis that a simple majority will carry the vote on any decision.

Any decision of the Council can only be reviewed after 6 months or earlier if there is a required number of councillors requesting for that decision to be reviewed.

Decisions of the Council are a shared corporate responsibility and Councillors have a duty to scrutinise and hold to account the Councils actions.

The culture of organisations is to look for individuals to blame if things do not turn out as they had expected or if they are challenged. However, without the contribution, professional knowledge and drive of individual councillor's projects would not be delivered.

Public Consultation

Despite the decision-making process outlined above, it is good practice for a Council to consult with the public. This is particularly suggested where it involves major projects and assets or where the cost of a project will have a large impact on the Councils finances.

The Council relied on an earlier consultation to support the need to renovate the car park. *On reflection, it would have been appropriate to consider a wider consultation with the public and relevant agencies to identify the need.*

Tendering

The Council employed a consultant to assist with the tendering process and this complied with the recommended financial regulations. The result of the process was that the Council appointed a project management company and a contractor to complete the work.

The Councils Internal Management of the Project

The Internal Management of the project due to the cost of the project would have been more appropriately managed by the Finance Committee or Full Council.

- *It would have been appropriate for the Council to adopt a simple project management practice to ensure it complied with both due diligence and accountable day to day management.*
- The creation of a specific project management working group to help facilitate a project would be beneficial, however it would have to have clear terms of reference and any delegation would have to be to the Parish Clerk.

It is important that decisions to change the project and or to spend contingency funds are clearly recorded, identified, discussed and agreed. These decisions should not be delegated to one councillor or the Clerk.

The reason for this is to allow the Council the opportunity to review the progress of the project against budget and to be able to halt or review a project should the cost of the project be increasing outside the agreed budget.

As part of this management there should be regular budget reporting of cost against budget to the Finance Committee and the Council.

The Council should not be afraid of scrutiny by other councillors or the public.

Moving items on an Agenda in to Confidential.

The use of the confidential section on an agenda should be used sparingly.

The reports on this type of project should be considered in public, to demonstrate that the Council is being diligent in managing its finances and assets.

Moving items away from public scrutiny can contribute to an air of mistrust between the Council and its residents.

The confidential part of the agenda should only be used for the following;

- Engagement, terms of service, conduct and dismissal of employees.
- Terms of tenders, and proposals and counter proposals in negotiations for contracts.
- Preparation of cases in legal proceedings and
- The early stages of any dispute.

Financial management

There is no clear evidence that the Council operated a strong financial management policy.

- There reporting of the Councils financial position appears to have not been made available and the essential financial information available in the accounting system appears not to have been used to inform the Councils financial decision making.
- There is no evidence that the Council undertook the appropriate financial risk assessment prior to taking on the project, including identifying the cost /benefit to the community, the loan/income gearing ratio.
- There appears to be no regular, open and detailed financial reports to the Council on the financial management of the project.
- There is no evidence of a regular reporting of the Councils financial risk on the project and

its impact on the Councils financial position

- The spending of any contingencies was not clearly reported to the Council.

The impact of the spending of the contingencies should have been identified as a possible indicator that the Councils financial management of the project was starting to escalate.

Accountability

The position Melbourne Parish Council has found itself in, is because of several factors all coming together

- The Council pushed forward with the project for the benefit of the community in mind.
- Its desire to complete the project and the constraints of a NJC contract were detrimental to the openness of the Council to the public.
- Ensuring that the Council had a clear mandate from the residents to go ahead with a major project would have been helpful in managing objectors to the project.
- Projects of this size need to be managed in such a way that the residents have confidence in the Council. It is therefore necessary to have a clear and open reporting system which the public can see and question.
- The Council finances are an important reflection of the capability of the Council and this should be reflected in its financial reporting in general and on specific projects

Members of the Working Group Observations

1. In the situation where Councillors took on extremely important roles within the project management of the car park and then relinquished them at a key time, was an abdication of responsibility and did not 'promote the well-being of the community' which has been said to be a requirement for the position of a council member. Where councillors remained on the Parish Council then it would have seemed appropriate that their views should have been aired at council meeting and not in small groups.
2. A greater emphasis on the 'shared corporate responsibility' and 'duty' needs to be given as it has been clear that that this has not been the case, a number of councillors commented that they were 'not kept informed' of what was happening with the project and using this as a reason for not raising concerns especially in relation to the cost, where it could be seen that this is just an 'excuse' to use after the failure to control the finances on the project.
3. Whilst the Working Group appreciate that the comment in the report about 'the culture of organisations is to look for people to blame if things do not turn out as expected' but we are not talking about a small project here it was a considerable spend which still required an initial loan of £200,000 which was voted in by the full council followed by an additional £50,000 plus due to the overspend. The Working Group believe that the people involved should have been held to account if this is an appropriate course of action and may be something for the current council to consider?
4. There is no evidence that the Council adequately identified their gearing ratio for borrowing to income. The fact that this project was given the go ahead shortly after a previous venture (the construction of the village Hub) had been completed that had already placed the Parish Council in a poor state of finances and that no consideration was given to this especially when consulting with the public. The points made within the report under the section Public Consultation mention that public consultation is 'particularly suggested where it involves major projects and assets or where the cost of a project will have a large impact on the council's finances', both of which this project did yet there was no consultation with the public on this.
5. Under the section 'Accountability' it is mentioned that the council pushed forward with the project for the benefit of the community; however, the Working Group would question, this has although it appears to benefit only a small section of the

community that were affected by the anti-social behaviour taking place in the old car park. However, the Working Group believe that this would not pass a cost/benefit analysis. Several members of the public that have attended council meetings have raised relevant points regarding lower cost options such as CCTV with one even pointing out that the COOP offered a proposal which was turned down without any real consideration or feasibility study as to how this may work.

6. The Working Group feel obligated within the report to raise concerns regarding the current position that the Parish finances now find themselves to be in. It is clear that the management of the council's finances with due diligence for the benefit of the community' is one of the biggest failures of the previous council. Although the precept had increased, in real terms, the Parish Council had 65k less available to spend, as this was the amount needed to service PWLB for loans on the Hub and car park". Having reviewed the past Accounting statements for 2011/12 the total balances and reserves at the year-end were 610,445 with no borrowings, the annual precept for the year was 190,309 which showed the finances to be very healthy; however the Accounting statement for 2016/17 show that the annual precept for the year had risen 195,917 with total borrowings of 888,380 (this requires a figure of nearly 50,000 per annum for the capital and interest payments) and total balances and reserves of only 115,707. The extra 15,000 to make up the 65,000 comes from the subsidy payment to the Hub. Although the role of the Working Group was to focus on the Car Park it is important that we don't overlook the situation with the Hub, as there is a link when raising the issue of 'good financial planning with due diligence' when embarking on projects. It is not good financial planning to borrow money just because it is cheap to borrow due to low interest rates, as you also must take into account how much has to be repaid including the capital and not just the interest and it is clear that this has place the village in a perilous financial position for the next 20 years

Summary Recommendations

- The Council should use public consultation as a tool to inform their decision making.
- The results of public consultation should be documented in support of projects.
- The Council should adopt a project management practice for all future projects.
- Projects with a major financial impact should be managed overall by the Finance Committee or Full Council.
- The Council should consider the use of Working Groups including Councillors, The Parish Clerk and other professional to help deliver projects.
- Delegation for these projects should be to the Parish Clerk only, this will protect the integrity of the Councillors and the Council.
- A system of recording decisions and actions should be included in the Project management practice and these should be made available to the Council.
- The Council should reduce the use of the confidential part of the agenda.
- By putting the above in place the Council should encourage scrutiny of its actions and decision making.
- The Council should review its financial management of the Council to ensure that it can fund its high level of borrowing and continue to maintain its essential services to the community of Melborn.

Report of the Melbourn Car Park Working Group – Phase 2

23 October 2017

Working Group Members:

Roland Potter (Independent Chair)
Duncan Baker (Resident)
Mike Swann (Resident)
Steve Kilmurray (Parish Councillor)
Clive Porter (Parish Councillor)
John Travis (Parish Councillor)
Claire Littlewood (Assistant Clerk to Melbourn Parish Council)

1. Purpose of the Phase 2 Report

This report was commissioned by Melbourn Parish Council because of public concern over the cost* of a project to refurbish the Village Car Park.

* **Cost history - Background:**

- *The original outline project was framed at a meeting held on 8th January 2014, at which the total project costs were estimated to be about £100k. This sum was to have been funded from a mix of existing reserves, money set aside from a loan already obtained for the Community Hub project, and S106 provision. The nominal budget was further increased to £120k at a meeting on 29th January 2014.*
- *The project scope changed again, such that an invitation to tender was sent out at a budget price of £150k; only one tender was eventually received. This was finally recommended for approval by the Finance and General Purposes committee on 30th March 2015, and approved by the Full Council on 13th April 2015 at approximately £255k. Both meetings were held in private session. A Public Works Loan Board (PWLB) loan of £200k was used to finance this decision.*
- *Due to problems with the construction, and the nature of the contract, the project cost eventually reached more than £500k; the final account was presented to the Council by Interserve, the main contractors, in February 2016.*
- *After a negotiation with Interserve at a meeting on November 25th 2016, this sum was finally reduced and settled at approximately £345k.*

***Appendix 3** is a copy of the report that was given to the Melbourn Council detailing the above history as the Phase 1 outcome.*

The objectives of the Phase 2 report were to investigate -

- The decision-making process for this project from conception to completion.
- The management of the project.
- Availability and utilisation of appropriate expertise.
- The relationship and consultation with the general public who would benefit from the project.
- On-going oversight during the project lifetime.
- Make recommendations to the Parish Council on future best practice.

2. Executive Summary

- The Working Group found many problems and weaknesses in following the progress of the Car Park Project. The eventual catastrophic overspend (partially mitigated after the event through negotiation) had triggered the investigation process, but the Working Group believe this should not be the primary reason for concern about the way in which the project was handled.
- The Working Group concluded the underlying problem was one of mismanagement over a period of time and on many levels. This was not conscious, wilful or fraudulent, but the outcome of poor communication. Diffuse, divided and changing responsibilities for practical project control, inadequate financial control and delegated decision-making also contributed. Some key knowledge and skills were missing, particularly financial control and full understanding of Parish Council accounts and reserves.

- The project had followed on shortly after another large village project commitment, namely the Community Hub, which had already incurred borrowings of well over £500,000. Repayments on these borrowings had already reduced freely available precept monies by more than 15%. The Car Park Project would increase pre-committed debt-servicing payments to about 25% of the precept. It is the conclusion of the Working Group that these significant changes occurred 'beneath the radar' of public awareness and should have been subject to open scrutiny.
- An important feature in the planning that added to the financial impact was a failure to include future operating costs in the project assessment. Hence neither the need for significant on-going grant-funding support to the Community Hub nor an increased rates assessment on the improved Car Park was predicted.
- Another issue appeared to be the failure to inform or include the wider public in project design and development.
- This report will describe the various findings in more detail.
- The Working Group deliberately do not assign blame or culpability to individual persons involved in delivering the Car Park project; no names are mentioned in the report. In some instances job roles are mentioned in the report, but only to explain and interpret the findings. The conclusion is of a Parish Council project with corporate incompetence at its heart, rather than wilful neglect.

3. Methodology

- The Working Group reviewed the minutes of all meetings and associated documents over the relevant period and looked for supporting information to justify the Council's decision-making process.
- The Working Group undertook a survey of the elected councillors during the period of this project to obtain their views. All affected councillors and staff were invited to comment either in person and/or in writing. Not all did so.
- It should be noted that these investigations followed a prior phase (Phase 1) of work, that had the objectives to examine and understand the project overspend, to determine the final costs and agree remaining financial obligations carried over from the Car Park Project. The preliminary investigation also informed this report. The top-level conclusions from Phase 1 are included here as Appendix 3.
- Due to the high public interest in this investigation, the chair of the Working Group was chosen from well outside the area of Melbourn. Members of the public were invited onto the group, and only councillors who had not been in post at the time of the Car Park project represented the Parish Council.

4. Issues faced by the Working Group

The Working Group found that: -

- There was very limited supporting documentation to demonstrate the quality of information the Council had received to inform its decision-making.
- There were few formal records of decisions made by individual councillors and/or officers in the management of the contract.
- Considering the value of the project in relation to the Council's budget, the management of the project was not the subject of a review by the Internal Auditor.
- There were no clear and open lines of reporting to the Full Council tracking the progress or costs of the project.

- The Council often chose to consider items regarding the project confidentially, thereby removing the public from the debate and the project from public scrutiny.

These factors lead to gaps in the evidence and some lack of confidence concerning the exact sequence of events and decisions. **However, it is the very lack of a convincing written record trail that indicates the overall failure of competent oversight and decision-making.**

5. Observations

5.1 How a Parish Council should operate

- Councillors are not paid employees of the Council.
- The Clerk to the Council is the person legally accountable for actions made and decisions taken. The Clerk is advised and informed by councillors who have a duty to act in the public interest but no executive responsibility. Council procedures and Standing Orders will indicate when and under what circumstances the Clerk will seek joint approval for decisions from the Chair of the Council.
- Under the Council's Code of Conduct councillors have a legal duty to declare any personal or pecuniary interests.
- Councillors are elected every four years to promote the wellbeing of the community and to manage the Council's finances with due diligence, and for the benefit of the community.
- Within any democratic system there will be councillors who do not agree with the decision of the majority. However, all Councils operate on the basis that a simple majority will carry the vote on any decision.
- Any decision of the Council can only be reviewed after 6 months, or earlier if there is the required number of councillors requesting that a decision be reviewed.
- Decisions of the Council are a shared corporate responsibility and all councillors have a duty to scrutinise and hold to account the Council's actions. This is achieved by bringing all significant matters to the Full Council for scrutiny and approval. Working parties or sub committees can do preliminary work. However, such groups must conduct business according to properly approved Terms of Reference and report regularly to the Full Council.
- All proposals and decisions taken to the Full Council should be open to the public. Only in special circumstances should matters be held *in camera*, usually either for personnel issues, such as pay and conditions, or where price-sensitive pre-contract information is at risk. It is not appropriate to hold *in camera* council meetings because the information contained therein might be controversial. (See Section 8).

The above factors are important background in judging the way the Melbourn Parish Council operated in actual practice when managing the Car Park project.

5.2 Mode of Operation for the Car Park Project

Below are comments and views of members of the Working Group concerning the ways in which the Parish Council appeared to operate during the management of the Car Park Project.

- The culture of the Council during the period of the car park project was less than ideal. Comments from the interviews of those involved confirmed a picture of a very divided councillor group, who were not operating at all well as a team. There were 'factions' who tended not to trust one another, with 'point-scoring' behaviours. This was not a good platform on which to run a complex and expensive project. It made the task for the Clerk difficult in the extreme, through receiving many conflicting views and instructions.
- Overall management of the Council during this period was also not effective. The Council

frequently demonstrated a lack of confidence in what it was doing through reverting to meetings or part meetings *in camera*, and a general lack of openness towards the public, especially when public concern began to arise. Council leadership seemed to either ignore or be unable to heal the divisions that existed. The principle that every councillor has equal accountability for what happens did not seem to be in the forefront of the thought process.

- A greater emphasis on 'shared corporate responsibility' and 'duty' should have been given, and it became clear that this had not been the case. During the individual feedback a number of councillors then involved commented that they were 'not kept informed' of what was happening with the project, using this as a reason for not raising concerns, especially in relation to the cost. While it is clear that communication was hampered due to a breakdown of some important aspects of overall management, this does not absolve individuals from blame or personal responsibility. Councillors nonetheless retained individual accountability for the actions of the group and should have been stronger in demanding partnership in the project process. It appears to have become a failure of the whole Council as a body.
- It is a tendency of organisations to look for individuals to blame if things do not turn out as expected, or if they are challenged. However, without the contribution, professional knowledge and drive of individual councillors, projects would not be delivered.
- An assumption was made at an early stage that the refurbishment of the car park was 'something that had to be done'. It appears no one was able to effectively question either the scope or indeed the need for the project. Some councillors' voices were indeed raised, but were ignored, possibly because of the culture and divided nature of the Council, who were not behaving as an inclusive team.
- Councillors had taken key roles within the project management of the car park and then relinquished them at a significant moment in the project life. This appeared to the Working Group to be regrettable, and is not in keeping with a duty to promote the wellbeing of the community, which is incumbent upon being a parish councillor. Conversely, some councillors had taken little interest in this very significant project. All members of the Parish Council should have been willing and able to air their views at Council meetings. Even if they completely disagreed with others, all councillors should have taken responsibility for finding out what was being proposed. Open and informed debate at Full Council was not shown by written evidence.

6. Public Consultation

To support the decision-making process outlined above, it is good practice for a Council to consult with the public. This is particularly suggested where it involves major projects and assets or where the cost of a project will have a large impact on the Council finances and contributions from local taxpayers.

Some earlier consultation on the need to upgrade the central car park had been done (See Appendix 1).

There was thus good reason to address the improvements recommended for the Car Park, based on three different strands of pre-existing evidence:

- A history of anti-social behaviour
- To satisfy the policy for 'Safer Routes to School'
- To improve the somewhat dilapidated appearance

The history of anti social behaviour and consequent complaints from residents near the car park site, often with police involvement, was a major driver.

Previous research had shown that these three very different component factors were involved. **This complexity should have been a strong signal that, when the different car park upgrade options were considered, further consultation and broad public involvement should have been sought.**

6.1 Comments on Public Consultation

Below are comments and views of members of the Working Group concerning the ways in which the Parish Council appeared to operate during the management of the Car Park Project:

- While the Village Plan and other sources had strongly suggested the need to improve the central car park, this was no different to the background prior to the building of the Community Hub. In the case of the Community Hub further extensive community consultation was carried out. Members of the public were included in the project team.
- It appears that, while a great deal of money was committed to re-furbishing a car park (that in most important respects already existed) no further public consultation was thought to be necessary before or during the design phase, or at any time after the project had begun.
- The recently completed Community Hub had already put stress on the Council finances. No weight was apparently given to this, especially when considering the need for public consultation. The duties of councils to conduct public consultation specifically mention that this course is particularly suggested where it involves major projects and assets or where the cost of a project will have a large impact on the council's finances. The foregoing defines the Car Park Project yet there was no consultation with the public on preferred solutions.

7. Tendering

The Council employed a consultant to assist with the tendering process and this complied with the recommended financial regulations. The result of the process was that the Council appointed a project management company and a contractor to complete the work.

8. Moving items on an Agenda to Confidential (*in camera*).

The use of the confidential section on an agenda should be used sparingly.

The reports on this type of project should be considered in public, to demonstrate that the Council is being diligent in managing its finances and assets.

Moving items away from public scrutiny can contribute to an air of mistrust between the Council and its residents.

The confidential part of the agenda should only be used for the following;

- Engagement, terms of service, conduct and dismissal of employees.
- Terms of tenders, and proposals and counter proposals in negotiations for contracts.
- Preparation of cases in legal proceedings and the early stages of any dispute.

9. The Council's Internal Management of the Project

Rather than a Working Party approach, the Finance Committee or Full Council would have more appropriately been responsible for the internal management of the project, due to the likely cost.

- It would have been appropriate for the Council to adopt a simple project management practice to ensure it both complied with due diligence and observed accountable day-to-day management.
- The creation of a specific project management-working group to help facilitate a project would be beneficial. However, it should have had clear Terms of Reference and with delegated reporting back to the Parish Clerk. The sub committee set up in the early stages of the project drew up draft Terms of Reference (see Appendix 2). However, no evidence was found that

this draft was ever ratified or approved by the Full Council. It is also questionable that this sub committee, subordinate to an existing Planning Committee, should be the right vehicle to handle such a major project.

Decisions to change the project and/or to spend contingency funds should be recorded, identified, discussed and agreed in public. These decisions should not be delegated to individual councillors or the Clerk. The reason for this is to allow the Council the opportunity to review the progress of the project against budget and to be able to halt or review a project should the cost of the project be increasing outside the agreed budget. There was little evidence of such transparent decision-making.

As part of the management process there should be regular budget reporting of cost against budget to the Finance Committee and the Full Council. Again, there was little evidence of such communication having occurred.

9.1 Internal Management - Working Group Comments

Below are comments and views of members of the Working Group concerning the ways in which the Parish Council appeared to operate during the management of the Car Park Project:

- The project management structure seemed diffuse and the accountability for scope, costs, communication and decisions very unclear. Councillors either assumed essentially complete control over project development, designs and quotes or they had no involvement at all. Those who had brought the final project brief into existence relinquished leadership at a crucial moment, and the subsequent decision to proceed seems to have had a momentum of its own. This appears a significant failure of all concerned to 'call it' at a point when everything should have been reassessed.
- The original project was fairly small in scope, involving much less infrastructure and was much less costly. Due to the failure to ensure proper and accountable project leadership and public scrutiny, the project scope grew to a sum amounting to about half that already spent on the Community Hub. This sum, on top of the loans and commitments already in place from the Community Hub, should have been questioned and openly discussed in Full Council and in the public gaze. That the eventual costs escalated much further during the actual build does appear to be a central or isolated management issue. While communication within the Council and with the public during the construction phase was either patchy or entirely missing, it seems unlikely that the Council could have changed the final outcome and/or the overspend against budget.
- Committed spend on the earlier Community Hub project had already put the Council finances into a much weaker position than in the recent past, and was worse than those involved knew it to be. The financial governance of the Council has to be called into question therefore, as the Clerk, Finance and General Purposes Sub Committee and the Full Council did not seem to have an accurate or complete picture of the income and expenditure, or the actual state of the reserves.
- It appears the Council had insufficient knowledge or skills to understand or manage the financial aspects of the Council in general, or this significant project.
- Much effort was made by this Working Group to understand the financial background and position prior to, during and after both Community Hub and Car Park projects.
- Although the precept has increased in real terms, it appears the Parish Council now has £65k less available to spend each year, as this is the total amount needed to service PWLB for loans on the Community Hub and Car Park together with consequential costs. This total is the sum of both repayments on borrowings and the grants historically given to support the Community Hub operations (approx. £50k + 15k grant).
- Having reviewed the past Parish Council accounting statements for 2011/12 the total balances and reserves at the year-end were £610,445 with no borrowings, the annual precept for the year was £190,309, showing the finances to be very healthy.

- However, the accounting statement for 2016/17 shows that, although the annual precept for the year had risen to £195,917, total borrowings were now £888,380 (requiring a figure of nearly £50,000 per annum for the capital and interest payments) and total balances and reserves of only £115,707.
- While the purpose of this report is an investigation into the Car Park, decisions on financing should not have been made in isolation from those already made for the Community Hub. Taken together, these two projects now account for in excess of 25% of the annual precept. It is the view of Working Group members that it was not good financial planning to borrow additional money just because it was cheap to borrow due to low interest rates. It is also necessary to take into account how much (a) is already committed in a similar way and (b) has to be repaid, including the capital and interest. The decisions taken have placed heavy repayment obligations on the village for the next 20 years.

As stated elsewhere in this report, commitments of this magnitude should have been open to public scrutiny and were not.

10. Accountability

Various factors should be considered when judging the accountability of the Council during the Car Park Project: -

- The Council had pushed forward with the project for the benefit of the community in mind.
- Its desire to complete the project and the constraints of an NJC (National Joint Council) contract were potentially detrimental to the openness of the Council to the public.
- Ensuring that the Council had a clear mandate from the residents to go ahead with a major project would have been helpful in managing objectors to the project and achieving a good result.
- Projects of this size need to be managed in such a way that the residents have confidence in the Council. It is therefore necessary to have a clear and open reporting system that the public can see and question.
- The Council finances are an important reflection of the capability of the Council and this should be reflected in its financial reporting in general and on specific projects.

10.1 Accountability – Working Group Comments

Below are comments and views of members of the Working Group concerning the ways in which the Parish Council appeared to operate during the management of the Car Park Project.

- As it is mentioned above, the Council pushed forward with the project in the belief it was for the benefit of the community. However, this benefit was largely assumed, based on previous research, and ignored the impact and complexity of the actual project. Residents with children would benefit from 'Safer Routes to School' if this were included. Also, a small section of the community near to the car park site that was affected by anti-social behaviour would potentially benefit, if anti social behaviour (ASB) could be reduced/eliminated. Given that only very few car-parking places were eventually added, the actual outcome would be hard to justify in cost-benefit terms. Members of the public have stated that just installing the CCTV would have had much the same impact on ASB as a new car park layout. Full public participation might have saved costs.
- The Clerk was also the Responsible Financial Officer, with accountability for the control and reporting of the Council finances. There were problems with the execution of this, as already

indicated in this report. However, there was also a failure of both internal and external auditing during the period before and during both Community Hub and Car Park projects. The Working Group believes that the auditor should have questioned financial commitments of the kind being made, and the proportion of the precept affected.

11. Summary Recommendations

- The Council should use public consultation as a tool to inform their decision-making.
- The results of public consultation should be documented in support of projects.
- The Council should adopt a project management practice for all future significant projects.
- The Finance Committee or Full Council should manage projects with a major financial impact overall.
- The Council should consider the use of Working Groups including councillors, the Parish Clerk and other professionals to help deliver projects.
- Delegation for these projects should be to the Parish Clerk only; this will protect the integrity of the councillors and the Council.
- A system of recording decisions and actions should be included in the Project management practice and these should be made available to the Council.
- The Council should reduce the use of the confidential part of the agenda.
- By putting the above in place the Council should encourage scrutiny of its actions and decision-making.
- The Council should review its ability to continue servicing the needs of the village against the background of high-level borrowing.

APPENDIX 1

Public Consultation on the need for a Car Park Upgrade

- Some prior reviews of the Melbourn Car Park had been undertaken:
 - In July 2000, South Cambridgeshire District Council (SCDC) published its Appraisal of the Conservation Area. On the subject of 'intensification', it states: *"There is continuing demand for development in the larger gardens, particularly along the High Street. This form of development threatens the character of the conservation area by diminishing the extent, quality and value of the green spaces that were identified above being of fundamental importance. The character of the village is one of ribbons of frontage buildings with deep space behind. This appearance is what the Conservation Area must protect"*. The Appraisal's Suggested Enhancement section is dominated by the central public car park, *"... which presently has a negative visual impact in terms of the qualities of its surface materials, buildings, furniture and fences. This is a large space with a great potential to make a positive contribution to the Conservation Area"*. It states: *"The Central Car Park, which is well used and which fills an important function, represents a strategically located valuable open space, but has an intrusive effect on the appearance of the village because of the layout (vast, tarmac-surfaced areas, surrounded by containers, and by its design is turned away from the village)"*. This car park has also been associated with a high level of antisocial behaviour, of particular concern to the police and adjoining residents. As further background the Parish Council in August 2010 acquired a lease of the car park from SCDC. It has proposals for its early improvement, to resolve the above problems and also to enhance the Safer Routes to School aspects of it.

Melbourn

Village Plan 2012
 - These conclusions had been noted in the Village Plan research. It was a conclusion from this document, finally published in January 2012, that *'the improvement of the central public car park should be progressed actively by the Parish Council'*. This became Action 7.1 in the Village Plan Report, given 'High' priority. No further guidance was given on the nature of any improvements.

APPENDIX 2

TERMS OF REFERENCE HIGH STREET CAR PARK EXTENSION AND REFURBISHMENT COMMITTEE

Draft 1 – 9TH Feb 2014

Background

1. The complexity and issues surrounding the High Street car park works together with previous experience from the hub project demand that a separate committee be established to manage the project from inception to completion.

Committee Members

2. The following councillors were elected to the committee:

Chairman: John Regan

Vice Chairman: Mike Sherwen

Members: Kimmi Crosby, Rosemary Gatwood, Jose Hales, Bob Tulloch

Governance

3. The High Street Car Park Committee (HSCPC) is sub ordinate to the Planning Committee and the car park will be a standing agenda item on the Planning Committee agenda.
4. All financial approvals for the project will be delegated via the Parish Council F&G Committee
5. The requirements for the project will be agreed by the full Parish Council
6. HSCPC is responsible for all Technical details and specification
7. All tenders to be approved by the Parish Council prior to award
8. The Parish Council will appoint a Project Manager who will be responsible to the HSPC for the complete delivery of the project from inception to Completion
9. All public relations issues identified will be agreed and managed via the Parish Clerk
10. The Parish Council will seek to utilise any source of external funding where a suitable source is identified by the HSPCC

APPENDIX 3

CAR PARK WORKING GROUP FINAL ACCOUNT SETTLEMENT REVIEW AND RECOMMENDATION TO MELBOURN PARISH COUNCIL

1. Background

1.1. Phase 1 of the Terms of Reference for the Car Park Working Group (CWG) included a review of the final account of Interserve Construction (the car park contractor). The principle recommendation Phase 1 of the review was to:

1.1.1. fully understand all associated costs and to satisfy themselves that they were a fair charge to public funds

1.1.2. make recommendations to the Parish Council for Payment

2. Actions Taken

2.1. In February 2016 Interserve submitted a final account in the sum of £504,175.79. Subsequent discussions between Interserve and Sweett resulted in Interserve submitting a revised account in July 2016 of £393,364.09.

2.2. An early action for the newly formed CWG was to meet with Sweett (now Currie and Brown and will be referred to as such from now on) who were responsible for preparing and agreeing the final account. The meeting which was held on 3rd November sought to review in detail the draft final account prepared by Currie and Brown. At this stage the estimated final account figures were as follows:

2.2.1. Currie and Brown £295,653,13

2.2.2. Interserve £ 393,364.09

2.3. At this stage Currie and Brown were of the view that Interserve had yet to provide evidence of any additional work that would justify their figure. The additional work within the figure estimated by Currie and Brown was reviewed in detail and explanations sought as to the reasons and outcomes arising from the additional work. As a result the CWG were able to populate an excel spreadsheet identifying the costs and reasons. Where a satisfactory answer was not forthcoming Currie and Brown were formally tasked with providing the information. It was agreed that an early meeting between Interserve and Currie and Brown was to take place in attempt to resolve the outstanding differences in an effort to prevent the issue proceeding to adjudication.

2.4. The CWG was also of the view that legal advice should be sought in the likely event of adjudication and the need for the Parish Council to explore a potential claim against one of the design consultants.

2.5. Following a further threat of adjudication by Interserve if the final account was not settled by November 18th an urgent meeting was held on 25th November between Currie Brown and Interserve with the aim of reaching a final settlement. A final settlement reached in the value of £344,980.45. At this meeting it became apparent that Interserve had been required to carry out much more work than had been recorded on the drawings. This was as a result of the one of the design team consultants refusing to update their drawings to capture many of the later changes to the contract work as he had expended his fee. This work had not previously been included in the assessments of Currie and Brown as their previous recommendations were based on drawings which were shown to be out of date and

inaccurate. Currie Brown believe that the figure of £344,980.45 to be fair and equitable settlement of the account and represents a reduction of £48,400 from Interserve revised final account issued in July and a £159,200 reduction from their original final account submission. It is also understood that the actual costs of Interserve are around £420,000 and Interserve have agreed to accept this reduction on the basis of an early acceptance of this agreed figure. Should this early acceptance not be agreed the threat of adjudication still remains. Details of this settlement were forwarded to the Parish Clerk on 28th November.

2.6. In the interim approval was given by the Parish Council for the CWG to seek legal advice and engage the services of Birketts on an interim basis to explore the situation. Their initial advice suggested that should this issue proceed to adjudication:

2.6.1. The Parish Council would need to engage lawyers to defend their position and this could be in the order of £5k to £15k.

2.6.2. There was no guarantee that the adjudication result would reduce the final account and the starting point for the adjudicator would be the initial claim of Interserve (£504,175.79). In addition, the costs of the adjudication an additional £5k to £15k would also need to be budgeted for should the Parish Council lose the case as these costs are normally borne by the losing party.

2.7. The CWG sought an early meeting with Currie and Brown to review and understand the additional costs involved in arriving at a figure of £344,980k from the £295,653.13 previously agreed.

2.8. A meeting with Currie Brown took place in the Hub on 2nd December where all of the additional costs were reviewed and the summary of the additional work involved was developed and agreed. This is attached at Appendix 1.

2.9. Members of the CWG and Clerk discussed the results arising from the meeting with Birketts on 5th December during a conference call. Birketts remained of the view that the comments in their letter to the Parish Clerk dated 29th November still stand:

2.9.1. Should the Parish Council wish to seek further reductions in cost either themselves (or via a third party) or via Currie and Brown the likelihood is that Interserve would proceed to adjudication and any reductions gained would be more than offset by likely increases in cost of the adjudicators final assessment of cost and the legal fees involved.

2.9.2. The Parish Council could themselves proceed to adjudication in an attempt to reduce the final settlement however this would involve the same risks.

2.9.3. The low risk option would be to accept the recommendations of Currie and Brown and settle the account as quickly as possible

2.9.4. In doing so the Parish Council should also consider whether to take action against the unsatisfactory performance of consultant responsible for many of the changes and increases in cost.

3. Recommendations

3.1. Based on discussions and a detailed review of the facts and issues involved the CWG strongly recommend that the Parish Council accept the final account of Interserve negotiated by Currie and Brown in the sum of £344,980

3.2. In order to follow due process and the need for an early settlement to prevent Interserve proceeding to adjudication it is further recommended that Interserve submit a further invoice in the sum of £25k whilst due process takes its course.

- 3.3. The CWG will need to review the costs, benefits and risks of taking legal action against the unsatisfactory performance of the consultant responsible for many of the changes and increases and costs.
- 3.4. The CWG were concerned about the apparent lack of financial and change control procedures during the construction of the project and this will be the subject of a major scrutiny during phase 2 of the report.

APPENDIX 6

MELBOURN PARISH COUNCIL

Clerk: Sarah Adam
Melbourn Parish Council
Melbourn Community Hub
30 High Street
Melbourn
SG8 6DZ

E-mail: parishclerk@melbournpc.co.uk

Telephone: 01763 263303

<http://www.melbournparishcouncil.co.uk>

Please note: New Parish Office opening hours:

Monday: 10.00am-1.00pm, Wednesday: 1.00pm-3.00pm, Friday: 10.00am-1.00pm

Alternatively, please call to arrange an appointment.

November 2016

MELBOURN PARISH COUNCIL WORKING PARTIES AND TERMS OF REFERENCE

CAR PARK WORKING PARTY

- Roland Potter
- Cllr John Regan
- Cllr Jose Hales
- Cllr Steve Kilmurray
- Duncan Baker
- John Goodricke
- Mike Swann

TERMS OF REFERENCE FOR MELBOURN PARISH COUNCIL CAR PARK WORKING GROUP

1. Background

Melbourn Parish Council voted on 10th October to establish a Car Park Working Group to review the events surrounding the construction of the High Street Car Park completed in December 2015.

2. Scope

- a. Phase 1 is to be an urgent review of the contractors final estimated cost of £393,364.09 and make recommendations to the Parish Council as to the way forward.
- b. Phase 2 is to be a full Post Project Review to learn lessons for future projects authorised by the Parish Council.
- c. The reviews will investigate amongst other issues:
 - the requirement
 - scope of work
 - contract strategy and procurement
 - roles and responsibilities
 - the management of the project
 - financial management and control
 - public consultation
 - programming of the work
 - change management
 - the final account

- value for money

3. Working Group Membership

- a. It was agreed by the Parish Council that the Working Group have an independent chair
- b. Three Parish Councillors to serve as members of the working Group
- c. It was also agreed that volunteers be sought from members of the public to serve on the Working Group (three totally independent members are suggested)

4. Programme

- a. In view of the pending litigation Phase 1 will need to be completed by 28th October, should an extension of time be granted this date will be revised accordingly.
- b. The Phase 2 programme to be agreed by the Working Group once formed.

5. Deliverables

- a. The Working Group will publish reports for each phase of the work for Parish Council approval prior to being placed in the public domain.

APPENDIX 7

Below is a list of Councillors who were members of Melbourn Parish Council when discussions relating to the Car Park Refurbishment took place

From the first discussions in 2012 to the Council becoming inquorate in July 2016

Cllr Tim Baker
Cllr Val Barrett
Cllr Irene Bloomfield
Cllr Alan Brett
Cllr Una Cleminson
Cllr Kimmi Crosby
Cllr Rosemary Gatward
Cllr Jose Hales
Cllr Mike Linnette
Cllr Donald Mowatt
Cllr Andrew Mulcock
Cllr Julie Norman
Cllr John Poley
Cllr John Regan
Cllr Mike Sherwen
Cllr Peter Simmonett
Cllr Chris Stead
Cllr Maureen Townsend
Cllr Bob Tulloch
Cllr R Wakerley

October 2016 – Decisions made by the Council related only to the outstanding payment and PWLB loans.

Cllr Nikki Cross
Cllr Rosemary Gatward
Cllr Jose Hales
Cllr Kerry Harrington - Resigned May 2017
Cllr Sally Ann Hart
Cllr Steve Kilmurray
Cllr Julie Norman
Cllr Clive Porter - Co-opted October 2016
Cllr John Regan
Cllr Jane Shepherd – Co-opted October 2016 - Resigned May 2017
Cllr Mike Sherwen
Cllr Sashi Siva
Cllr Chris Stead – Disqualified September 2017
Cllr John Travis - Co-opted October 2016

Melbourn Parish Clerk

Peter Horley 2012 until 23rd December 2015
Sarah Adam 24th December 2015 – present