

BOUGHTON MALHERBE PARISH COUNCIL

INTERNAL AUDIT REPORT 2020-21

Traffic Calming Scheme at Grafty Green

The Council has decided to spend a substantial part of the donation it received in 2017-18 on a traffic calming scheme for the road through the settlement of Grafty Green. The scheme involves spending of ~£60k which is well outside the normal range of activity for the Council (£5k-£10k annual spend).

Recently a councilor has resigned citing as reasons that the cost of the scheme is not fixed and that the ongoing maintenance costs are unknown.

I have been asked to review the actions of the Council in going ahead with the traffic calming scheme with particular respect to risk management and prudence. Given that the scheme would be the major activity for 2020-21 (or 2021-22) I would in any event have needed to audit some aspects of the decision in order to discharge my duty to the Council as its internal auditor.

Decision making processes

I have reviewed the agendas, minutes and related papers from the draft scheme following the second round of consultation to date. As always for an auditor reviewing an unusual item I have sought to gain an understanding of the issues by carrying out research, mostly via the internet, to collect what information is readily available about traffic calming measures in Kent.

I have not tried to apply professional standards of contract management during my review. Such standards would not be expected of a small parish. On the other hand it would be reasonable to expect a parish council to take additional steps over and above its custom when faced with an unusual decision of high value.

Standing Orders and Financial Regulations

The Council's Standing orders and Financial Regulations (SOs/FRs) set out procedures to be followed in the award of contracts. In general, for the size of contract being considered SOs/FRs mandate competitive tendering. This is not quite the case with the proposed traffic calming scheme as the Council has use the good offices of Kent County Council (KCC) as the highway authority to manage the scheme. Management includes supervision of KCC's highways contractor, Amey, who will install the calming measures.

I have not noted any discussion of the scheme in relation to SOs/FRs and in my view the Council should acknowledge that SOs/FRs need to be waived in some respects for this scheme or that it is considered to be a specialist contract under FR 11.1.a.ii.

Kent County Council

Boughton Malherbe PC is unlikely, in my view, to have the expertise to manage the proposed scheme itself. It is lawful, reasonable and practical to employ the expertise of the highway authority to act on the Council's behalf. KCC will have tendered its highways activity so the prices quoted in the schedule can be taken to be reasonable for the work involved.

BOUGHTON MALHERBE PARISH COUNCIL

INTERNAL AUDIT REPORT 2020-21

I cannot take a view on whether the prices quoted on the schedule are correct. Should an error be discovered, KCC as agent and itself a public body will be under a duty to treat Boughton Malherbe PC fairly.

The final cost of the scheme depends on the final design. KCC is a public body, not acting commercially, and is not in a position to guarantee prices beforehand. A reasonable corollary is that KCC is unlikely to sue for breach of contract should the Council decide the cost is too great. Boughton Malherbe Parish Council's liability would in any case be limited to amounts already spent plus costs the contractor cannot avoid incurring as at the date of cancellation. However the actual position will depend on the terms of the contract agreement KCC has with Amey.

Value for money

KCC has its own assessment criteria for traffic calming schemes in rural areas. Broadly the rationale for such schemes is to:

- 1) contribute to casualty reduction,
- 2) to reduce excessive speed and
- 3) to improve the environment and issues around quality of life.

If 3 is the only reason behind a project then KCC's approach requires a rigorous challenge with detailed justification of the benefits together with a plan for evaluation of achievement.

I have looked at KCC's crash map and noted that there have been no injury incidents, within the length of road at Grafty Green covered by the scheme, for the last five completed years (2015-2019 inclusive). It would be unwise to try to draw conclusions from this fact other than the risk of injury accidents in Grafty Green is relatively low and that the traffic calming scheme contribution to casualty reduction will also be small.

Whether the scheme represents reasonable value for money remains a decision for the parish Council. In view of the above I imagine that the case would be based mainly on speed reduction. The Council is not obliged to use KCC's assessment criteria, which are highways oriented, but it would be sensible to bear them in mind.

There are similar schemes elsewhere in Kent although relatively few funded by parish councils. Boughton Malherbe Parish Council would not be going out on a limb. East Farleigh PC has spent £75k on a scheme that shares features with the Grafty Green scheme. Boxley PC is funding street signs and a reduced speed limit for certain roads in its area. It is quite likely that, given its current financial constraints, KCC is quite happy for parish councils to fund traffic calming schemes that in other times that it may have carried out itself.

Possibility of challenge

Parish council decisions on spending can only be overturned on application to the court by the external auditor and would require the spending decision to be such that no reasonable council would have made it. In interpreting what is reasonable it should be noted that the most common causes for a decision to be quashed by the court are either taking into account something that should not be taken

BOUGHTON MALHERBE PARISH COUNCIL INTERNAL AUDIT REPORT 2020-21

into account or the converse – not considering something that must be considered. Court action has been and remains a very rare event.

Future Maintenance

The Council has proposed the creation of a reserve fund to cover the issue of ongoing maintenance for the traffic calming measures. It would be reasonable to set aside a starting amount for this reserve and then in future years make annual contributions via the budget from the precept. Maintenance expenditure when it is needed would be funded from the revenue account and then a compensating transfer made from the reserve to revenue account. Maintenance expenditure should not be charged directly to the reserve.

Conclusion

Subject to the matters raised above I have no further comment to make about the general decision making process. In my view Boughton Malherbe Parish Council has acted reasonably in the circumstances.

Lionel Robbins
Independent Internal Auditor
5 November 2020