

**Report to the Ernest Stevens Trust 27<sup>th</sup> October 2014**

**Report of the Director of Urban Environment and the Director of Corporate Resources**

**Stevens Park Wollescote, Quarry Bank Park, Mary Stevens Park, provision of Ball games on Sundays**

**Purpose of Report**

1. The purpose of this report is to set out the issues regarding the provision of sports facilities and services in the three Stevens Parks especially on Sundays which impact on the local community and users of the parks.

**Background**

2. The three Stevens Parks are all large Parks between 7.5 ha and 13.5ha. The Parks were gifted to the Council by Ernest Stevens between 1921 and 1931. A deed of gift was drawn up for each park by Ernest Stevens to ensure the long term future of the Parks and the deed sets out how the Local Authority should manage and maintain it in perpetuity. (See appendix 1 example Wollescote Park Deed of Gift)
3. The Deed of Gift for Wollescote Park lists a number of conditions which the Local Authority should adhere to, some of them relate to ball games and their location in the Park where Ernest Stevens wanted different pitches to be laid out. He also detailed where buildings should and should not be built. There are conditions on the felling of trees ( unless diseased) , the selling of alcohol, restrictions on gambling, political meetings, mineral workings and closing the park to the public for more than 4 days for a horticultural show.
1. The Local Authority has tried to maintain all of these conditions throughout the last 80 years, but the condition which has proved the most difficult to maintain is the restriction on the council to allow the Parks to be used for cricket, bowls and football on a Sunday and to charge the usual pitch fee for these services. It is common place in Parks and open spaces to promote these sorts of activities and to charge a small subsidised rate for the use of these facilities, as a contribution towards the pitches management and maintenance.
2. The Friends of the three Stevens Parks have commented on their views on the lifting of the Sunday play restriction. Friends of Marys Stevens Park, and Stevens Park Quarry Bank are against lifting the restriction, however the Friends of Wollescote Park would like to see the restriction lifted.

## **Facilities for Ball games at Wollescote Park**

3. The Bowling Green's at Wollescote are particularly well used by a number of groups, and there has been considerable investment over the years from the Black Country Bowls group who have a licence to use the flat bowling green in the walled garden at the back of Wollescote Hall. They have improved the playing surface of the green and have acquired grants from the local authority to place a bowls pavilion in the walled garden which they manage very successfully. These voluntary sector developments have allowed Wollescote Park to operate reasonably successfully with considerable volunteer input into providing security of the walled garden, tennis courts and changing rooms.
4. The chair of Black Country Bowls is very concerned that the group cannot operate effectively without the lifting of the restriction on play on Sundays. He operates within the Black Country bowling league and is very concerned about his inability to offer the green when most of the other teams in the league want to play, which is on Sunday. This issue has caused considerable difficulty for all the groups that play on the two bowling green's at Wollescote.
5. The condition to restrict playing games on Sundays also has impact on adult/ junior football and cricket, which is when most adults have leisure time in order to pursue their hobby. The Local Authority is very keen to improve provision for physical activity in Parks to try to reduce the prevalence of obesity in the Borough, and would therefore like the Ernest Stevens trust to consider lifting the Sunday play restriction.

## **Green Flag Quality Award and volunteer investment**

6. The Parks at Wollescote, Mary Stevens and Quarry Bank have had investment in the last 5-6 years through the Liveability programme, Department of Health, Lottery and other sources of external funding. The numerous volunteers who have offered their support with park management and consultation to improve the Parks development, have helped to make all these Parks considerable assets in Dudley and we hope to be able to continue this support well into the future.
7. The parks have been identified to be of considerable merit in the suite of town parks managed by the Local Authority. The team have worked on the development of 10 year management/ master plans for these parks to try to identify priorities for improvement. These plans will assist with the national Green Flag Quality award recognition which was gained for Wollescote Park in July 2013 and 2014.
8. The Green Flag Award has been identified as one of the outputs of the Heritage Lottery Grant recently acquired for Mary Stevens Park. The Service will be submitting the park for the Award in 2016 on completion of the capital works on the park. We are also considering submissions for the Award for Quarry Bank Park around the same time.
9. The Green Flag quality award recognises a number of key things which are demonstrated well at Wollescote Park. The peer led judging took place in May 2013 and mystery customer monitoring in 2014 and the judges score the level of horticultural maintenance cleanliness and safety, community involvement and the park welcome, environmental sustainability and heritage conservation, as well as how the park is promoted. The provision of sports facilities is also reviewed by the judges when they consider how the park is managed, as are the possible sources of

income available to the park, lifting the restriction would considerably improve our ability to manage the park more effectively.

### **Options for lifting the Deed restrictions**

10. Legal services have taken expert legal advice on the best way to proceed.

Following receipt of Counsel's Opinion it was considered that the Deeds of Gift contain a charitable trust rather than restrictive covenants. Restrictive covenants need to attach to land to pass to successors in title of the covenantee (Stevens family) and in this case there is no land identified to which any restrictive covenant could attach itself to. Therefore, under charitable trust we need to consider what the intentions of the parties were when the Deeds of Gift was entered into or was it the intention that the land was conveyed to the Local Authority subject to its statutory powers.

In this particular case the conditions are in so much detail, it is felt that we need to consider the intentions of the parties within the Deeds of Gift. Therefore, we have approached three members of the Stevens family.

11. The three great grand children of Ernest Stevens ( Appendix 3) who we managed to easily locate through Roy Peacocks research ( Local Historian) were asked to comment on the Sunday play restriction. Adam Creedy Smith lives locally in Warwickshire and his sister Tracey lives in France, both these great grandchildren felt that it was important that the Parks were now used to maximum effect and they could see no reason to continue to restrict ball games on a Sunday. Their brother Simon Creedy Smith however felt that some credence should be paid to the wishes of their great grandfather and perhaps a restriction on Sunday morning should be imposed to allow people the option to attend religious services before playing ball games.

12. Proposal based on the views of the respective Friends groups and users for each of the three parks and also with consideration to the majority view of Ernest Stevens great grand children

- To lift the Sunday play restriction as a pilot project on Wollescote Park only

### **Finance**

13. The current restriction on ball games means that the Local Authority is unable to charge the usual subsidised fee for the use of the sports facilities on Sundays, which is the main day when most of the leagues play sport.

### **Law**

14. Section 111 of the Local Government Act 1972 which allows the Council to do anything that is calculated to facilitate or conducive to the discharge of statutory functions. Section 1 of the Localism Act 2011 which provides Councils with the general power of competence to do anything that individuals generally may do,

subject to Sections 2 to 4, and Section 105, 117-123 of the Charities Act 2011 which gives power to authorise dealings with charity property

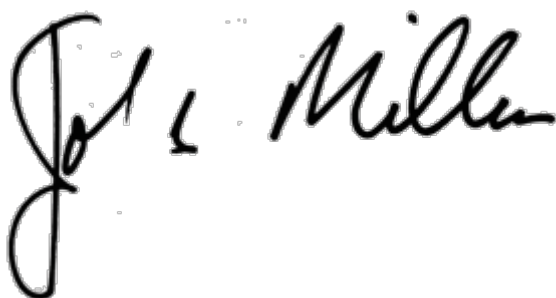
### **Equality Impact**

15. The lifting of the restriction on Sundays does have an equality impact in that it seeks to provide increased opportunity for specific groups using the parks facilities that are consistent with other arrangements in place across the borough.

### **Recommendation**

9. It is recommended that:-

- The trustees consider the needs of the various users on the park in particular the sports enthusiasts and also consider the views of the direct descendants of Ernest Stevens.
- The trustees consider lifting the Sunday restrictions on ball games in Wollescote Park only to accommodate the needs of the users and Friends of this park.
- The Director of Corporate Resources is requested to apply to the Charities commission for their consent to alter the deeds of gift to reflect the outcome of the decision by the Ernest Stevens Trust.



.....  
**John Millar**  
**Director of Urban Environment**

Contact Officer: Liz Stuffins/ Mandy Wilcox  
Telephone: 01384 816991/ 815310  
Email: [Liz.stuffins@dudley.gov.uk](mailto:Liz.stuffins@dudley.gov.uk) / [Mandy.wilcox@dudley.gov.uk](mailto:Mandy.wilcox@dudley.gov.uk)

### **List of Background Papers**

- Appendix 1 .Stevens Park Wollescote Deed of Gift Sept 1930
- Appendix 2. Stevens Park Wollescote Management plan (available on CMIS)
- Appendix 3. Ernest Stevens's family tree.