

**Ernest Stevens Trusts Management Committee – 28<sup>th</sup> 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 26<sup>th</sup> 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 19<sup>th</sup> 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 21<sup>st</sup> 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 2<sup>nd</sup> April 1984 for the special school in Wordsley Hospital – Mental Hadicap Unit for a term of 75 years from 7<sup>th</sup> March 1977.

7) DEED PACKET G8 -18

LAND AT DUDLEY WOOD DUDLEY and relates to a Deed of Gift dated 24<sup>th</sup> 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 31<sup>st</sup> 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 9<sup>th</sup> 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 27<sup>th</sup> 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 27<sup>th</sup> 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 6<sup>th</sup> 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 29<sup>th</sup> 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 13<sup>th</sup> 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**

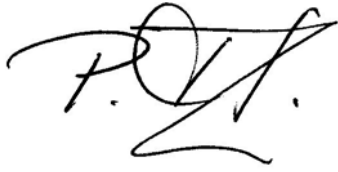
11. The Council is successor to the former Stourbridge Council by virtue of the Local Government Act 1972.
12. The law relating to Trusts, which are charitable, is contained in various Acts, the main ones being the Charities Acts 1992 and 2011 and the Trustee Investment Act, 1961.
13. The power to appoint 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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**List of Background Papers**