

ERNEST STEVENS TRUSTS MANAGEMENT COMMITTEE

MONDAY 28TH APRIL 2014

**6.00 PM
AT WOLLESCOTE HALL
STEVENS PARK
WOLLESCOTE ROAD
STOURBRIDGE
DY9 7JG**

If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, could you please contact Democratic Services in advance and we will do our best to help you

**HELEN SHEPHERD
DEMOCRATIC SERVICES OFFICER
Internal Ext - 5271
External – 01384 815271
Email: helen.shepherd@dudley.gov.uk**

**You can view information about Dudley MBC on
www.dudley.gov.uk**

IMPORTANT NOTICE

MEETINGS AT THE WOLLESCOTE HALL, STEVENS PARK

Welcome to the Wollescote Hall

In the event of the alarm sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.

There is to be no smoking on the premises in line with national legislation. It is an offence to smoke in or on these premises.

Please turn off your mobile phones and mobile communication devices during the meeting.

Thank you for your co-operation.

Our Ref:
HS

Your Ref:

Please Ask For:
Helen Shepherd

Telephone No:
01384 815271

16th April, 2014

Dear Councillor

ERNEST STEVENS TRUSTS MANAGEMENT COMMITTEE
MONDAY, 28TH APRIL, 2014 – 6.00 PM

You are requested to attend a meeting of the Ernest Stevens Trusts Management Committee to be held on Monday 28th April, 2014 at 6.00pm at Wollescote Hall, Stevens Park, Wollescote Road, Stourbridge, DY9 7JG to consider the business set out in the agenda below.

Car parking is available at Wollescote Hall. For access to the building, please follow the directions to Reception. Entry is security controlled and you will be admitted upon announcing your arrival through the intercom machinery at the door. Once inside, you will be directed to the meeting room.

The agenda and public reports are available on the Council's Website www.dudley.gov.uk and follow the links to 'Councillors in Dudley' and the Committee Management Information System.

Yours sincerely



Director of Corporate Resources

A G E N D A

1. APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. APPOINTMENT OF SUBSTITUTE MEMBERS

To report the appointment of any substitute members serving for this meeting of the Committee.

3. DECLARATIONS OF INTEREST

To receive declarations of interest, in accordance with the Members' Code of Conduct.

4. MINUTES

To approve as a correct record and sign the minutes of the meeting of the Committee held on 3rd February, 2014 (attached)

5. TRUST LAND WITHIN DUDLEY (PAGES 1 - 7)

To consider a report of the Director of Corporate Resources

6. ERNEST STEVENS TRUST – MARY STEVENS CENTRE – LEASING ARRANGEMENTS (PAGES 8 - 9)

To consider a report of the Director of Corporate Resources

7. MARY STEVENS PARK WAR MEMORIAL (PAGES 10 - 13)

To consider a report of the Director of Corporate Resources.

8. TO ANSWER QUESTIONS UNDER COUNCIL PROCEDURE RULE 11.8 (IF ANY)

To: All Members of the Committee:

Cradley and Wollescote Ward – Councillor Partridge
Lye and Stourbridge North Ward – Councillor Hanif (Vice-Chair)
Norton Ward – Councillor Mrs Rogers
Pedmore and Stourbridge East Ward – Councillor C Wilson
Quarry Bank and Dudley Wood Ward – Councillor Cowell (Chair)
Wollaston and Stourbridge Town Ward – Councillor Sykes

ERNEST STEVENS TRUSTS MANAGEMENT COMMITTEE

Monday 3rd February, 2014 at 5.00 p.m.
Wollescote Hall, Stevens Park, Wollescote Road, Stourbridge

PRESENT:-

Councillor Cowell (Chair);
Councillor Hanif (Vice-Chair);
Councillors Partridge, Mrs Rogers, Sykes and C Wilson

OFFICERS

Solicitor, Principal Tax Accountant and Assistant Principal Officer
(Democratic Services) – Richard Sanders (Directorate of Corporate
Resources).

13 **DECLARATIONS OF INTEREST**

Declarations of interests, in accordance with the Members' Code of Conduct, were made by the following Members:

Councillors Cowell and C Wilson – Non pecuniary interests in view of their being Trustees of Mary Stevens Hospice.

Councillor Mrs Rogers – Non-pecuniary interest as Chair of the Friends Group for Mary Stevens Park and Swinford Common. Also in relation to her involvement with the Project Implementation Team - Heritage Lottery Bid for Mary Stevens Park and attendance at stakeholder meetings.

14 **MINUTES**

RESOLVED

That the minutes of the meeting held on 31st October, 2013 be approved as a correct record and signed.

15 **FOUNDATION TRUST - APPLICATIONS**

A report of the Treasurer was submitted on bids from Age Concern, Stourbridge and Halesowen for a grant towards a telephone system and the provision of a Victor Wet-Dry Mobile Bain Marie Trolley, both of which items had already been purchased by the organisation, and from the Friends of Swan Pool Park in the sum of £5,000 towards the cost of a Youth Shelter and replacement benches at the park.

RESOLVED

- (1) That the application on behalf of Age Concern Stourbridge and Halesowen be refused since the equipment has already been supplied and because the Committee is satisfied that the organisation is sufficiently funded from elsewhere.
- (2) That the application by the Friends of Swan Pool Park be supported in principle but that consideration of a grant be deferred for further information to be obtained on the outcome of the applications for finance from the other funding streams referred to in paragraph 17 of the report now submitted and for discussions with the Friends Group to be entered into regarding better value for the project that could be obtained from the furniture being purchased from Dudley MBC.

16 STEVENS PARK AND RECREATION GROUND FOUNDATION TRUST
– LAND AND BUILDINGS REVALUATIONS

A report of the Treasurer was submitted updating the Committee on revaluation figures for the various trust funds. The revaluations were set out in Appendix 1 to the report and would be reflected in the accounts to 31st March, 2014.

Plans of agricultural land held by the Trusts were circulated by the Treasurer.

In the discussion on the report, reference was made by a member to the need for additional parking spaces at Mary Stevens Hospice to be provided to mitigate wear to grass verges and on proposals to obtain quotations for the construction of a number of spaces.

RESOLVED

That the report now submitted be noted.

17 DIANE ROBBINS

This being the last meeting that Mrs Robbins would be attending pending her retirement from the service of the Council in March, the Chair and other Members thanked Mrs Robbins for her excellent service to the Stevens Trusts and the Management Committee and wished her a long and happy retirement.

The meeting ended at 6.05 p.m.

CHAIR

EST/10

Ernest Stevens Trusts Management Committee – 28th April, 2014

Report of the Director of Corporate Resources

Trust Land within Dudley

Purpose of Report

1. That the Committee note the information contained in the report in respect of the Trusts that are registered at the Charity Commission and other trust land.

Background

2. At its meeting on the 2nd December 2013, Council approved that the Terms of Reference of the Ernest Stevens Trusts Management Committee be extended to include all trust land in the borough. This report identifies the land which is subject to registration at the Charity Commission and other trust land.
3. Many of the deeds to the Council contain restrictive covenants but for the covenants to be enforced by the party who has benefit there needs to be evidence that the covenants are annexed to the land of that person. This can be achieved by express words or a plan giving identification of the land that should receive the benefit of the covenant. In the deeds that have been inspected for the purpose of this report there does not appear to be any land identified to take the benefit of the covenants.
4. Although some of the deeds state that the Council Covenants with the other party, these are not strictly covenants, but the land is held in trust by the Council for the benefit of the public. There is a leading case where land was gifted to a Council for a public park or recreational use. The conclusion of this case was that the land had been given to the Council as trustees for all purposes consistent with its statutory powers.
5. The Council as Trustee needs to be open and transparent in its dealings, accountable for its actions and whilst considering the wishes of the donor also needs to be aware of the demands placed on the Council. An example of this is the Ernest Stevens Trust where land was held for the purposes set out in the Deeds of Gift. The Council (as land owner) needed land from the trust to build houses on so considered replacing the land in question (Hobb Green Farm) with land known as Jordan Field. The Charity Commission agreed with this, and a Scheme was granted by the Charity Commission for this to be recorded. Jordan Field is now leased for agricultural purposes but only until it is required for the purposes of the trust.
6. Under provisions in the Charities Act 2011, the Council, as trustee, cannot dispose of any land without the consent of the Charity Commission. The

definition of a disposal is any lease (more than 7 years in term of years), transfer or mortgage. The Charities Act sets out strict terms of procedure for the trustee to comply with.

7. Guide notes from the Charity Commission will be provided at the meeting .
8. There are other trusts that are not registered trusts at the Charity Commission e.g., Deeds of dedication such as Queen Elizabeth II at Sledmere Playing Fields, Donkey Pool Playing Fields and Russell's Hall Playing Field. There are restrictions in these cases because the Council has received funding and if the Council wishes to make any disposal it would need to provide information of its intentions and may even need to offer an alternative parcel of land to be a replacement for the purposes of the Deed of dedication. This arrangement also applies to the Deeds of Dedication for the Millennium Forest funding and King George V Playing Fields projects. There are many deed packets within the Council's records that are subject to Deeds of Dedication and for this reason it has not been possible to include details of all those deeds within this report.
9. The following are subject to registration at the Charity Commission and the relevant plans will be made available at the meeting for the benefit of Members.

1) DEED PACKET H2 -22

KNOWN AS KING GEORGE VI PARK, WORDSLEY STOURBRIDGE

The whole park is registered at H M Land Registry (HMLR) under title number WM914260.

Part only of this park is subject to a trust by a conveyance dated 26th November 1958 – “to restrict the use of the said land in perpetuity as a playing fields for the use of the public as part of the King George VI Park, Wordsley under their powers contained in the Physical Training and Recreation Act 1937”.

2) DEED PACKET E8 – 11 and E8 – 12

KNOWN AS HOMER HILL RECREATION GROUND.

The whole park is registered at HMLR under title number WM936004.

Part only of this park is subject to a trust “for the purposes of public recreation grounds subject to the performance and observance of the covenants by the Council hereinafter contained.

- (a) that the council its successors or assigns will forever hereafter support, maintain and improve the said land as and for the purposes of public recreation grounds.
- (b) Not to use or permit to be used the land for the purposes of playing any games whatever on the Sunday in each week.
- (c) Not to sell or consume or permit to be sold or consumed on the said land any intoxicating drinks.

3) DEED PACKET D3 -1

KNOWN AS SWINFORD COMMON STANLEY ROAD STOURBRIDGE

The whole land is registered at HMLR under title number WM893235

Covenant being – “(i) to permit the same to be left an open space for the use of the inhabitants (especially children and young people) of the Borough of Stourbridge (ii) that the said land be left open to Stanley Road without fence and that the said land shall be called or known as “Swinford Common”.

4) DEED PACKET P5 – 8

LAND KNOWN AS SEDGLEY BEACON

This land is registered at HMLR under title number WM895497

Only part of the land subject to the trust.

“For the Council to keep and preserve the monument in a reasonable state of preservation together with any inscriptions that may be on it.

To keep the remainder of the land within the hatched area as an open space for the benefit of the inhabitants of Coseley and District and to maintain the same in good and tidy condition as open space and to take all reasonable steps to prevent the same from deterioration by misuse damage or becoming lettered or in any way becoming a nuisance to the owners and occupiers of the adjoining or neighbouring land.

5) DEED PACKET G5 -15

LAND AT MARSH PARK NORTH STREET BRIERLEY HILL

This land is registered at HMLR under WM893182

Restriction to use the land for the purposes of a public park and pleasure grounds and the Conveyance is registered at the CC. By way of a Deed of Release dated 19th June 1944, this restriction was varied allowing the Council to build and construct a Civic Centre on the site of Marsh Park. By way of a Deed of Release dated 21st November 1955 the restriction was further varied to the extent that the Council could lease a small portion of the park to the Trustees of the Brierley Hill & Brockmoor Old People’s Welfare Committee for the purposes of erecting a pavilion for the use of the old people of Brierley Hill and Brockmoor.

6) DEED PACKET A6500

PENS MEADOW SCHOOL, WORDSLEY HOSPITAL

This relates to a lease granted to the Council dated 2nd April 1984 for the special school in Wordsley Hospital – Mental Hadicap Unit for a term of 75 years from 7th March 1977.

7) DEED PACKET G8 -18

LAND AT DUDLEY WOOD DUDLEY and relates to a Deed of Gift dated 24th February 1966

“For use by the public for the purposes of exercise and recreation pursuant to the provisions of the Open Space Act 1906”.

8) DEED PACKET J6 21

WOODSIDE LIBRARY, STOURBRIDGE ROAD, DUDLEY

This land is registered at HMLR under title number WM892603. There are covenants saying that part of the land should be used as recreation ground (pink on the filed plan) and there are also conditions in respect of the land tinted mauve being “to the use of the Corporation in fee simple to the intent that a building or buildings may be erected upon the land hereby conveyed and used and appropriated as and for a free public library for the use and benefit of the Corporation and inhabitants of the Borough of Dudley Police Buildings and Fire Station or for some other public purpose connected with the said Borough as the Corporation or their successors may determine according and subject to such rules and regulations for the management and government thereof as shall be framed by the Corporation or their successors”

This land is NOT registered at the CC.

9) DEED PACKET 08 151

CLAYTON PLAYING FIELDS, COSELEY

Forms part of title number WM898828 the area shaded blue on the filed plan is affected by the following:-

For use by the public for the purposes of exercise and recreation pursuant to the provisions of the Open Spaces Act 1906 and in particular as a playing ground for the school children of the Coseley Urban District.

This is registered at the CC and there is an indemnity to the limit of £700,000. The reason for this insurance related to the building of the Youth Centre.

10) DEED PACKET H3 – 34

RICHARDSON HALL

Unregistered but extent of land is as per plan attached to the deed dated 31st January 1908

“Provided always that Richardson Hall shall not be used for any gathering having for its object any damage or criticism of the Church of England or any religious denomination”

11) DEED PACKET E8 – 165

BERNARD OAKLEY MEMORIAL GARDENS, HALESOWEN

Registered at HMLR under Title Number WM915652

Conveyance dated 9th January 1958 – Council covenant with donor to lay out the land conveyed as a garden adjoining the Oakley Memorial Gardens which brings me to DP E8 – 164 and a Conveyance dated 27th June 1953:-

“to hold the land for the benefit of the inhabitants of the Borough of Halesowen to maintain permanently the following inscriptions at the main entrance in Colman Hill”.

On the gates the words “The Bernard Oakley Memorial Gardens”
On the gate pillars the words “These gardens and pleasure grounds were laid out and presented on June 27th 1953 to the Borough of Halesowen ...
To support and maintain the said land as and for the purposes of a recreation ground for children and public.”

12) DEED PACKET D61

MARY STEVENS PARK, HEATH LANE, STOURBRIDGE

Registered at HMLR under title number WM926436

Deed of Gift 6th December 1929

One of the covenants – no games or sport by children or adults shall be played on a Sunday or good Friday. – whole park

13) DEED PACKET D6 1

WOLLESCOTE HALL

Registered at HMLR under title numbers WM937719, WM937704 and WM937411.

Deed of Gift dated 29 September 1930.

Hobb Green Farm land was exchanged by Trustees to the Council in return for Jordan Field and the Council paid in addition the sum of £88,500.

Not to play ball games on a Sunday and good Friday – scheme - that provision does not apply to Jordan Field or any other land acquired using £88,500. If any other land is acquired using £88,500 then that land should be held in trust for the Foundation (Ernest Stevens Park and Recreation Ground Trust).

14) DEED PACKET F6 23

STEVENS PARK QUARRY BANK

Registered at HMLR under 14 titles.

Deed dated 29th January 1921 – filed plans.

15) DEED PACKET C4 11

MARY STEVENS MATERNITY HOME AND PUBLIC PARK

Registered at HMLR under title number WM927388

Subject to the Deed of Gift 13th February 1931. – no games to be played on the premises.

16) DEED PACKET FOR KINGSWINFORD PARK – details to follow.

Plans will be available for each parcel of land when this report is presented.

Finance

10. This Committee is responsible for the administration of the Ernest Stevens Trusts, including the financial affairs of the Trusts.

Law

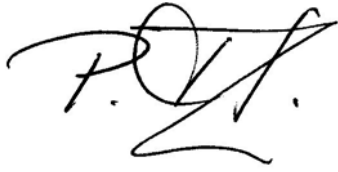
11. The Council is successor to the former Stourbridge Council by virtue of the Local Government Act 1972.
12. The law relating to Trusts, which are charitable, is contained in various Acts, the main ones being the Charities Acts 1992 and 2011 and the Trustee Investment Act, 1961.
13. The power to appoint Committees and to delegate functions to Committees and Officers is set out in Sections 101 and 102 of the Local Government Act 1972. The rules on proportionality are contained in the Local Government and Housing Act 1989 and associated regulations.

Equality Impact

14. The Trusts were set up to benefit members of the public living in certain geographical areas of the Borough as outlined in the Deeds of Gift. There are no specific implications for children and young people arising from this report.

Recommendation

15. That the Committee note the information contained in the report in respect of trust land in the Borough which now form part of their terms of reference.



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Philip Tart
Director of Corporate Resources

Contact Officers Mandy Wilcox
Interim Principal Lawyer
Telephone No. 01384 815310

List of Background Papers

Ernest Stevens Trusts Management Committee – 28th April 2014

Report of the Director of Corporate Resources

Ernest Stevens Trust – Mary Stevens Centre – Leasing Arrangements

Purpose of Report

1. To advise on the current leasing terms and to consider new arrangements for future lettings to show more clearly support given to the occupiers.

Background

2. Mary Stevens Centre is part of the Ernest Stevens Trust and Dudley Borough Council are the Trustees. The function of Trustee has been delegated to the Ernest Stevens Trusts Management Committee in the Council's constitution.
3. Age UK, Thomas Pocklington Trust Ltd and Dudley MIND have been in occupation of the Mary Stevens Centre for several years. Terms have been agreed with Age UK and a draft lease was issued to them some time ago and this has not yet been signed. The rent agreed was a peppercorn.
Thomas Pocklington have a 5 year lease which expires on 20 July 2015. It was let at a peppercorn.
Draft terms have been prepared for a lease to Dudley MIND.
4. The council bears the cost of repairing and maintaining the building, undertakes capital works from time to time and covers the costs of some of the utilities.

Finance

5. Letting on a peppercorn basis does not show the value of the asset or the level of aid given to the organisation by the Trust. It is therefore proposed in future to grant all leases at a market rent and to grant aid the rent back to the organisation. This is in line with the council's "Community Asset Transfer" policy.
6. The consent of the Management Committee is therefore sought to these arrangements.

Law

7. The Council is the registered Trustee of the charity and in accordance with the Councils Constitution has delegated the administration of the charity to this Management Committee.

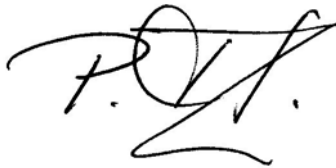
8. Section 139 of the Local Government Act 1972 empowers the Council to accept, hold and administer gifts of property, where it enables them to discharge any of their functions and where the gifts are for the purposes of benefiting the inhabitants of their area.
9. The Law relating to Trusts which are charitable is contained in various legislations. The key legislation being the Charities Acts 1960, 1992, 1993 and the Trustees Investment Act 1961.

Equality Impact

10. The proposal takes into account the Council's equal opportunities policies.

Recommendation

11. It is recommended that the Management Committee approve the new arrangements to grant future leases on market rental terms including a contribution for repairs and maintenance. Grant-aid would be subject to the tenant delivering agreed outcomes. This mirrors the council's "Community Asset Transfer" policy. All other terms and conditions to be negotiated by the Director of Corporate Resources.



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Philip Tart
Director of Corporate Resources

Contact Officer: Tracey Webb – Principal Property Surveyor
Telephone: 01384 815343
Email: tracey.webb@dudley.gov.uk

Ernest Stevens Trusts Management Committee – 28th April, 2014

Report of the Director of Corporate Resources

Mary Stevens Park War Memorial

Purpose of Report

1. To obtain Members views on the proposed project set out in the appendix to this report.

Background

2. A letter dated 4th February, 2014, attached as Appendix 1, was received from Mr Raymond Griffiths, Chairman of The Teutoburger Wald Group in relation to the War Memorial at Mary Stevens Park, Stourbridge.
3. The Teutoburger Wald Group is a group of World War 2 veterans and relatives of the casualties of World War 2 who were and are residents in the Stourbridge/Dudley area.
4. During research within the area, it had been identified that of the 60 men who were casualties of the 1939-1945 conflict from the Stourbridge/Dudley area, 26 had not been named on the War Memorial in Mary Stevens Park.
5. An application has been made to the Council to add a plaque incorporating the missing names to the War Memorial, subject to the submission of a suitable design and position.
6. Mr Griffiths has advised that he has been in consultation with the Head of Property Services, in relation to the project and is awaiting costings from the manufacture for the plaque and the installation works before submitting grant applications to the appropriate Community Forums.

Finance

7. This Committee is responsible for the administration of the Ernest Stevens Trusts, including the financial affairs of the Trusts.

Law

8. The Council is successor to the former Stourbridge Council by virtue of the Local Government Act 1972.

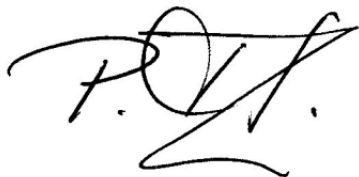
9. The law relating to Trusts, which are charitable, is contained in various Acts, the main ones being the Charities Acts 1992 and 2011 and the Trustee Investment Act, 1961.
10. The power to appoint Committees and to delegate functions to Committees and Officers is set out in Sections 101 and 102 of the Local Government Act 1972. The rules on proportionality are contained in the Local Government and Housing Act 1989 and associated regulations.

Equality Impact

11. The Trusts were set up to benefit members of the public living in certain geographical areas of the Borough as outlined in the Deeds of Gift. There are no specific implications for children and young people arising from this report.

Recommendation

12. That Members views on the proposed project to add a plaque containing 26 names to the War Memorial in Mary Stevens Park, Stourbridge, be requested.



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Philip Tart
Director of Corporate Resources

Contact Officers Helen Shepherd
 Democratic Services Officer
 Telephone No. 01384 815271

List of Background Papers

Appendix 1 – Letter dated 4th February, 2014 from Mr Raymond Griffiths, Chairman of The Teutoburger Wald Group.

69, Drew Crescent,
 Pedmore
 Stourbridge
 West Midlands
 DY90UX
 01384 392647

The Ernest Stevens Trust

44 FEB 2014

The War Memorial in Mary Stevens Park
Stourbridge

Dear Sirs,

I am the Chairperson of a group of World War 2 Veterans and relatives of the casualties of WW2 who were and are generally resident in the Stourbridge/Dudley area.

The discovery some years ago of the beautiful stained glass Memorial Window in Christchurch the Lye and Stambermill led us to trace the history of the brave men named on this window who had made the final sacrifice. There are 49 names on the window all of whom were from the area of Lye and Wollescote, Stourbridge, in addition to these it was noted that a further 11 men of the district were casualties and not recorded on the window. As a result of these findings our group presented to the Church a Memorial Book which now includes the records of the 60 men who were casualties of the 1939-1945 conflict.

During the course of our research it was noted that of these 60 named men 26 of them are not identified upon the War Memorial in Mary Stevens Park. We have made an approach to the Dudley Council to make an application to have these missing names added to the Memorial on a purpose made plaque to match as close as possible the existing plaques, in a vacant space on the base. The Council have a favourable approach to this request subject to the submission of suitable details of design and position etc.



I am writing to your organisation and others who may have an interest in this project and who may wish to comment or express an opinion or objection and would appreciate an early response.

We are approaching various local and Nationwide organisations for assistance with the funding for the project which we hope will be successful.

Yours faithfully

A handwritten signature in cursive script that reads "Raymond Griffiths".

Raymond Griffiths

Chairman

The Teutoburger Wald Group

Copies to

The Dudley M B Council Property Services

The Ernest Stevens Trust

The Friends of Mary Stevens Park

The Royal British Legion Stourbridge