

Meeting of the Ernest Stevens Trust Management Committee

– **30th January 2023**

Report of the Director of Regeneration and Enterprise

Mary Stevens Centre – current occupation

Purpose of report

1. To inform the Management Trust Committee of the current occupation, the terms of such occupation and the extent of unoccupied space within the centre.

For the Management Trust Committee to advise officers of the Council as to the way the Trust's wishes to proceed with further occupation requests.

To authorise officers of the Council to proceed accordingly.

Recommendations

2. It is recommended:-
 - The Ernest Stevens Trust Management Committee note the content of the report. The Committee should also consider the guidance received from the Charity Commission to consider the best interests of the beneficiaries of the Trust and options in respect of this draft proposal.
 - The Ernest Stevens Trust Management Committee advise and authorise the Director of Regeneration and Enterprise and officers of the Council as to the way the Trust wishes to proceed with further and future occupation requests; including that by the Mary Stevens Hospice as reported to this committee in October 2022 (copy attached for reference as appendices 6a & b) and report back to the committee their outcome.

Background

3. This report arose from a request made at the October 2022 meeting of this committee to advise the committee on the current occupiers and their basis of occupation.
4. The building known as Mary Stevens Centre, formerly used as a maternity home, was gifted to the council, together with the park, to the Borough of Stourbridge on 13th February 1931 for the purposes of maternity home, convalescent home or a hospital, child's welfare centre or any other purpose which have for its object the benefit advancement and welfare of the people of Stourbridge and district so long as the performance of such benefit will not be a breach of any of the conditions contained in the Deed of Gift.
5. The Charity Commission granted a Scheme (N52) sealed on 7th May 1996 to enable leases to be granted to local registered charities for a term of years not exceeding 28 years. Preference to be given to Charities that shall benefit the inhabitants of the area.
6. The Charities Act 2011 states that:-
Section 117 no land is to be conveyed, transferred or leases or otherwise disposed of without an order of the Court or Commission and:-
Section 119 that the charity trustees must before entering into any agreement for agreement to dispose must obtain a written report on the proposed disposition from a qualified surveyor acting exclusively for the charity, advertise the proposed disposition, decide that they are satisfied having considered the surveyor's report that the terms on which the disposition proposed to be made, are the best that can be obtained for the Charity.
7. Section 120 where the granting of a lease of less than 7 years, (1) the Trustees should obtain and consider the advice on the proposed disposition of a person who is reasonably believed by the Trustees to have the ability and practical experience to provide to them with competent advice on the proposed disposition. (2) decide that they are satisfied, having considered the person's advice that they are the best that can be reasonably obtained for the Charity. Legal Services on behalf of the Trust would need to apply to the Charity Commission for a scheme to permit the grant of the lease.
8. There are changes pending in respect of the legislation that may reduce the requirements in respect of the qualified surveyor and advertisement process.

9. The Trust has evidence of the fact that it has undertaken the legislation process and has received Schemes from the Charity Commission in respect of dispositions in respect of the various Deeds of Gift, but the Trustees should consider the guidance received from the Charity Commission that are attached to this report before making a decision.
10. Mary Stevens Centre as a building is designed for use as a maternity home, with a single user and operator. It is not a modern day building and is not purpose built to provide space for a multitude of different occupiers. This is demonstrated by the fact one third of the floor area is common space corridors and toilets, where the normal design would allow around ten percent. In seeking to use the building in this way, it means there are many restrictions and additional costs in trying to make the layout work successfully for multiple users. The building is not secure by design and creates security issues. The heating was designed and installed for the whole building and is not easily controllable for multiple leased rooms.
11. Lettings have been on a room-by-room basis based on what is ready and available as opposed to specifically selecting suites of space, meaning it has not been possible to apply a logical approach to the occupancies to ease management issues. The nature of the occupancy and considerable common access needed to all areas presents security issues which require investment to manage effectively.
12. The space was not prepared or designed for specific office use and many rooms are still reflective of their original function, including shower and laundry rooms and require investment to create lettable/useable space. The second floor is incapable of occupation without major investment and refurbishment.
13. Mary Stevens Centre is occupied by 4 groups at the time of writing. These are: We Love Carers, Crafting for Communities, Beacon Centre for the Blind, and Mary Stevens Hospice. The terms of all leases require they be contracted out of the landlord and tenant act.
14. We Love carers occupy by way of two separate leases.
 - Lease 1 is from the 26 August 2019, for a term of three years to use specified rooms as offices, training rooms and storage. The market rent is assessed at £6,600pa and is offset to a peppercorn if outcomes are delivered. In addition, a service charge of 13.25% (estimated at £5,500pa) is levied to cover the utilities costs. The outcomes are provided as appendix 1. The lease is due for renewal.
 - Lease 2 is from 6 September 2021 and for a term of three years to use additional specified rooms as offices, training rooms and

storage. The market rent is assessed at £11,850pa and is offset to a peppercorn if outcomes are delivered. In addition, a service charge of 20.7% (estimated at £7,350pa) is levied to cover the utilities costs. The outcomes are provided as appendix 2.

15. Mary Stevens Hospice occupy by way of a lease from the 1 November 2020, for a term of two years to use specified rooms to support the business of the hospice. The market rent is assessed at £1,560pa. The original authority from the committee was to allow the rent to be offset to a peppercorn if outcomes are delivered. In addition, a service charge of £1,000pa is levied to cover the utilities costs. The hospice is willing to remain in occupation providing it is possible to continue their occupation on the basis as authorised by this committee. The outcomes are provided as appendix 3. The lease would need to be renewed.
16. Beacon occupies by way of a lease from the 7 November 2018, for a term of two years to use specified rooms as a day resource centre including a record studio and offices in connection with the delivery of services to people with sight loss. The market rent is assessed at £4,545pa and is offset to a peppercorn if outcomes are delivered. In addition, a service charge of 12.76% (estimated at £2,540pa) is levied to cover the utilities costs. The outcomes are provided as appendix 4. The lease needs to be renewed.
17. Crafting for communities. At the time of writing this report this group has consistently failed to sign their lease but remain in occupation from 17 September 2021. The rent is £6,560pa, for a term of 2 years to use the premises for training office and storage purposes. This is offset to a peppercorn if outcomes are delivered. In addition, a service charge of 11.4% (estimated at £4,075pa) is levied to cover the utilities costs. The outcomes are provided as appendix 5.
18. Unoccupied space: approximately 28% of the available floor space is unoccupied and if the second floor could be brought into use (which would require an investment appraisal to ascertain viability) this would add a further 10% to the lettable space.
19. It should be noted that both Crafting for Communities and We Love Carers are seeking additional space for their occupation. Several rooms have been occupied in advance of any agreement.
20. The future - Going forward the committee needs to determine what it wants to achieve with this property. Whether to continue seeking occupants for the space for charitable use and what lettings policy to

apply, or whether to embrace the proposal from Mary Stevens Hospice which was presented to this committee at its meeting in October 2022 and set out for ease of reference in appendices 6a and 6b).

21. Future lettings policy and rents. Is it good financial rationale to continue on the current basis which enables community users to occupy the space on peppercorn rents providing outcomes are delivered. The lack of a rental income means there are no means by which investment to bring additional space into use can be made, or to fund investment in refurbishing and modernising the building and its facilities.
22. While a service charge is levied for the occupation this in the main covers the building running costs.
23. To continue the current practice would accept that the building will deteriorate and require investment by the council. A rental stream could provide the funding to support capital suitable borrowing for such investment. It is appreciated that the trust may wish to support charitable organisations and to have a series of outcomes and outputs in exchange for rent but should this be 100%? If the building requires investment could a better option be to limit the rent foregone to say 50%? This would have a double impact, it would provide rental income that would help support the trust finances, and by only allowing a percentage of the rent to be offset against outputs and outcomes, would temper the impact of trust derived outputs upon the charitable organisations own focus. It would need to be accepted by these charitable organisations that a rent will be applied and would demonstrate a fair and equitable approach to all organisations who wish to occupy this space.
24. Currently the trust receives nil rental income. The value of the rent foregone based on the current lettings is £26,570pa. If the space were fully let the rental income might achieve £53,000pa. If the committee is minded to apply a maximum rent foregone in exchange for outputs to 50% then moving to this model, and assuming maximum occupancy is achieved, would bring the trust an income of £26,500pa and benefits to the trust in the form of outputs and outcomes as identified by this committee of a similar value.
25. The Trust Committee needs to identify the outcomes it wants to see achieved which benefit the Ernest Stevens Trust. A casual assessment of the outcomes provided in the appendices will show these are outcomes which really benefit the charitable bodies in occupation and are not clearly aligned with the Ernest Stevens Trust. The committee would be satisfying its responsibility to the trust by applying a robust rationale to forego part of

the rent in exchange for outcomes, while ensuring the future longevity and appeal of the building.

26. This committee needs to determine what necessary evidence needs to be provided to demonstrate and agree that the stated outcomes have been achieved to enable rents to be offset. The committee can determine the frequency and it is suggested this should be annually and within the time period January to March of each year depending how the committee cycle falls.
27. Alternatively, the committee may wish to reconsider the initial approach by the Mary Stevens Hospice for the use of the whole property as reported to the October 2022 meeting. As required by the committee no further discussion has been had with the hospice on this proposal to add any detail or explore any of the questions raised by the committee.

Finance

28. The current tenancy arrangements mean no income is received by the Ernest Stevens Trust Committee although there is a contribution towards costs.

Law

29. The Deed of Gift dated 13th February 1931 made between Ernest Stevens Esq and The Borough of Stourbridge contains a number of conditions, that are referred to above in this report, of which should be considered together with the Schemes granted by the Charity Commission. Sections 2 to 4, and Section 105, 117-123 of the Charities Act 2011 gives power to authorise dealings with charity property.

Risk Management

30. There are no material risks to the Council presented by this paper. The risks associated with the development of the centre to provide additional space for convalescent care would sit with Mary Stevens Hospice.

Equality Impact

31. The proposals contained in this report are consistent with the Council's Equality and Diversity Policy.
32. There is no currently identified impact of this report upon children and young people.

Human Resources/Organisational Development

33. There are no HR/OD implications arising from this report

Commercial/Procurement

34. Not applicable to this report

Environment/Climate Change

35. In its present guise there is no impact on the environment/climate change as its simply providing information on the current occupiers of the premises, all are leases to third parties. However, dependent on the guidance from the committee this might engender an income that can be utilised to support prudential borrowing for future investment both in the structure and the utilities.

Council Priorities and Projects

36. This proposal has a direct link into the Dudley Council Plan 2022-2025, specifically: **Dudley the Borough of Ambition and Enterprise.**



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List of Background Documents

Appendix 1 We Love Carers lease 1.

Appendix 2 We Love Carer lease 2.

Appendix 3 Mary Stevens Hospice.

Appendix 4 Beacon Centre for The Blind.

Appendix 5 Crafting for Communities.

Appendix 6a – report to October 2022 meeting of the Ernest Stevens Trust Management Committee – Mary Stevens Centre and Mary Stevens Hospice

Appendix 6b – Joint proposal of the Mary Stevens Hospice and Create iF in respect of the Mary Stevens Centre

Appendix 7 Government guidance on the role of trustees. [7a Guidance](#) [7b Guidance](#)