

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

Contents

1. Introduction	2
2. Summary	2
3. Terminology	3
4. Recruitment of the Parish Clerk	5
5. The Future of the Mountsorrel Memorial Centre	6
6. Conclusions	9
7. Recommendations	11

DRAFT FOR COMMENT

Interim Report to Mountsorrel Parish Council

1. Introduction

1.1 In April 2020, Mountsorrel Parish Council (MPC) received a report from Jake Atkinson of the Leicestershire and Rutland Association of Local Councils (the Atkinson Report). This was entitled 'Governance Review – Draft Report'. This included a 'Recommendations Summary Plan' with 28 specific recommendations: number 23 stated:

"Develop a detailed and costed strategic/business plan covering council priorities and a financial forecast for at least three years linked to revenue and capital plans for the Council, its projects, and its community. This should also include the strategy for asset management, council reserves, and community engagement and consultation."

1.2 This report is the first stage in the fulfilment of that recommendation, and also relates to other recommendations in the Atkinson Report i.e. 4, 6, 7, 8, 9, 11, 15, 16, 17, 18, 20, 22, 23, 26, 27, and 28. The recommendations of the report from Roger Taylor of Wellers Hedleys in August 2020 (the Taylor Report) are also of central importance here.

1.3 It should be noted that Ian Morrell, the author of this report, has no connection with any individual or organisation in Mountsorrel, or with the Leicestershire and Rutland Association of Local Councils, nor with Wellers Hedleys. I have been appointed by the Local Councils Consultancy (a consultancy arm of the Society of Local Council Clerks).

1.4 The author would like to thank the Clerk and the Administration Assistant for their assistance in providing information in the compilation of this report.

1.5 There are no matters of a confidential nature in this report.

2. Summary

2.1 In view of my analysis to date (December 2020) I have produced this Interim Report for the following pressing reasons. These have been summarised in the Recommendations and Critical Path diagram on the final two pages.

a) MPC has a Council meeting on 11 January 2021 at which the legal position regarding the lease on the Mountsorrel Memorial Centre (MMC) is being considered.

b) The course of action which the Council initiates at that meeting is critical to the creation of a strategy and business plan not only for the MMC, but for the Council as a whole.

c) The Council is in the process of recruiting a new Clerk.

2.2 The purpose of this interim report is to set out a course of action which will result in the creation of a Strategic Plan. These are the essential building blocks necessary to ensure the Strategy is more than just words, and that it is:

a) meaningful and achievable,

b) actively supported by individual councillors and therefore the Council as a whole,

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

- c) endorsed by a majority of residents, and as such the Council has a mandate to implement it, using resources paid for by local taxpayers.
- 2.3 This process towards the creation of a Strategic Plan should be regarded as part of the mediation process recommended in the Atkinson Report. This process is essential to creating the 'sense of direction' which it seems councillors are unanimous in wanting, and that residents are entitled to expect.
- 2.4 Individual projects, such as MMC, Halstead Road and the Library, if they are to continue, should be 'deliverables' of a Strategic Plan, and part of an integrated set of goals, whereas currently they are separately functioning projects. In a sense they represent the fragmentation within the Council as a whole. The lack of an integrated plan is one of the causes and effects of unresolved issues within the Council.
- 2.5 The analysis and recommendations made in this report are focussed on a 'strengths-based' approach, which requires a brief explanation. Given the recent history of the MPC the inevitable consequence is a preoccupation with negatives (or 'deficits'): in other words, what is wrong, what is lacking and who is to blame. In the ubiquitous SWOT analysis model, this results in an almost total focus on Weakness and Threats, without the critical counterbalance of addressing Strengths and Opportunities. Nonetheless, taking a 'strengths-based' approach to the future is not an excuse for wishful thinking: lessons from the past must be recognised and learned.

3. Terminology

- 3.1 Given the observations made in the Atkinson Report I was expecting to find a much greater variance in individual opinion on the problems with the MMC than has been expressed to me. Putting personal issues to one side, this suggests that an element of disagreement within the Council is the consequence of strongly divergent assumptions of the meaning of widely-used terminology. This section briefly addresses this issue, and I strongly encourage councillors to constructively share their perceptions on terminology, which will assist in identifying areas of agreement and disagreement.
- 3.2 **Community**
- a) This is one of the most commonly used words in the parish council sector, but is rarely defined in a local context. Contained within it are a wide range of assumptions and beliefs. The fact is that even the smallest village does not contain a single, homogenous 'community' of residents. All 'communities' are a collection of groups, which may or may not overlap, but which in aggregate create the particular characteristics of the village or town. The Vision for the Council and also for the MMC must be clearer in identifying the priority groups and 'communities of interest' which the Council is seeking to support.
- b) There is a common assumption that the word 'community' and expressions like 'community benefit' are self-explanatory, but they are not. MPC will need to give practical meaning to these, and other terms for any Strategy to be achievable.

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

- c) MPC has a 'Community Engagement Statement of Intent' (adopted at the Council Meeting of 21 September 2020) which should inform a Vision for the MMC. The Statement of Intent includes the following:

"1. Aims and Objectives.

Mountsorrel Parish Council aims to:

- Provide the best possible amenities and services by the efficient use of available resources;
- Actively involve local people in decisions affecting activities in the area;
- Be open and accountable in all it does;
- Support development which is environmentally, socially and economically sound and sustainable;
- Pay particular attention to the needs of vulnerable residents including children, young people and senior citizens

The outcomes the Council hopes to achieve are:

- Improved communication with the local community;
- Local people actively contributing to decision making;
- Improved satisfaction with local public services.

2. Defining the community.

The Council considers the community of Mountsorrel to consist of:

- All residents of the parish;
- All users of the Parish Council's services;
- All those who work within the parish;
- All those who own businesses within the parish;
- All young people who live and/or go to school within the parish;
- All voluntary organisations, clubs and societies operating within the Community;
- Any group or organisation that represents some or any of the members of the above sections of the community.

Additionally, the Council recognises that there are certain bodies that are crucial to the quality of life in Mountsorrel and aims to maintain excellent working relationships with these bodies, including the Police, the other tiers of local government and neighbouring town and parish councils."

3.3 Commercial

This is often seen as the opposite of 'community', and therefore in terms of priorities mutually exclusive. However, the business model for the MMC needs to be constructed on the basis of commercial and community working interdependently. In fact doing so is essential to its viability.

3.4 Business

'Business' can mean enterprises generating profits for private shareholders or it can be used generically as describing the activities of any organisation, including a charity or community group. The assumption can be that used in an enterprise like the MMC the

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

term business is in conflict with 'community use.' However, used appropriately this should be a very positive term, especially in the context of being 'business-like' which suggests thoroughness in decision-making and implementation.

3.5 Profit and loss

Income is not profit, nor is 'loss' necessarily negative. So, the assumption that all income is good is erroneous if the overhead cost of generating that income assumes it is profitable but actually it causes a financial loss. Similarly, allowing the use of the facility by a community group at a 'loss' can be a legitimate tax payer subsidy to fulfil the essential role of the Council. The point with all of this is decisions about income and expenditure should be made for clear and rational reasons.

4. Recruitment of the Parish Clerk

4.1 The loss of an experienced Clerk at this critical time is a significant issue. MPC experienced a disruptive period a few years ago before the current Clerk was in post, and the consequences of similar problems now would be greater than they were then. It is incumbent on the Council to understand the reasons why the current Clerk has resigned and to learn all the relevant lessons. A formal exit interview is essential.

4.2 The Council must be aware of its primary responsibilities as an employer in both the setting out of reasonable and achievable objectives for all its staff, and to manage them with fairness and in accordance with good practice and its legal obligations. It is the Council's obligation to create an environment in which its staff can thrive: this includes matching expectations with resources, fully respecting the legal position of the Clerk's role and individual relationships being conducted professionally. Only under these circumstances can the performance of staff be fairly judged.

4.3 My analysis of the current staffing position is that there is a mismatch between the objectives of the Council and the resources necessary to achieve them. Worse, the Clerk is expected to implement Council directives in the absence of a defined and integrated Strategy. On this basis it is inevitable that staff, including those at the MMC, will be unclear what is expected of them, and this will lead to dissatisfaction and demotivation.

4.4 The current advert, job description and person specification for the role of Clerk (or Parish Manager as it is also being titled), sets out a wide range of expectations. Broadly speaking the role demands a first class administrator, with financial management and preferably local council skills and experience. At the same time, the specified requirement is for a project manager, who will require process control, legal and negotiating skills. The Council must consider whether:

- a) it is likely they will find all these attributes in one person, especially at the offered salary.
- b) the resources available to support this person are adequate for them to fulfil such a diverse and extensive role.

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

- c) it is preferable not to appoint a new Clerk and make interim arrangements (such as a locum) unless an outstanding candidate comes forward.
- 4.5 MPC needs to commission a staffing review (Atkinson recommendation 4), which includes the MMC. This does not preclude recruiting a new Clerk in the meantime, but this appointment should be seen as part of an essential process, not the solution to intractable problems.
- 4.6 The Council may be very fortunate in finding someone who has all the skills, experience and personal requirements for the advertised Clerk/Manager role, who can accomplish the Council's ambitious expectations with the limited resources available to them. However, this is unlikely. I therefore recommend that first and foremost MPC should seek to appoint someone with strong administration and governance skills, whether these have been gained in the local government sector or not. The Council should also focus on recruiting someone with the capabilities to implement the governance, risk assessment and procedural recommendations of the Atkinson Report.
- 4.7 In my view the MMC requires an operational manager. This person will need to have a business development and customer focus, and as a result will have the skills to fulfil elements of the advertised Clerk role.
- 4.8 The best candidate for the Clerk role may not have the basic CiLCA or other local council qualification. However, it is important this is obtained and of course is essential if MPC wants to retain the General Power of Competence and/or aspires to fulfil the requirements of the Local Council Award Scheme (Atkinson recommendation 13). The Person Specification states as an essential requirement that the postholder must be "Willing to work toward CiLCA qualification within 2 years of taking up position." This describes a willingness to obtain the qualification, not an obligation to obtain it. The requirement should be specific, such as "to register for the CiLCA qualification within 3 months and to obtain it within 12 months." If either of these requirements are not met then the Council is in a position to make this a performance issue for the Clerk.

5. The Future of the Mountsorrel Memorial Centre

- 5.1 The MMC is rightly a prized asset for the village, but it has become a source of contention and criticism for a number of reasons, which include:
- a) The lack of a clear Vision for the uses of the MMC which have created a tension between 'community' use and the pressure to generate income.
 - b) The consequence of this situation is the attempt to be 'all things to all people', which in practice means an inherent process of consistently shifting priorities.
 - c) This has led to those staff responsible for managing it being placed in an impossible position because they are receiving mixed messages.
 - d) The level of continuing financial support required from the Precept without a clear short or medium term business plan is not a responsible course of action.

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

- e) The practical consequences of the lease agreement with the War Memorial Trust has created an onerous arrangement where MPC carries all the financial risk whilst having to fulfil the requirements of the Trust's charitable obligations.
- 5.2 I understand that councillors may consider my concerns with the legalities of the lease as an overstatement of a technical issue with no practical implications. My essential point is that the problems with the lease are a symptom and a cause of operational problems which are hindering the potential of the MMC, and have vital lessons for future legal and contractual decisions.
- 5.3 Councillors have legal obligations, as do charity trustees. Charity law is notoriously stringent and for individuals who are simultaneously councillors and a trustee of a charity, where the activities of both organisations come together there is a clear risk of unintended conflict of interest. This relates not to the personal judgement or integrity of individuals, but to the legal obligations to promote the best interests of each organisation, and there may be times when it is impossible to fulfill both at the same time. This can be a difficult concept to convey when individuals are voluntarily doing the best they can for their communities, but is precisely where dispassionate analysis is required. This particularly applies to the perception that residents may have over the actions of individual councillors and the Council as a whole. This is not a situation unique to Mountsorrel and is why structures and processes are of such significance.
- 5.4 Quite clearly, the lease agreement is the outcome of two willing parties endeavouring to create a first class asset for the village, and for the wider area. No doubt there was a high degree of good will in the negotiations between the Trust and the Council, but inevitably in these situations there is a risk of the outcome not being as business-like as it needs to be to ensure that unintended consequences do not arise. Long-term legal agreements must, by definition, stand the test of time and changes in people and circumstances. In the short term the agreement is not critical to the viability of the MMC, but it is incumbent on the Council to resolve the legal position at the very least to avoid handing a significant problem to successor councils.
- 5.5. In the Taylor Report MPC has received legal advice regarding the 2018 lease agreement with the War Memorials Trust Limited. In my view, Taylor's comments are compelling in relation to the legal status of the Council and the impact of the lease on the operation of the MMC, and should be acted upon as a matter of urgency.
- a) Taylor states that "the acceptance of this lease on the terms agreed was ultra vires the powers of the Council and is therefore void and unenforceable by the Landlord." The Council must be seen to address this advice as a high priority, even if it concludes that it does not accept the advice it is being given (a decision which would carry with it significant risk). It has been expressed to me that the Taylor Report contradicts legal advice obtained during the negotiations on the lease, and as such should be regarded as nothing more than an opinion. However, it is also the case that both the Atkinson and Taylor Reports refer to concerns they had previously expressed regarding the Lease.

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

- b) The contract between the Charity and MPC combines the characteristics of a lease and a management agreement. These should be separate documents, serving distinct purposes.
 - c) The tenant (MPC) holds all income on trust (a specific legal status) for the landlord (the Charity). The tenant is prohibited from using any surplus for any other purpose than those relating to the MMC. This is a moot point at present, but there is an essential matter of principle here i.e. all the commitments and obligations and risk reside with the tenant and the landlord has none, but the latter effectively controls the purposes to which the building is put.
 - d) Funds raised through the Precept to subsidise the MMC are, in effect, a donation by MPC to the Charity. Logically, the effect of this "is to place the income from the Centre under the control of the charity", yet the Trust has no obligations with regard to losses ("The Landlord undertakes no obligations to the Tenant.") The practical point is that the Council is tied to a long-term contract, taking all the financial risk, without the legal freedom to operate the MMC in line with its own obligations.
 - e) I would also add to Taylor's comments that MPC is committed to a long-term contract with no break clause. Security of tenure is a valuable asset, but this has to be balanced with an appraisal of risk. The value of the lease is much more beneficial to the Trust than to the Council, because the latter (and its successors) is committed to financially supporting the MMC.
 - f) Section 1.22 of the lease states that "The Permitted Use means the use for social community and cultural purposes for the benefit of the public at large in accordance with the Memorandum of Association of the Mountsorrel War Memorial Trust Limited". The Memorandum of Association states the objectives of the Company as being "to promote the provision in the interests of social welfare of a comprehensive set of sporting, recreational and community facilities" within the meaning of the Recreational Charities Act 1958. MPC, in operating the MMC, has to do so in line with the legal obligations of the Charity. This is an obvious legal conflict of interest: for example, might the future objectives of MPC conflict with the legally defined objectives of the Charity and therefore be impermissible within the terms of the lease?
 - g) Interestingly, given some criticism by Mountsorrel residents that they are subsidising the use of the MMC by people from outside the village, the objectives of the Company extend to the villages of "Rothley, Cossington, Quorn, Barrow Upon Soar and Sileby". This contradicts the policy of offering a discount to hirers from Mountsorrel as the legal logic implies it should be extended to these other villages.
- 5.6 MPC has been subject to significant public criticism regarding the financial management and operation of the Memorial Centre. It is only by demonstrating real leadership with the MMC that MPC can then proactively address criticisms made by residents and/or hirers. Currently, the Council is in a weak position to respond because it is not clear what it is trying to achieve. Issues for the future of the Memorial Centre which will be addressed in the Business Plan include:
- a) Clarity on the purpose and expectations for the centre i.e. Vision and Mission.
 - b) What does 'community' and 'commercial' mean?
 - c) A review of the charging structure.

DRAFT FOR COMMENT

Interim Report to Mountsorrel Parish Council

- d) Consideration of whether the MPC's financial support creates social value, and the significance of this to the Council.
 - e) Is the priority a reduction of the Precept or demonstrating value for money of the current spend? What are the consequences of differing policy decisions on the operation of the MMC?
 - f) Management and staffing arrangements.
 - g) The nature of parish council decision-making processes do not lend themselves to efficient commercial management so consideration is required as to whether a separate legal vehicle should be created to manage the MMC.
- 5.7 The Business Plan for the MMC must resolve a number of key questions. In doing so a Vision for the MMC and by extension the Council as a whole will start to emerge. This in turn will inform decisions about Halstead Road and the Library. The fundamental issue that MPC has to resolve is the balance between its aspirations for the MMC and the willingness of residents to support these through the Precept. MPC has to create collective aspirations, goals and plans. These have to be carefully articulated, and performance of individuals and the plan as a whole must be matched against them, not the expectations of individual councillors. Without this there will be a continuation of mixed messages between councillors, and with staff and residents.
- 5.8 MPC has asked the Trust for a response to the Taylor Report. At the time of writing no formal response had been received. This matter is being considered at the Council meeting on 11 January 2021. Whatever the response from the Trust the Council has a legitimate negotiating position which it must pursue as a matter of urgency. The preference is clearly for a constructive renegotiation of the lease. Irrespective of the legal advice regarding the enforceability of the lease and the Council's position as a signatory, there are onerous terms which MPC must seek to renegotiate.

6. Conclusions

- 6.1 In the past few years Mountsorrel has benefited from the capital investment resulting from housing development. This has allowed the creation of facilities to enhance the quality of life and reputation of the village. It has been expressed to me that Mountsorrel has suffered in the past from under-investment and a somewhat negative reputation, and so these new developments have a particular significance in terms of civic pride.
- 6.2 The Council needs to become more business-like in the conduct of its affairs. Legitimate differences of opinion are resulting in acrimonious divisions which are adversely impacting the quality of Council procedures and decision-making. This fails to adequately serve the requirements of the Council's legal and financial responsibilities or its accountability to residents. Currently, the Council has ambitious aspirations, but they are not part of a coherent financial or management plan, nor are they underpinned by a clear Vision and Mission, which act to guide and inform decision-making. These issues need to be unpicked before a meaningful Strategy can be developed.

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

- 6.3 The Strategy depends upon a public consultation/listening events, but MPC has to get its house in order before this, or at least have a clear action plan to do so, otherwise the consultation will be focussed on the past rather than the future. The Council cannot be all things to all people. Its role is to provide leadership, based on what it can confidently consider to be a mandate from the majority of residents. This is no more than a requirement to balance competing demands and expectations and to behave reasonably for the greater good.
- 6.4 Since 2017-18 MPC has lost control of its finances, with serious consequences to both its General (Free) Reserves and its Balances Brought Forward. Continuing to assume that this can be managed through increasing the Precept is not tenable. The financial position of the Council is primarily driven by the Memorial Centre. It is also considering or has in place legal commitments regarding Halstead Road and the Library, which have not been subject to rigorous risk-analysis.
- 6.5 The Council has sensibly sought external assistance, and has sound and constructive advice contained in the Atkinson and Taylor Reports, as well as annual feedback from the internal auditor. It has two reports on the MMC, from Cllr Pirt and Lynne Tredell, which contain many valuable insights. The information from all these sources describes a consistent picture, so the problem the Council has is not a lack of information, but something close to a paralysis of good governance. This report is not concerned with personal issues between councillors. The strengths-based approach adopted here dictates that lessons from the past need to be learned but trying to apportion blame is counterproductive.
- 6.6 The requirement to put the governance arrangements for the MMC on a secure long-term legal basis is a high priority, but, this does not preclude the opportunity to implement a Business Plan. Establishing a sound basis on which to move forward with the MMC will also be a template for the consideration of the Halstead Road and Library projects.
- 6.7 The necessity of recruiting a new Clerk creates both a risk and an opportunity to the Council. The Clerk is accountable to the Parish Council as a single body, not to individual councillors. There is a clear separation of duties, which it is incumbent on all councillors to respect, both for the good governance of the Council and in line with its responsibilities as an employer. No individual councillor can be the line manager of a member of Council staff. This situation requires a balance of clear procedure, mutual respect and good will. Any issues with the performance of the Clerk, or any other staff, must be managed in line with best practice.
- 6.8 There are inherent difficulties in parish council's managing facilities when the enterprise is of a significant operational and financial scale. When commercial considerations become paramount for the sustainability of the facility the inherent tensions between the Council's community role and its financial commitments can create an untenable position. This situation prevails with the MMC. One intention in

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

addressing the lease on the MMC and the management vehicle by which it operates in the future is to create a structure and environment in which operational decisions are taken at arm's-length from the administrative processes of the Council.

7. Recommendations

7.1. Some of these recommendations have not be preceded by comments elsewhere in this report, as they speak for themselves in being part of a focussed plan of urgent and important matters to be resolved. The diagram which follows aims to highlight the requirements in a visual format.

7.2 Recommendations

1. Legal advice

- a) Councillors should revisit the Taylor Report.
- b) The terms of the lease on the MMC should be renegotiated, and new agreements put in place to distinguish between a lease, and the management of the MMC.
- c) Further advice should be sought regarding options for a new legal vehicle to manage the MMC by which the Council can protect its interests and investment.
- d) The legal advice required to fulfil the new arrangements must also inform decisions about the Halstead Road and Library projects, which together with the MMC are the mission-critical elements for the Council's future.

2. Recruitment of the Clerk

- a) The process for the recruitment of a new Clerk needs to be carefully considered, and the essential requirements of the post-holder reviewed.
- b) If an appointment cannot reasonably be made, interim arrangements will be required.
- c) Priority issues for the new Clerk, or interim locum, include:
 - i. The creation of a new Risk Analysis model (Atkinson recommendation 15). The current Risk Assessment schedule is inadequate.
 - ii. Ensure there is an alcohol licence covering the MMC.
 - iii. Make suggestions to Council for a community engagement/consultation process.

3. Staffing Review

- a) Commission a comprehensive staffing review (Atkinson recommendation 4).
- b) This does not preclude recruiting a new Clerk in the meantime if the right candidate is identified.
- c) A Manager role for the MMC is essential.

4. Current Projects

- a) Before any meaningful operational or financial considerations can be implemented, the MPC must agree a Vision for the MMC, which will be the basis on which aspirations, priorities, targets and reporting measures will be set.
- b) The Council should agree definitions for crucial terminology.
- c) A comprehensive and rigorous risk analysis must be undertaken of any projects with legal and/or significant financial commitments.

DRAFT FOR COMMENT
Interim Report to Mountsorrel Parish Council

CRITICAL PATHS

