
PENCOMBE GROUP PARISH COUNCIL

**Minutes of the extra Ordinary Meeting of Pencombe Group Parish Council
held on**

Thursday 1st August 2024 at 7.30pm in Pencombe & Little Cowarne Parish Hall

Councillors Present;

Cllr. J. Lewis
Cllr. C. Hadley
Cllr. P. Thomas

Cllr. T. Brazier
Cllr. D. Legge

In Attendance: Allan Drew Parish Clerk

Members of the Public:

106/24 To receive: apologies for absence

Cllr. Burge sent his apologies

107/24 To receive: Declarations of Interest and written requests for Dispensation

None received

108/24 To receive: a report from the Clerk regarding the unlawful decision made at the ordinary Council meeting on 23 July 2024, agenda item 104/24, update on the village car park

Decision taken at Council meeting on 23 July 2024 regarding the proposed village car park

Unlawful Decision.

At the Council meeting on 23 July 2024 agenda item 104/24 – To receive an update on the village car park from Cllr Brazier was discussed. Cllr. Brazier provided the update in summary-

- A planning officer – Jack Dyer – has been allocated to the revised car park application. Mr Dyer dealt with the earlier application which resulted in consent
- As yet there are no supporting comments on the application although as previously reported the statutory consultees have no objections to the proposals.
- Early negotiations are underway to secure a 25-year loan to build the car park and Council will be updated once these negotiations have reached a suitable stage.

The last item on the 25-year loan created further discussion resulting in a proposal from Cllr. Hadley that there should be no financial commitments made on the car park until a further village meeting had agreed the expenditure. A vote was held and there was a unanimous decision to refer any decision and estimated costs back to a village meeting.

The settled Council policy on the car park is contained in minute 126/21 (October 2021 minutes)

126/21 To receive an update on the provision of a Village Car Park.

To agree: Any next steps arising from the village meeting on 25th October

The car park had also been discussed at the village meeting on the 25th October and there had been overwhelming support for the car park proposals based on £50,000 (ex VAT) expenditure with no increase in the precept. The Clerk reminded those present that before a Parish Council could borrow permission would be required and such permission was achieved via a submission to HALC who would then liaise with the Department of Housing, Communities and Local Government who make the final decision. Information on the Council's finances is required, and the Clerk had completed the application form in line with the conclusions reached at the village meeting on 25th October. After some discussion it was agreed that Council would commit some reserves to engage the planning consultants and that once consent had been obtained firmer costings would be possible. The planning costs would be shown as Council's contribution to the project. It was resolved that this approach would be adopted as the way forward with the project.

Legally this decision cannot be overturned without an explicit agenda item proposing that this decision be set aside and a new decision taken. It certainly cannot be set aside based on an agenda item which is to receive an update on the car park.

NALC guidance contained in Legal Topic Note 5E Council Meetings (October 2022) states-

21. The summons must include the agenda for the business to be transacted at the meeting. The agenda should set out the order in which the items will be transacted. **A council cannot lawfully transact any business which is not included on the agenda.** As such, the item 'any other business' should not appear at all, or should simply be used as a peg on which to hang the exchange of urgent information. Additionally, the item could be used to allow genuinely urgent issues to be raised but no decisions should be taken in respect of issues so raised (other than to ensure that they are dealt with properly at a forthcoming meeting, with due notice having been given) and no expenditure should be approved as a result of issues raised under 'any other business'.

The Clerk has also taken legal advice from the Society of Local Council Clerks which provides this service to members. The advice given is in agreement with the NALC LTN5E.

Consequently Council has no option but to disregard the vote and decision taken to refer the decision on the car park back to the village.

Moving Forward.

Council is of course free and able to take such a decision on the car park following proper listing in the agenda for the relevant meeting. This gives all Councillors a chance to prepare for that discussion, review and test the earlier decision of 126/21 and to progress to any new decision in full knowledge of all the consequences.

Currently there is no planned (nor unplanned) expenditure due on the car park so the first priority is to obtain firm estimates of the likely costs of construction. Once these costs have been obtained the possible ways forward are-

- If the costs of construction are within £50,000 ex-VAT then Council can proceed legally on the basis of 126/21. Such a step does not preclude a village meeting.
- If the costs of construction exceed £50,000 ex-VAT then a village meeting would be advisable with the revised budget available for discussion.

Allan Drew
Clerk & RFO
30 July 2024

To resolve: that the decision taken to change the Council settled policy on the car park (as contained in minute 126/21) is unlawful and, following legal advice, will not stand.

Council agreed unanimously that the decision taken under agenda item 104/24 at the meeting of 23 July 2024 was unlawful.

To consider: actions required to avoid making further unlawful decisions.

The Clerk reminded Councillors that they had all been trained and the legal advice presented above in LTN 5E from NALC had been part of the material given to every Councillor at the training session. He commended the training material to Councillors.

109/24 To receive: queries or concerns from local residents to Council.

None Raised

110/24 To approve: Quotation to repair bus shelter. Antiques Restoration £75
Refund to Parish Hall for purchase of perpetual cup £116.24
Purchase of 3 flags for Parish Hall £16.20

Council approved these items of expenditure.

110/24 To consider: Matters for discussion at the next meeting

Council agreed that that the subject of whether or not to hold a village vote once full and final costings and designs have been obtained should be an agenda item for discussion at the next meeting.

Date of next meeting Tuesday 27th August 2024



Chairman.....Date 24/9/2024