

BERKSWELL PARISH COUNCIL

Investigation into the ownership of the Berkswell Village War Memorial

1. Background

- 1.1. The war memorial is in urgent need of repair/restoration due to water leaking through the roof and causing damage to the walls.
- 1.2. The Parish Council considered what action to take at its meeting on 11 September 2020 but felt that anything more than a repair to the roof (i.e. not major renovation) could not be contemplated until the ownership of, and responsibility for, the memorial is established.
- 1.3. At the September 11 meeting of the Council, the Clerk was asked to; *“investigate the actual ownership of the War Memorial before it accepts any responsibility/liability for its long-term maintenance”*.
- 1.4. The Clerk subsequently embarked on the following actions:
 - 1.4.1. A letter was sent to SMBC asking if the war memorial featured on their asset register
 - 1.4.2. A letter was sent to St John Baptist, Berkswell, PCC asking if they held any records which might inform the ownership of/responsibility for the war memorial
 - 1.4.3. A review was carried out into information held by the War Memorials Trust
 - 1.4.4. A search through the Parish Council minutes from 1910 to date to establish the Parish Council's position on the matter

2. Findings

- 2.1. A Conservation Officer from SMBC wrote back to the Clerk stating that; *“The war memorial is not on the SMBC asset register database. I've also discussed the matter with a colleague and we're of the view that SMBC has not assumed responsibility for the maintenance of Berkswell memorial in the past”*.
- 2.2. The Clerk to Berkswell PCC wrote back stating that; *“we haven't been able to locate any records relating to the war memorial in the church files we hold. I haven't yet received a reply from the Diocesan Registry to see if they have any documents relating to the war memorial being built upon church land”*.
- 2.3. Material published by the War Memorials Trust (WMT) indicates that the majority of war memorials were created by public subscription through committees formed for their commissioning (and usually dissolved after completion) and this appears to be what has occurred in Berkswell. There is record of an extraordinary parish meeting on 12 February 1919 which discussed various options for remembering the fallen. The meeting was attended by about 60 people and an ad hoc committee formed to take the ideas forward. There is no further record of the committee, how it raised money, its decision to build the memorial rather than the other suggestions or any accounts. That is in contrast to the Berkswell Charities which are recorded as presenting their accounts every year.
- 2.4. The WMT also points out that, if a formal transfer of ownership at any point in the war memorial's history cannot be established, then the War Memorials (Local Authorities' Powers) Act of 1923 and subsequent amendments, enables local councils to carry out work to war memorials within their area whether they officially 'own' them or not. However, although this Act gives such powers to local authorities it does not give an obligation to do so (see WMT Helpsheet on 'Ownership of War Memorials').
- 2.5. In reviewing the Parish Council minutes the starting assumption was, if there is nothing minuted regarding a formal transfer of responsibility to the Parish Council, then we must assume that the Parish Council is not formally responsible as any acceptance of responsibility would surely have been minuted.
- 2.6. In 1990 the Parish Council agreed to organise and fund the repair of the memorial. There is no detail provided on the nature of the work but the three quotes obtained were; Mr Redfern - £770.50 + VAT; Wragg Bros Ltd - £1,325.82 + VAT; and Bannocks (Tigre) Marble Co Ltd - £3,630 + VAT. It was agreed to go with Mr Redfern and the work was reported satisfactorily completed in July 1990. There was no mention that the work was carried out under the War Memorials (Local Authorities' Powers) Act of 1923 nor whether the Conservation Officer had been involved.

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2.7. A summary of the minutes for the years 1910 to 1990 which are relevant to the War memorial is provided in Appendix 1 below. (photos of the original minutes are held by the Clerk):

3. Conclusions & Observations

- 3.1. There is no documentary evidence in the Parish Council's records that the Council has either, formal ownership of, or responsibility for, the War Memorial. It is highly likely that the committee formed to commission the memorial was dissolved after completion which, according to the WMT, is what usually happened [Ref: minute dated 12/02/1919].
- 3.2. The evidence from the Parish Council records is that, up to at least 1948, the Church Council was in control of the 'Memorial Maintenance Fund'. Since that date there has been no mention of this fund in the Parish Council minutes [Ref: minute dated 07/10/1948]. The Clerk has contacted the PCC for more information about this fund. The response was that there was no record of such a fund.
- 3.3. It is not clear if the Church Council is still in control of the 'Memorial Maintenance Fund'. Unless Berkswell PCC have records of this fund, it must be assumed that the fund no longer exists.
- 3.4. There is no evidence that the Parish Council agreed to accept ongoing liability for the war memorial. There is evidence that residual monies in a maintenance fund were transferred to the church but no evidence that the church accepted anything other than responsibility for holding the funds. It is most likely that no one is responsible for ongoing maintenance of the war memorial and no one owns it. Whilst it sits on church land, the evidence indicates it was built by an ad-hoc committee of residents who raised the funds to build it and a second ad-hoc committee added names after the 2nd World War.
- 3.5. The War Memorial (Local Authorities' Powers) Act 1923 provides that; *"A local authority may incur reasonable expenditure in the maintenance, repair and protection of any war memorial within their district [whether vested in them or not.]"*. Any works commissioned under this Act does not mean the Parish Council is accepting formal responsibility.
- 3.6. The War Memorial (Local Authorities' Powers) Act 1923 **does not give an obligation** to the Parish Council to carry out any works on the memorial.
- 3.7. Parish records show that the Parish Council and the Church Council were not instrumental in raising funds to design and build the War Memorial. They simply invited a committee (not a formal Parish Council Committee) to be established to *"carry out the scheme"*. In both 1919 and 1948, residents were invited to raise funds by public subscription to pay for the construction and maintenance of the memorial but not by the Parish or Church Councils. In 1990, however, the Parish Council contracted with Mr Redfern to carry out unspecified works. At that time it was reported that SMBC *"had confirmed that a grant was not available as This Council owned the memorial"*. As stated above, there is no evidence from Parish Council minutes that the Parish Council ever accepted ownership of/responsibility for, the war memorial. This point should be clarified with SMBC.

4. Other Matters

- 4.1. At the Parish Council meeting held on 11 September 2020 the following motion was agreed: *"This Council agrees to adopt the recommendations contained in Councillor Burrow's report to repair the roof and remove the vegetation"*
- 4.2. As a consequence of researching the ownership issue, the Clerk referred to research previously carried out by Councillor Lloyd, and became aware of the WMT guidance on 'Looking after your war memorial'. Key advice includes:
 - 4.2.1. conduct a condition survey to identify what work and materials are required
 - 4.2.2. ensure that those used to carry out work are suitably qualified and the work is in line with the best current conservation practice to avoid any damage to the war memorial.
 - 4.2.3. The Clerk contacted a number of contractors listed on the WMT 'Conservation Contacts' and one of those advised that no work should be undertaken, from temporary repair to full renovation, without a condition survey having been carried out by experienced conservationists.

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4.2.4. The Clerk has approached a roofing specialist who has quoted to carry out a repair, but without a condition survey.

5. **Recommendations**

- 5.1. The SMBC Conservation Officer should be approached to request permission to carry out temporary work to protect the memorial from any further ingress of water (The Clerk wrote to Martin Saunders at SMBC on 20 October 2020 – awaiting a reply).
- 5.2. The Conservation Office should be asked for advice on obtaining grant support for any work that may need to be carried out water (The Clerk wrote to Martin Saunders at SMBC on 20 October 2020 – awaiting a reply).
- 5.3. The Parish Council should consider commissioning a survey of the memorial by a WMT recommended third party to establish options detailing the necessary scope of work and estimated costs, together with advice on possible grants.
- 5.4. Council to consider, along with the church and resident groups, what approach should be taken in response to the survey findings from 5.4 above. A committee of local residents could be invited to commission a scheme to carry out any necessary renovation work, raise associated funding and oversee renovation works if required, as has previously occurred in 1919 and 1948.

Useful Links

- Ownership of War Memorials Helpsheet: http://www.warmemorials.org/faqs/#Ownership_of_war_memorials
- Fundraising Helpsheet: <http://www.warmemorials.org/faqs/#Fundraising>
- Advice on maintenance of War Memorials Helpsheet:
<http://www.warmemorials.org/uploads/publications/56.pdf>

R Wilson

13 November 2020

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Appendix 1

Summary of Relevant Berkswell PC Minutes

Minute Date	Summary of Minute
12/02/19	A Parish Meeting was held to agree to a memorial being erected in the parish and invited suggestions for the same. A cross monument was proposed in or near The Church and that a committee of nine persons be appointed to carry out the scheme
15/01/45	Refers to the balance of the War Memorial Funds 1914/18. In 1942 the funds were transferred to the Community Savings Bank under the control of 'Berkswell Church Fund'. At that time under the control of The Church Council.
28/05/45	Income from the War Memorial Fund was administered by the Church Council. It was proposed that 2/3 of income was added to the fund and 1/3 paid for the upkeep of the memorial. The Parish Council considered this agreement satisfactory.
13/01/48	Discussed advertising for the names of the fallen to be included in an inscription
19/03/48	A total of 10 names had been identified. The question whether to raise a fund to defray costs and to further augment the existing fund, was deferred until September. The Rector and Cllr Hitchcock were delegated the task of making all the arrangements.
07/10/48	Agreed the cost of lettering on the war memorial should be met by the 'Memorial Maintenance Fund'. Agreed to write to the church asking for full details of the fund, capital, income and by whom administered.
07/10 48	A sub-committee was selected to deal with a plaque giving names of the fallen (1939-1945) to be placed in the Village Hall.
14/01/49	Agreed the cost of cutting the inscription on the memorial should be paid from the 'Memorial Maintenance Fund'. Agreed in principle to set up an appeal for subscriptions to the fund, the income from which is [currently] not sufficient for upkeep of the memorial. It was agreed to raise this matter again.
23/07/51	The question of repairs to the War memorial (and a footpath through the churchyard) was deferred to a future meeting.*
28/10/75	The Rector asked the Parish Council to arrange for the war memorial to be decorated as it was not on consecrated ground but <u>in fact</u> , [was] part of the Parish Council's responsibility.**
22/03/90	Estimates had been received as follows: Mr Redfern - £770.50 + VAT; Wragg Bros Ltd - £1,325.82 + VAT; and Bannoeks (Tigre) Marble Co Ltd - £3,630 + VAT. These figures were discussed and although Redfern's quote was received some months ago, it was decided that the Chairman should consult them again and ask for further figures to also repoint the interior and roof. SMBC had confirmed that a grant was not available as This Council owned the memorial.***
15/05/90	Mr Redfern quoted £1,564.00 to repair the memorial and repoint the boundary wall. This quote was accepted
10/07/90	It was reported that work had been completed satisfactorily. Mr Redfern had reduced the final cost as the work did not take as long as expected

Notes

* No subsequent minute relating to this point was found

** This declaration by the Rector is not supported by PC minutes. The onus is on Berkswell PCC to evidence this statement

*** This is the first mention of The Council owning the memorial and may have just been assumed by both parties without any due diligence having been carried out.