

**Meeting of the Ernest Stevens Trusts
Management Committee**

**Monday 30th January, 2023 at 6.00pm,
Dudley Town Hall, St James's Road, Dudley**

1. Apologies for absence.
2. To report the appointment of any substitute members serving for this meeting of the Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. To confirm and sign the minutes of the meeting held on 24th October, 2022, as a correct record (Pages 5-13)
5. Public Forum
6. 5g Mast application – Wollescote Park – Verbal update – (Pages 14-18)
7. Stevens Park Quarry Bank regarding the Lease for Tintern House - (Pages 19-53)
8. Mary Stevens Hospice, Hagley Road, Stourbridge – Lease Terms – (Pages 54-62)
9. Mary Stevens Centre – current occupation - (Pages 63-87)
10. Parks Licensing Scheme – (Pages 88-91)



11. To consider any questions from Members to the Chair where two clear days' notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).



Chief Executive

Dated: 20th January, 2023

Distribution:

Members of the Ernest Stevens Trusts Management Committee:

Councillor I Kettle (Chair) – Pedmore and Stourbridge East Ward

Councillor A Hopwood (Vice-Chair) – Wollaston and Stourbridge Town Ward

Councillor D Borley – Lye and Stourbridge North Ward

Councillor J Cowell – Quarry Bank and Dudley Wood Ward

Councillor T Creed – Norton Ward

Councillor T Crumpton – Cradley and Wollescote Ward

Co-opted Members (Non-voting):

Friends of Stevens Park, Quarry Bank – D Sparks

Friends of Wollescote Park – J Marks

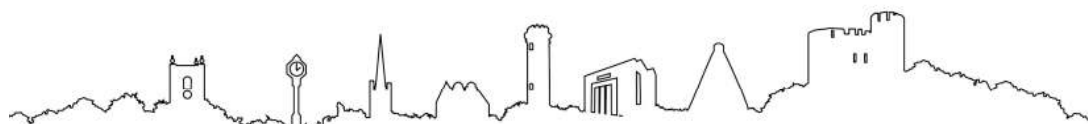
Friends of Mary Stevens Park – H Rogers

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**Minutes of the Ernest Stevens Trusts Management Committee
Monday 24th October, 2022 at 6.00pm
in Committee Room 3, Council House, Dudley**

Present:

Councillor I Kettle (Chair)
Councillor A Hopwood (Vice-Chair)
Councillors D Borley, J Cowell, T Creed and T Crumpton

Co-opted Members

H Rogers (Friends of Mary Stevens Park, Stourbridge)
D Sparks (Friends of Stevens Park, Quarry Bank)

Officers:

M Bieganski (Strategy and Governance Section Manager), D Fildes (Parks Development Manager – Green Care), D Mcnaney (Senior Principal Accountant), M Wilcox (Principal Lawyer) and L Jury (Democratic Services Officer)

Also in attendance:

A representative from WeLoveCarers – for agenda item no.10 only

16 **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

17 **Minutes**

Resolved

That the minutes of the meetings held on 18th July, 2022 and the 27th September, 2022 be approved as correct records and signed.

18 **Ernest Stevens Trusts, King George V Park and Homer Hill Recreation Ground – Final Accounts 2021/2022**

A report of the Director of Finance and Legal was submitted on the accounts of the individual Trusts comprising the Ernest Stevens Bequests and the accounts of King George V Park (charity no. 701251), for the financial year 2021/2022.

The Senior Principal Accountant presented the report, and in doing so, referred to the previous meeting where it had been reported that draft accounts had been prepared in line with the format required by the Charity Commission and that the accounts had been submitted to the Council's Internal Audit Team for review.

It was confirmed that the accounts had now been agreed and signed off by the Head of Audit Services on 22nd September 2022. The signed independent examiner's reports were included as appendices to the report. It was noted that the report submitted was similar in format to those presented in previous years and the detailed accounts were included in Appendices 1-6.

The Senior Principal Accountant advised that there were no significant issues or concerns that needed to be brought to the attention of the Committee and it was requested that, subject to the Committee's approval, the Chair be authorised to sign the accounts and Trustees Annual Report, and the accounts for 2021/2022 be uploaded onto the Charity Commissions website by 1st January 2023.

Arising from the presentation, Members and Officers made the following comments:

In response to a question raised by the Chair in relation to the Stevens Park and Recreation Ground Foundation Trust on page 49 of the report, the Senior Principal accountant replied that as the income had not been received as at the 31st March 2022, an accrual at the year end had been made in relation to the money due which happened to be the same figure as last year, and it was advised that the money went into the general fund.

In relation to clarification sought by the Chair in relation to pages 69-71 of the report, the Senior Principal Accountant undertook to provide the Committee with the relevant information.

In response to a question raised by the Vice-Chair, the Senior Principal Accountant confirmed that a breakdown of each financial activity was available on the authority's financial system, Business World, and he undertook to circulate to Members, examples of the breakdown figures, to include a breakdown of '*other trading activities*' and '*separate material item of expense*'.

In relation to the sum of £45,743 available for the Committee to distribute, as set out on page 31 of the report, Councillor T Crumpton commented on meetings that were being arranged to urgently discuss the challenges being faced at Stevens Park in relation to the condition of the toilets, especially the disabled toilets, flooding at the rear of the property alongside the tennis courts, and the poor condition of the building used to store equipment used by disabled children. It was proposed that as a result of the meetings to be held with the Friends of the Park and the Parks Development Team, the Group would submit to the Committee, a proposal to request that some of the money available be used to contribute towards refurbishment of the park and the Group would also investigate match funding.

In response to the flooding issue raised, the Parks Development Manager undertook to investigate the issue.

Resolved

- (1) That the Committee approve the accounts of the Trusts for 2021/2022, on behalf of the Council, in its capacity as Trustees.
- (2) That the Chair be authorised to sign the accounts.
- (3) That the Senior Principal Accountant be requested to circulate to Members, information pertaining to a breakdown of financial activities in particular, a breakdown of '*other trading activities*' and '*separate material item of expense*'.
- (4) That the Parks Development Manager investigate the issue raised in relation to flooding on Stevens Park, Wollescote.

19 **Request for grant – Wollescote Hall Bowling Club**

The Committee considered a report of the Director of Finance and Legal to consider the request for a grant from Stevens Park and Recreation Ground Foundation Trust for Wollescote Hall Bowling Club.

The Senior Principal Accountant presented the report, and in doing so, referred to the previous meeting where representatives of the Wollescote Hall Bowling Club had attended and presented to the Committee a proposed plan to develop the bowling green and pavilion in Wollescote Park. Subsequent to the meeting, an application had been received from the Bowling Club for a grant of £5,000 to contribute towards the reconstruction of the bowling green. A quote from a contractor was included with the application detailing the total cost of the works at approximately £30,000.

The report submitted included other information provided by the Bowling Club, together with details of other funding bids the club had submitted, and it was noted that decisions on the bids were expected in November. The Bowls Club also confirmed that they were willing to contribute up to £10,000 of their funds towards the works and the accounts that had been received, had confirmed that funds were available to contribute towards the work.

Concluding, the Senior Principal Accountant confirmed that based on the Committee's current grant policy, an amount of £45,743 was available to be distributed by the Committee and, therefore the Committee were requested to consider the grant proposal.

Arising from the presentation, it was questioned whether the general public would be allowed to use the bowling green as it was noted that usually the greens were locked to general public access.

A short discussion ensued in which the necessity to protect park assets from the anti-social behaviour of some park users was acknowledged, and it was noted that members of the public would only be allowed to use the facilities if they became members of the club. However, referring to the previous meeting where the Bowling Club had addressed the Committee, it was noted that the club had aspirations to increase their membership and attract younger people into the sport, increase participation in the community and have the facilities available for disabled and special educational needs children to participate in the sport. It was also acknowledged that the club had supported and participated in other activities that had been held in the park.

As a result of the discussion, the Committee requested that the grant application be approved.

Resolved

That, the grant application of £5,000 to Wollescote Hall Bowling Club, be approved.

20 **Banner placed on Trust Land – Cricket Pitch, Wollescote Park**

The Parks Development Manager – Green Care presented a verbal update to the Committee, and in doing so, confirmed that following instructions from Legal Services, the banner had been removed and was stored in the depot for collection if required.

In response, Councillor T Crumpton referred to the special meeting that had been held on 27th September, 2022, where the Committee had considered the planning application that had been approved to erect a 5g mast on Wollescote park. As a result of the meeting, the Committee had requested that an objection to the erection of the mast be submitted and subsequently, a banner that expressed an objection to the mast in the park had been erected by the Friends of the Park, and it was noted that the banner had now been removed and it was questioned whether Legal Services had the legal power to remove the banner.

Councillor T Crumpton commented, that once aware of the instruction to remove the banner, he had emailed the Committee to request that the banner be left in place and that the issue be discussed by the Committee. It was noted that on occasions, the Friends of the Park had erected banners to advertise events, etc, which had not been removed and it was requested that going forward, similar issues be discussed by the full Committee before any decisions were taken. The passion and commitment shown by the Group to the park was acknowledged and the disappointment in which this issue had been dealt with was noted. The banner had been displayed to raise the attention of the public to the issue and raise support for the Friends Group moving forward in relation to the protection of the park.

In response, the Chair referred to the policy relating to street furniture and displaying posters on public property which would result in the items being removed if authorisation had not been sought, although acknowledging that recently the policy had not been strictly adhered to.

A discussion ensued in which Members made comments relating to the necessity of a policy to restrict flyposting and referring to the differentiation between banners that advertised events and those that made reference to protesting or political statements.

In response, the Principal Solicitor confirmed that approval would need to be obtained from the Committee before any construction was erected on Trust land.

In reference to the mast application, it was noted that, as a result of the meeting held on 27th September 2022, a letter had been sent to Cornerstone referring to the deed of gift and legislation and advising on the Committee's decision not to give consent to the erection of the mast on park land.

Arising from a short discussion that followed in relation to the re-erection of the banner, the Committee agreed that the banner should not be re-erected.

Resolved

That, approval to re-install the banner on Trust land – Cricket pitch, Wollescote Park, be refused.

21 **Parks Licensing Scheme**

The Parks Development Manager – Green Care presented a verbal update to the Committee, and in doing so, advised that currently discussions were being held with Legal Services with regard to legal licences for traders within the Trusts parks that had been referred to at the previous meeting where the issue had been discussed.

In response, D Sparks welcomed the review being undertaken with regard to the parks licensing scheme and proposed that a review of the monthly and yearly tariffs implemented by the Council be undertaken with regard to a potential revenue opportunity, and an income earning potential for the Council from the issuing of licenses and penalties.

Members made reference to the income generated from the licensing scheme and the increase in footfall it provided, however, it was noted that this needed to be carefully balanced as not to restrict the rights of the public, who were the beneficiaries of the land, to use the park land at any time.

It was suggested that restrictions on the use of the land by the licensed operators needed to be reviewed to ensure that legal enforceable licensing agreements were issued across all parks in the Borough to protect the use of all park land for the public, and in particular, the use of the facilities for which they were intended to be used, eg: the tennis courts. It was also suggested that restrictions on the times operators could operate be included, together with where they could operate from, clearly outlining any restricted areas, and limiting the number of licenses issued to potential commercial operators and that operators' conduct be regularly monitored.

In conclusion, the Chair proposed that the Parks Development Officer note the comments made by Members at the meeting and the review of the parks licensing scheme, be submitted to a future meeting of the Committee for consideration.

Resolved

- (1) That the verbal update on the parks licensing scheme, and comments made by Members as stated above, be noted
- (2) That a report in relation to a review of the Parks Licensing Scheme be submitted to a future meeting of the Committee for consideration.

22 Mary Stevens Centre proposal – Mary Stevens Hospice

A report of the Director of Regeneration and Enterprise was submitted on the draft proposal received from Mary Stevens Hospice, in respect of the centre and advising officers as to the way the Trust wished to proceed with the application.

The Strategy and Governance Section Manager presented the report, and in doing so, apologised for the report having been circulated after the agenda had been received, as unfortunately he had experienced technical difficulties that had delayed the circulation of the report to other officers to comment.

It was advised that the report outlined a proposal that had been submitted from Mary Stevens Hospice (MSH) to expand their care provision within the area by proposing to take over the Mary Stevens Centre in its entirety and reference was made to the already existing MSH occupation of a convalescent home to the front of the Mary Stevens Centre, on Hagley Road.

It was noted that no discussions had taken place with MSH with regard to the proposal and no details had been received in relation to how the tenants already in occupation within the centre would be accommodated. No detailed plans with regard to the alterations needed to the building had been submitted, however an early appraisal of the costs had been received proposing a figure of approximately £3.2 million which the hospice planned to invest in the building to bring it up to the required standard to provide 40-50 additional beds.

The report had been submitted for consideration by the Committee to ascertain its views in relation to the proposal.

A discussion ensued in which Members questioned the need for additional beds and raised concern that the capacity of the site would not allow for such an expansion, in particular, the already inadequate car parking facilities. Tenants already in existence in the centre were acknowledged and the situation with regard to un-signed leases was raised. Reference was also made to the enormous work that had already been undertaken by the existing tenants to develop the centre, and it was proposed that alternative more suitable sites be explored.

Arising from the discussion and concerns raised by Members, it was proposed that Mary Stevens Hospice be invited to attend a future Committee to address Members with regard to the proposal. It was proposed that a report be submitted to the February meeting detailing the agreement and lease that had been previously approved with Mary Stevens Hospice.

Resolved

- (1) That the report received in relation to a proposal to expand the Mary Stevens Centre, and comments made by Members as stated above, be noted.
- (2) That the Principal Solicitor be requested to advise the Director of Regeneration and Enterprise not to enter into any discussions with the Mary Stevens Hospice and their agents with regards to the proposal until authorised by the Committee to do so.
- (3) That any Members who wished to view the site, undertake a site visit, prior to the January 2023 meeting.

The meeting ended at 7.25pm.

CHAIR

From: Cllr. Timothy Crumpton
Sent: 03 January 2023 12:03
To: Mandy Wilcox (Law and Governance); Cllr. Ian Kettle; Cllr. Alan Hopwood; Cllr. Dave Borley; Cllr. Jackie Cowell; Cllr. Tony Creed; Mark Bieganski (Corporate Landlord Services); Lisa Jury (Law and Governance); Helen Mills (Law and Governance); Dave Mcnaney (Financial Services); Mohammed Farooq (Law and Governance)
Cc: Julia Marks
Subject: Re: 5G application - Wollescote Park.
Attachments: Minutes - 27th September 2022.pdf; Ernest Stevens Trust Committee - Wollescote Park Cricket Pitch - 5G

Follow Up Flag: Follow up
Flag Status: Flagged

Hi All

Firstly Happy New Year.

Secondly I remain adamantly opposed to buildings on the Trust land.

I would welcome a full briefing on the terms of reference for any discussions on the meaning of favoured rights and suggest that this should be tabled for the next committee meeting. In the interim can I also suggest that a holding response is sent to the solicitors pending that meeting advising them that it is the committee that are the Trustees and that the discussions need to be advised by them. As the meeting is due shortly I do not see any problems with this.

Finally can the committee be copied into the response to the email Mandy issued please.

Cllr Tim Crumpton
Cradley and Wollescote

0785 324 3692

From: Mandy Wilcox (Law and Governance) <Mandy.Wilcox@dudley.gov.uk>
Sent: 19 December 2022 16:00
To: Cllr. Ian Kettle <Cllr.Ian.Kettle@dudleymbc.org.uk>; Cllr. Alan Hopwood <Cllr.Alan.Hopwood@dudleymbc.org.uk>; Cllr. Dave Borley <Cllr.Dave.Borley@dudleymbc.org.uk>; Cllr. Jackie Cowell <Cllr.Jackie.Cowell@dudleymbc.org.uk>; Cllr. Tony Creed <Cllr.Tony.Creed@dudleymbc.org.uk>; Cllr. Timothy Crumpton <Cllr.Timothy.Crumpton@dudleymbc.org.uk>; Mark Bieganski (Corporate Landlord Services) <Mark.Bieganski@dudley.gov.uk>; Lisa Jury (Law and Governance) <lisa.jury@dudley.gov.uk>; Helen Mills (Law and Governance) <Helen.Mills@dudley.gov.uk>; Dave Mcnaney (Financial Services) <dave.mcnaney@dudley.gov.uk>; Mohammed Farooq (Law and Governance) <Mohammed.Farooq@dudley.gov.uk>
Subject: 5G application - Wollescote Park.

Hello All,

Further to the special meeting of the Ernest Stevens Trust Management Committee on Tuesday 27th September 2022, I wrote to the agents of the Operators saying that the Trust could not agree to a lease agreement in respect of rights in respect of the above, as this would be a breach of the conditions of the Deed of Gift and the Charity Act legislation. I also stated that the Trust would be prepared to discuss other locations for the 5G equipment but no response in respect of this offer was received. Copies of the recommendations from the Committee and the letter/email sent are attached.

As discussed at the last Committee, the Trust has now received a letter from the solicitors acting on behalf of the Operators stating that the Trust has up to 9th January 2023 to contact the writer to discuss and negotiate the rights as much as possible or alternatively they will make an application under paragraph 20 of the Telecommunication Code to the Lands Tribunal for the rights to be imposed on the Trust.

Following consultation with Chair, the Council (Trust) will now proceed to communicate/negotiate with the other side to agree more favour rights for the Trust. On conclusion of the negotiations, a further report will be presented to Committee and an application for a Scheme to be obtained from the Charity Commission.

If you have any further queries, please let me know.

Regards,
Mandy Wilcox
Principal Lawyer
Law & Governance - Legal Services
Finance & Legal
Dudley Council
4 Ednam Road, Dudley, DY1 1HL
01384 815310
www.dudley.gov.uk



Agenda Item no. 6

From: Julia Marks
Sent: 23 December 2022 20:42
To: Democratic.Services <Democratic.Services@dudley.gov.uk>
Cc: Cllr. Timothy Crumpton <Cllr.Timothy.Crumpton@dudleymbc.org.uk>; michael troon
Subject: [EXTERNAL EMAIL] Re: 5G application - Wollescote Park.

CAUTION: This email originated from outside of the council. Do not click links or open attachments unless you are sure the content is safe.

Dear EST Committee

Re:5G mast in Wollescote Park

Friends of Wollescote Park (FOWP) committee do not agree with the proposed next steps to negotiate terms with the Telecommunications company. FOWP remain opposed to the mast, which is in breach of the Deed of Gift. FOWP feel that insufficient action has been taken to oppose the mast and protect the park.

In respect to the minutes of the meeting held on the 27th September 2022, these are not representative of the discussion held; omitting the concerns of the FOWP members that attended in opposition of the mast. FOWP would like the minutes to be amended.

Kind regards

Julia Marks
Chair FOWP

On Thu, 22 Dec 2022, 12:01 Democratic.Services, <Democratic.Services@dudley.gov.uk> wrote:

Hello All,

Further to the special meeting of the Ernest Stevens Trust Management Committee on Tuesday 27th September 2022, I wrote to the agents of the Operators saying that the Trust could not agree to a lease agreement in respect of rights in respect of the above, as this would be a breach of the conditions of the Deed of Gift and the Charity Act legislation. I also stated that the Trust would be

prepared to discuss other locations for the 5G equipment but no response in respect of this offer was received. Copies of the recommendations from the Committee and the letter/email sent are attached.

As discussed at the last Committee, the Trust has now received a letter from the solicitors acting on behalf of the Operators stating that the Trust has up to 9th January 2023 to contact the writer to discuss and negotiate the rights as much as possible or alternatively they will make an application under paragraph 20 of the Telecommunication Code to the Lands Tribunal for the rights to be imposed on the Trust.

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If you have any further queries, please let me know.

Regards,
Mandy Wilcox
Principal Lawyer
Law & Governance - Legal Services
Finance & Legal
Dudley Council
4 Ednam Road, Dudley, DY1 1HL
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----- Forwarded message -----

From: "Mandy Wilcox (Law and Governance)" <Mandy.Wilcox@dudley.gov.uk>

To: Mike Williams>, Judith Ferrarin >Cc: "Mark Bieganski (Corporate Landlord Services)" <Mark.Bieganski@dudley.gov.uk>

Bcc:

Date: Fri, 30 Sep 2022 07:32:49 +0000

Subject: Ernest Stevens Trust Committee - Wollescote Park Cricket Pitch - 5G

Good Morning Both,

Thank you for attending the Trust Committee on Tuesday evening this week.

I am instructed to inform you that the Council, as Trustee, does not give its consent to enter into a lease code agreement, on the basis that it is unable to do so because this would be a breach of the Deed of Gift and the provisions of the Charities Act 2011.

However, the Council, is prepared to meet with you to discuss alternatives sites for the required equipment and I suggest that you contact Mark, who I have included in this email.

Regards,

Mandy Wilcox

Principal Lawyer

Law & Governance - Legal Services

Finance & Legal

Dudley Council

4 Ednam Road, Dudley, DY1 1HL

01384 815310

www.dudley.gov.uk

Ernest Stevens Trust Management Committee
30th January 2023

Report of the Head of Service on Stevens Park Quarry Bank regarding the lease for Tintern House

Purpose

1. To inform the Management Committee of the development of changes to the lease for Tintern House since the agreed Heads of Terms by Committee on 16th July 2018 – copy report and attached documents included.

Recommendations

2. It is recommended that:-
 - The Ernest Stevens Trust Management Committee note & approve the content of the report but at the same time considering the Deed of Gift and Scheme granted with the objective being that the decisions taken are within the best interests of the beneficiaries.

Background

3. At the July meeting in 2022, the committee approved that:
“On the basis of EJFP completing the 10 year lease and underlease (both excluded from the provisions of the Landlord & Tenant Act 1954)..... Legal Services (are authorised) to write to the Charity Commission requesting the surrender of the 10-year lease and grant of a 20-year lease excluded from the provisions of the Landlord & Tenant Act 1954. Further, that apart from the term of years, for all other terms and conditions to be exactly the same as the 10-year lease”

4. Since that meeting the Council have worked with EJFP to resolve outstanding issues with lease clauses as follows.
5. **Utilities:**
Given the current increases in energy costs & in order to enable EJFP to benefit from the Councils' competitive utility rates, the Council has agreed to pay the utilities bills & recharge EJFP.
6. **Fixtures & Fittings:**
We have provided a fitted commercial kitchen & café (with an equipment value of approximately £18,000) with the National Lottery Heritage & Council funds.

We have agreed to adopt the National Lottery Heritage view that the grant is a 'start up', that depreciation should be taken into account & that there is no requirement to replace fixtures & fittings.

If we have to find a new charity partner and/or café operator in the future, they will potentially have to provide their own equipment.

Corporate Landlord Services: the trust is providing a fully fitted out café. While it has been paid for by grant, the tenant is utilising this rent free and on the basis described above will not be replacing the trust owned items when they wear out. In the event a new tenant is required the trust will have to fund either directly their replacement or indirectly do so by a further rent free. The trust is not receiving a rent is not establishing a fund for such replacement.

7. **Tenant's responsibility for the state and condition of the Property:**
In accordance with the terms of the National Lottery Heritage grant condition that:
(we) "must maintain the Property in good repair and condition", we have accepted that the same term be used in EJFPs' lease as opposed to 'substantial repair and condition' as is sometimes required.



We have taken this viewpoint as we believe that some wear & tear is reasonable, that depreciation should be taken into account, (as recommended by the National Lottery Heritage Fund) & because we would not (e.g.) expect the property to be returned with new floor coverings & finishes. It is a condition that the property be well maintained and redecorated internally & externally at the end of the lease.

Corporate Landlord Services: There is substantial case law around the meaning of substantial repair and condition which would allow the trust to receive back the property in the same state in which it was let. Accepting such a lesser description of good repair and condition means the trust is prepared to accept a property in a lesser condition to that in which it was let and therefore prepared to accept it will have to fund additional investment to bring it back into a suitable state. The trust in not receiving a rent is not establishing a fund for such investment.

8. **Outcomes:**

Outcomes were agreed with EJFP & the National Lottery Heritage Fund when a partnership agreement was signed between the Council & EJFP in 2018. It is accepted that achievement of the outcomes by EJFP as monitored by the Council, are in lieu of a market rent of £13,500 per annum.

Essentially the outcomes are as follows:

- EJFP to deliver their three skills development projects to individuals with disabilities (ref National Lottery Heritage Grant Approved Purposes)
- To promote healthy eating in the café
- To maintain a clean & tidy environment around Tintern House
- To encourage recycling within the Tintern House Projects
- To use Tintern House as a base for community events & activities
- To build a volunteer base & report their hours
- To support people with moderate learning disabilities move towards work



Since the original outcomes were agreed, we have agreed the additional requirement that 30% of participants in the projects have demonstrable moderate learning disabilities.

We will be pleased to demonstrate to the committee, in separate annual reports or as requested, evidence that the outcomes are being met as required to offset the market rent.

Corporate Landlord Services: It is important to ensure the outcomes are measurable with numbers to achieve. It should be noted the outcomes relate to the services EJFP are providing and the trust assure itself that such outcomes meet the requirements of the trust given such outcomes are being received in lieu of rent.

9. Rent review:

Within the 10-year lease there is no rent review provision (nor provision to amend the outcomes).

Whereas it may be considered that a rent review & update of the value of the market rent is appropriate (especially if a 20-year lease is agreed by the Charities Commission), it is the view of officers that it would be unreasonable to extend or propose further outcomes to those already agreed with EJFP & the National Lottery Heritage.

Corporate Landlord Services: The outcomes are being established now at a moment in time. Some of those outcomes will be overtaken by events and become outdated or outmoded to a future situation. The needs of the trust will change over time. Given the trust is accepting outcomes in lieu of rent the trust needs to be able to revise such outcomes to meet its requirements going forward. Equally when the rent is reviewed within the proposed 20 year lease the trust and EJFP will need to adjust the outcomes including to change their scope or increase their extent to accord with the revised rent.

10. Café Lease:

It is noted that until the lease with EJFP is completed, the underlease with the sub-tenant/Café operator cannot be completed.



Corporate Landlord Services: It should be noted that EJFP are already in occupation of this property and operational.

Finance

11. There are no financial implications to the Trust, derived from matters in this report.

Law

12. Section 1 of the Localism Act 2011 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 gives power to authorise dealings with charity property (as amended by the Charities Act 2022).

Risk Management

13. The following risks are inherent with this project:
 - The charity may cease trading and the Council may have to find an alternative charity partner and/or café operator.
 - A new café operator may potentially have to provide their own equipment.
 - The Council may not be able to recoup all utility charges.

It is considered that due to the ongoing partnership working with the charity & with the requirement to comply with the National Lottery Heritage grant conditions for 20 years, that the likelihood that any of the above risks would suddenly emerge is low & that the Council would be in discussions with EJFP & the National Lottery Heritage Fund to minimise & mitigate any risk wherever possible.

Equality Impact

14. The proposals contained in this report are consistent with the Council's Equality and Diversity Policy.



Human Resources/Organisational Development

15. Not applicable to this report

Commercial/Procurement

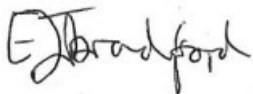
16. Not applicable to this report

Environment/Climate Change

17. Proposals in this report do not have any direct impact on the environment or climate change.

Council Priorities

18. The working partnership with EJFP accords with the Council vision and plan for Dudley to be 'The Borough of Opportunity' where "Those with special educational needs and disabilities achieve the best possible outcomes".



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Ed Bradford
Head of Neighbourhood Services

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List of Background Papers

- Agenda item 9: (Minutes of ESTMC 16th July 2018: Tintern House, 74 Park Road, Stevens Park, Quarry Bank, to consider granting a new lease to The Emily Jordan Foundation).



Ernest Stevens Trust Management Committee – 16th July 2018

Report of the Strategic Director Place

Ernest Stevens Trust – Tintern House, 74 Park Road, Stevens Park, Quarry Bank – to consider granting a new lease to The Emily Jordan Foundation

Purpose

1. To consider the request to grant a new 10 year lease to The Emily Jordan Foundation for Tintern House on completion of Heritage Lottery Fund improvements in 2021.

Recommendations

2. It is recommended that:-
 - Consent of the Trustees be formally recorded to approve a 10 year lease at peppercorn rent with break clauses to The Emily Jordan Foundation, all on terms and conditions to be negotiated and agreed by the Strategic Director of Place.
 - To approve the Heads of Terms of the lease.
 - Consent of the Trustees for Legal Services to apply to the Charity Commission for a Scheme to allow the granting of the lease on the Heads of Terms attached, and for the Charitable organisation to raise income from sales together with the other outcomes detailed in the Heads of Terms (including community work to benefit the residents/users of the Park)

Background

3. A report was submitted to the Ernest Stevens Trusts Management Committee at its meeting on the 17th April 2018 and was agreed in principle to the leasing of Tintern House to the Emily Jordan Foundation (EJF) for a peppercorn rent of 5 years with break clauses.
4. A site visit has been organised for the Trustees to acquire a greater understanding of the problems within the park and house and how working with the Lottery and the voluntary sector, significant improvements will be made to the park and the building.
5. Officers working on the project met with the Lottery Fund on 15th May 2018 for a mid term review and sign off. The Lottery Officers were particularly pleased with progress, which was being made and really like the principles of the project, which reflects some of the new ways of working proposed in their new strategic document. The Lottery Officers however stated at this meeting that they would require the Council to enter into a 10 year lease with EJF, due to the fact that their funding arrangements are for 10 years.
6. The lease will therefore be at a 10 year period at peppercorn rent with a break clauses after 3 years on 6 months' notice period, provided they meet the requirements of the Charity Commission.
7. A meeting with Emily Jordan Foundation's Chief Executive also revealed issues regarding the proposal at the April EST meeting involving the retail elements of their operation. Chris Jordan has some concerns about the way the sales will be classed as charitable donations, specifically in respect of VAT.

8. It is therefore proposed that a scheme is adopted by the Ernest Stevens Trust and sent to the Charities Commission for approval which proposes a 10 year lease arrangement. The Council does have examples of the Charity Commission granting a Scheme to permit the granting of a lease, e.g. Mary Stevens Hospice and Mary Stevens Centre. An approval is also required for the Charitable organisation working from Tintern House to run activities to generate income. The income from sales and the work with Adult Services through personal budgets will assist in providing the community outcomes and help to maintain the building and improve the usage of the park.
9. The Deed of Gift for the park was written to protect the park and buildings given to the Council. Ernest Stevens was concerned about the future use of land and made sure the Deed of Gift covered all eventualities. As part of the interpretation of the park, we will include interpretation of the Deed of Gift and its importance to the sustained heritage of the Park. It will be exactly 100 years since the Deed of Gift was developed to when the Park project capital works will be complete subject to the support of the scheme by HLF. Should this be the case, we would anticipate having a 100 years celebration in 2021 when we start operating the Emily Jordan Foundation project from Tintern House.

Finance

10. The funding for the project is dependent on a successful bid to the Heritage Lottery in August 2018. The Council will hear if the bid is successful in December 2018. If confirmed, it will start up in January 2019 and be delivered over 3 years. Most of the match funding is now in place for this project. The total cost of the project at the delivery stage will be £1.59m requiring 10% match funding.

Law

11. The Council is the registered Trustee of the charity and in accordance with the Council's constitution has delegated the administration of the charity to this Management Committee.
12. Sections 139 of the Local Government Act 1972 empowers the Council to accept, hold and administer gifts of property which it enables them to discharge any of their functions and where the gifts are for the purposes of benefiting the inhabitants of their area.
13. The law relating to Trusts which are charitable is contained in various legislation. The key legislation being the Charities Act 1960, 1992, 1993, 2011 and the Trustees Investment Act 1961.

Equality Impact

14. This report takes into account the Council's equal opportunities policies.
15. The work delivered by the Emily Jordan Foundation will provide significant opportunities for people with a learning disability. The Lottery would also like the project to focus some of the activity planning work on Black and minority ethnic communities in the Lye area.

Human Resources/Transformation

16. There are no Human Resources/Transformation implications.



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Alan Lunt
Strategic Director Place

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List of Background Papers:

- Report / Minutes – 17th April 2018
- Location plan
- Draft Heads of Terms
- Plan showing the proposed masterplan

Minutes of the Ernest Stevens Trusts Management Committee

Monday 16th July, 2018 at 6.00 p.m.
in Committee Room 3, The Council House, Dudley

Present

Councillor I Kettle (Chair)
Councillor H Rogers (Vice-Chair)
Councillors J Cowell and A Hopwood

Co-opted Members

D Sparks (Friends of Stevens Park, Quarry Bank)

Officers

R Owen-Morgan (Section Engineer – Civil Engineering and Flood Risk Management), L Stuffins (Green Space Team Leader), T Webb (Principal Property Surveyor) (Place Directorate); C Ludwig (Finance Manager), M Wilcox (Principal Lawyer) and H Shepherd (Democratic Services Officer) (Chief Executives Directorate).

Also in attendance

S Jackson – Group Chief Executive Officer, Mary Stevens Hospice (for agenda item no. 6 – Request received from Mary Stevens Hospice to consider assignment of the lease)
R Bishop – Litigation Lawyer, Mary Stevens Hospice (for agenda item no. 6 – Request received from Mary Stevens Hospice to consider assignment of the lease)
T Philips – Severn Trent Water (for agenda item no. 8 – Stanley Road Drainage Road)

1 **Apologies for Absence**

Apologies for absence from the meeting were submitted on behalf of Councillor G Partridge, Councillor V Wale, C Lees and M Sparks.

2 **Appointment of Substitute Member**

It was noted that D Sparks had been appointed to serve as a substitute co-opted member for M Sparks, for this meeting of the Committee only.

3 **Declarations of Interest**

Councillor H Rogers declared a non-pecuniary interest as Chair of the Friends Group for Mary Stevens Park and Swinford Common and her involvement with the Management Team for Mary Stevens Park.

Councillor J Cowell declared a non-pecuniary interest in that she had previously served on the Board of Trustees for Mary Stevens Hospice.

4 **Minutes**

In referring to minute no. 36, in particular resolution numbered 3, the Chair confirmed that following the comments made at full Council in respect to Coseley East Ward Councillors not receiving the Committees decision or updated on the progress of the issue, this had now been resolved and a detailed email had been circulated to the relevant Members. It was noted that when making future resolutions, the Officer responsible for progressing the action should be identified.

Resolved

That the minutes of the meetings held on 17th April and 1st May, 2018, be approved as correct records and signed.

5 **Public Forum**

No issues were raised under this agenda item.

6 **Request received from Mary Stevens Hospice to consider assignment of the lease**

A report of the Strategic Director Place was submitted with regards to a request from Mary Stevens Hospice for the assignment of the lease dated 6th February, 2018.

The Principal Lawyer presented the report in detail and in doing so provided background information in respect of the scheme granted by the Charity Commission to enable a lease for a 70 year term to be granted to Mary Stevens Hospice and the subsequent approval by the Ernest Stevens Trust Management Committee on 1st May, 2018, for consent of a legal charge to be entered into in favour of a High Street bank.

It was reported that the lease dated 6th February, 2018 contained a covenant that did not allow the tenant to assign the lease to a third party, however it was noted that it would not be unreasonable for a lease of this length of time to have provision for assignment or underlet to be allowed.

It was noted that following consent of the legal charge by the Committee, the High Street bank had specified that prior to them entering into a legal charge or granting monies to Mary Stevens Hospice, the lease must be amended to allow the assignment to a third party who would be able to abide by the permitted user covenant.

It was stated that should the Committee be minded to grant the deed of variation, the Council would request that the existing tenant entered into an Authorised Guarantee Agreement, that would ensure the obligations under the terms of the lease were adhered to and the tenant liable as a sole or principal debtor. Any assignment would only take place with the written consent of the Landlord and that any assignee would be required to comply with all covenants and conditions of the lease. Therefore, upon a breach of any covenant, the Council could take immediate action against the tenant or the assignee.

A Member expressed concern in respect to the lack of information that had been provided from the outset and the difficult position the Committee had been put in without knowing the basics and consequences of their actions. Concerns were also raised in relation to the Charity Commissioner being unaware of the legal charge or proposed inclusion of an assignment to a third party within the lease and did not feel that the Committee had the right or power to change the deed of gift.

In responding to issues raised, the Principal Property Surveyor stated that Officers did not include the right to assign to a third party in respect of community asset transfers, as this was not normal practise for Dudley, as the Council was letting at an undervalue and wanted complete control over tenant.

The Principal Lawyer commented that the inclusion of the covenant to enable the lease to be assigned to a third party, strengthened covenants within the lease to alleviate risk to the Council. It was further commented that the Charity Commissioner had agreed for the scheme to be granted with terms and conditions to be negotiated and that they would expect these issues to be raised whilst negotiating the terms and conditions for a lease for a period of 70 years.

In responding to a question raised in relation to the details of the proposed third party that the lease would be assigned, S Jackson – Group Chief Executive Officer, Mary Stevens Hospice commented that should the need arise, the assignee appointed would be an organisation that could comply with the permitted user covenant as referred to in the lease. The exact details of such organisation were unknown at this stage, as that decision would be made at the appropriate time and if necessary, but that it would most likely be another hospice provision.

R Bishop, Litigation Lawyer for Mary Stevens Hospice commented that it would not be Mary Stevens Hospice wish or intention to assign the lease to a third party and the ultimate achievement was to improve facilities of care at the hospice. He reiterated the comments made by the Principal Lawyer in that the lease would be strengthened by the additional covenants and that the Council would initially vet any assignee prior to taking over the lease. Therefore, if Trustees did not consider the proposed assignee to be adequate to provide the required service or adhere to the covenants of the lease, appropriate action could be taken by the Council to forfeit the lease.

Following a detailed discussion, it was

Resolved

That the request received from Mary Stevens Hospice to allow the lease to be assigned to another party, provided the permitted user is complied with and that any consent is subject to prior consent of the landlord being obtained and an authorised guarantee agreement be entered into by the tenant, be approved.

(Councillor H Rogers voted against this decision and requested that her name be recorded in the minutes.)

7 Stevens Park, Wollescote – Restoration of Park Walls Update

An update was provided to Members on the restoration of park walls at Stevens Park, Wollescote.

Funding for the restoration project was discussed and the Greenspace Team Leader stated that discussions were taking place with the Senior Conservation Officer as to whether English Heritage funding would be available to support the project, however it was acknowledged that the maintenance of the wall was the responsibility of the Local Authority.

In responding to a question raised in respect to the time it would take to complete the restoration works, the Greenspace Team Leader did not envisage the construction work to take long to complete, but the period prior to the work commencing was difficult to stipulate.

Resolved

- (1) That the update in relation to the restoration of Park Walls at Stevens Park, Wollescote, be noted and that further updates be provided to future meetings of the Committee.
 - (2) That the Greenspace Team Leader, together with the Construction Design and Facilities Manager continue deliberations with the Senior Conservation Officer and the Strategic Director Place to identify funding for the restoration project.
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8 Stanley Road Drainage Road

The Section Engineer – Civil Engineering and Flood Risk Management and Tom Philips, Solution Engineer of Severn Trent Water, was in attendance at the meeting and gave a detailed presentation on the Glen Road flood alleviation and in doing so provided details of the existing flooding issue; highlighted what was causing the flooding and outlined the solution options that had been identified by Severn Trent Water.

It was stated there were five houses in Glen Road that were predominately affected by the external flooding. Investigations had been undertaken to establish the cause of the issue which had been identified as a poor functioning hydraulic system and therefore it was considered to be a Severn Trent Water problem, hence their agreement to completely fund the project.

A number of solution options had been considered however it was deemed that the most viable option, subject to approval by the Severn Trent Water Management Board, would be for a gravity pipe to be inserted underneath the existing culvert and for a Surface Pumping System (SPS) pump station to be located in the car park on Stanley Road. It was noted that this solution would require the existing gate entrance to the car park to be relocated to allow Severn Trent Water access to the pump station for maintenance works. However it was proposed that an identical entrance would be erected adjacent to the existing entrance allowing the Council the same access as present. It was also commented that to ensure that no car parking spaces were lost, it was proposed to construct additional spaces further down the car park.

In responding to a question raised by a Member, the Solution Engineer confirmed that the only visual on the site would be a manhole cover protecting the well and a SPS kiosk, which would be fenced out of view. It was noted that the pumps would only become operational in storm conditions and that it would not be a foul pumping station.

(At this juncture, Councillor H Rogers declared a non-pecuniary interest as she had previously attended a site visit of the site.)

Arising from concerns raised with regard to flooding in other areas within close proximity to the site, the Solution Engineer commented that due to the amount of new developments in the area, the existing culvert struggled to manage and that the proposed improvements were not envisaged to resolve all flooding issues. The Section Engineer also commented that planning applications that proposed to erect ten or more properties were now referred to the Street and Green Care team for comments in respect of flooding and drainage and developers were required to incorporate sustainable drainage schemes within their development proposals.

In responding to a question raised, the Solution Engineer reiterated that approval of the project by the Severn Trent Water Management Board was required prior to works commencing and timeframe of which was unknown. It was noted that in the interim the Local Authority would continue to provide support and sandbags to help protect properties from the risk of flooding.

The Chair thanked Officers for their presentation and requested that further updates on the progress of the project be provided to future meetings of the Committee.

Resolved

- (1) That the information presented at the meeting and the Committees support of the proposed scheme, be noted.
- (2) That further updates on the progress of the project be provided to future meetings of the Committee.

9 **Tintern House, 74 Park Road, Stevens Park, Quarry Bank, to consider granting a new lease to The Emily Jordan Foundation**

A report of the Strategic Director Place was submitted on the request to grant a new 10 year lease to The Emily Jordan Foundation for Tintern House on completion of Heritage Lottery Fund Improvements in 2021.

In presenting the report, the Greenspace Team Leader referred to the report submitted to the Ernest Stevens Trust Management Committee on 17th April, 2018 and the subsequent approval in principle to lease Tintern House to the Emily Jordan Foundation for a peppercorn rent for five years with break clauses.

It was noted that following the approval by the Committee on 17th April, 2018, Project Officers had met with Lottery Fund Officers, whom had specified that they would require the Council to enter into a 10 year lease due to their funding arrangements being over a 10 year period.

Further issues had been raised by the Emily Jordan Foundation in respect to the retail aspect and they had expressed the need for the operation to be financially sustainable and to generate income.

Members commented positively on the project and the proposed works to the park, which were considered long overdue.

In referring to the Draft Head of Terms, appended to the report submitted, in particular to the Board approval, it was requested that the wording be amended from Ernest Stevens Park Management Committee to Ernest Stevens Trust Management Committee.

Resolved

- (1) That a 10 year lease to The Emily Jordan Foundation, at a peppercorn rent, with break clauses, subject to terms and conditions being negotiated and agreed by the Strategic Director Place, be approved.
- (2) That the Head of Terms, subject to the amendment as referred to above, be approved.
- (3) That consent be given for Legal Services to apply to the Charity Commission for a Scheme to allow the granting of the lease on the Heads of Terms attached to the report submitted and for the charitable organisation to raise income from sales together with the other outcomes detailed in the Heads of Terms.

A report of the Chief Officer, Finance and Legal Services was submitted on the progress and current position with regard to costs, income leases and the use of the land and buildings managed by the Trusts.

Following the presentation of the report, Members commented that the documentation did not identify the benefits to the Council from occupying land and buildings within the Trust, although it was recognised that the Council did maintain those sites.

In referring to Appendix 1 of the report submitted, in particular the information recorded in relation to Tintern House, Members commented that the House was currently occupied by Greencare.

In responding to a question raised, the Finance Manager confirmed that the information included in the report was for information only and would not be submitted to the Charity Commission as part of the Final Accounts.

Resolved

That the information contained in the report on the progress and the current position with regard to costs, income, leases and the use of the land and buildings management by the Trusts, be noted.

The meeting ended at 7.30 pm

CHAIR

Ernest Stevens Trusts Management Committee - 17th April, 2018

Report of the Strategic Director Place

Stevens Park, Quarry Bank Restoration Project

Purpose of Report

1. The purpose of this report is to update Members of Ernest Stevens Trusts Management Committee on the development of the Lottery funded restoration project.

Recommendation

2. It is recommended that: -
 - The trustees agree to the principal of leasing Tintern House to the Emily Jordan Foundation for a peppercorn rent for 5 years with break clauses.

Stevens Park, Quarry Bank

3. In April 2017 the Ernest Stevens Trusts Management Committee received an update report on the development phase of the Heritage Lottery funded park restoration project, and agreed the principal of leasing Tintern House on completion of the project to a voluntary sector partner subject to approval from the Charities Commission.
4. The development phase of the restoration project has been prolonged due to issues of procurement of a voluntary sector partner to develop the project. However, a contract has now been signed with The Emily Jordan Foundation, a charity and CIC based in Kidderminster. Officers from the charity are preparing a business plan to ensure the long term sustainability of the project running from the building. For further information about the charity please see the web site below.
<http://www.theemilyjordanfoundation.org.uk/>
5. The Emily Jordan Foundation work with people with learning difficulties and have several strands to their work. There is a horticultural training and woodworking project based in Brintons Park. There is also a bicycle repair and a can recycling project based in an industrial unit close to the Wyre Forest District Council Offices.
6. The Emily Jordan Foundation have worked with the architects on a new plan for the building which will seek to improve the current garages and changing rooms into a new bicycle repair station and retail unit in the Coach house, plus training rooms and a café in the main house. The café space will be a meeting room area as well as a café. The café will be in an extension of the current building. (Plans attached.)

7. The charity are keen to develop a short term 5 year lease for the house while they get the project off the ground, they would also require break clauses within the lease in case the charity runs into difficulty. A short term lease would not require Charity Commission approval as it is not considered to be a disposal. The charity would like the same arrangements in place for the lease as has been arranged for the Mary Stevens Centre. These arrangements will be developed with Property Services over the coming months.

Finance

8. The funding for the project is dependent on a successful bid to Heritage Lottery in August 2018. The Council will hear if the bid is successful in December 2018, it will start up in January 2019 and be delivered over 3 years. Most of the match funding is now in place for this project. The total cost of the project at the delivery stage will be £1.59m requiring 10% match funding.

Law

9. 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

10. The work delivered by the Emily Jordan Foundation will provide significant opportunities for people with a learning disability. The Lottery would also like the project to focus some of the activity planning work on Black and minority ethnic communities in the Lye area.

Human Resources/Transformation

11. There are no Human resources implications.



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Alan Lunt
Strategic Director Place

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Minutes of the Ernest Stevens Trusts Management Committee

Tuesday 17th April, 2018 at 6.00 p.m.
in Committee Room 3, The Council House, Dudley

Present

Councillor I Kettle (Chair)
Councillor H Rogers (Vice-Chair)
Councillors J Cowell, A Hopwood, G Partridge and V Wale

Co-opted Members

M Sparks (Friends of Stevens Park, Quarry Bank)

Officers

L Stuffins (Greenspace Team Leader) and T Webb (Principal Property Surveyor) (Place Directorate); C Ludwig (Finance Manager), M Wilcox (Principal Lawyer) and H Shepherd (Democratic Services Officer) (Chief Executives Directorate).

32 **Apologies for Absence**

Apologies for absence from the meeting were submitted on behalf of D Lewis and M Farooq.

33 **Declarations of Interest**

Councillor H Rogers declared a non-pecuniary interest as Chair of the Friends Group for Mary Stevens Park and Swinford Common. Also in relation to her involvement with the Management Team for Mary Stevens Park and her attendance at stakeholder meetings.

Councillor V Wale declared a non-pecuniary interest in respect to agenda item no. 10 – Mary Stevens Hospice – Application to enter into a Legal Charge in accordance with the lease – Consent of Trustees, as her sister worked at Mary Stevens Hospice.

Councillor G Partridge declared a non-pecuniary interest in respect to agenda item no. 10 – Mary Stevens Hospice – Application to enter into a Legal Charge in accordance with the lease – Consent of Trustees, as she was a volunteer at Mary Stevens hospice and had a relative that owned land that was adjoining to the trust land.

Mrs M Sparks declared a non-pecuniary interest as secretary to the Friends of Quarry Bank Park.

34 **Minutes**

Resolved

That, the minutes of the meeting held on 13th February, 2018, be approved as a correct record and signed.

35 **Public Forum**

No issues were raised under this agenda item.

36 **Ernest Stevens Trust – Coseley Youth Centre (Clayton Playing Fields), Old Meeting Road, Coseley – Request to Declare Surplus to Requirements.**

A report of the Strategic Director Place was considered on the request to declare Coseley Youth Centre surplus to requirements by way of a lease on terms and conditions to be negotiated and agreed.

The Principal Property Surveyor presented the report in detail, outlining the background to Clayton Playing Fields and the erection of the Coseley Youth Centre on the site. In referring to the Deed of Gift for Clayton Playing Fields, it was reported that numerous attempts had been made to locate representatives of The Cannon Iron Foundries Ltd prior to the construction of the youth centre, but to no avail, therefore restrictive title indemnity insurance had been put in place to protect the Council.

It was reported that due to budgetary reductions within the Youth Service, Children's Services no longer used the Coseley Youth Centre for youth club sessions and was considered surplus to requirements. The Centre did however continue to be hired out to local groups, in particular to Sedgley Kids Club, who occupied the centre for three hours a day, five days a week. A dance group also used the premises three evenings a week.

Members were advised that future leaseholders would be requested to continue to make the centre available to local community organisations and events, in particular supporting groups that provided activities for children and young people.

It was noted that the site had been subjected to anti-social behaviour since the Youth Service had vacated the premises and that Sedgley Kids Club had expressed an interest in leasing the building, the surrounding area and two car parking spaces over a five-year period, but was not interested in the multi-use games area, which would continue to be made available for community use.

Arising from the presentation of the report, members expressed their disappointment that the youth centre was no longer used by the Youth Service, but recognised the need for the premises to be in use to deter any further anti-social behaviour from occurring on the site.

In response to a question raised by a Member, the Principal Property Surveyor stated that a definitive business plan had yet to be developed by Sedgley's Kids Club, however it was believed it was their intention to provide a nursery provision at the location during weekdays, with the dance group and community events being undertaken on evenings and weekends.

It was suggested by the Principal Lawyer that the lease could include a clause to state that the lease would not have the protection of the Landlord and Tenant Act 1954. This would mean that the tenant would not have the right to remain at the property at the end of the term/lease, however, the parties could negotiate terms and conditions to remain if agreed.

Members commended Officers for the work undertaken and in particular for keeping Ward Councillors updated at every stage, and requested that this continued. The Chair requested that the three Ward Councillors be informed of the Committee's decision following the meeting.

In referring to paragraph three of the report submitted, it was commented that the site did not form part of the Ernest Stevens Trust, but was within the remit of the Ernest Stevens Trusts Management Committee.

In response to a concern raised in respect to the initial development of the Youth Centre, which was considered to be contrary to the deed of gift for Clayton Playing Fields, the Principal Lawyer advised that as the building was for the benefit of the children of Coseley, and therefore looking at the wider covenant, was not contrary to the provisions in the deed of gift.

Resolved

- (1) That the request to declare Coseley Youth Centre surplus to requirements by way of a lease on terms and conditions to be negotiated and agreed by the Strategic Director Place, be approved.
- (2) That a report providing an update on the leaseholder and the terms and conditions agreed, be submitted to a future meeting of the Ernest Stevens Trusts Management Committee.
- (3) That the Coseley East Ward Councillors be informed of the decision of the Ernest Stevens Trusts Management Committee.

37 **Stevens Park, Quarry Bank Restoration Project**

A report of the Strategic Director Place was submitted to provide an update on the development of the lottery funded restoration project.

The Greenspace Team Leader advised that a voluntary sector partner had now been identified, namely The Emily Jordan Foundation, who worked with people with learning difficulties to lead fulfilled lives. It was noted that the charity was looking for a short-term lease only, preferably over a five-year period to protect future development.

Members were advised that the Friends Group had undertaken a positive visit to The Emily Jordan Foundation provision in Kidderminster and welcomed the activities and services that would be on offer from the project.

In response to a question raised with regards to the timeframe in which the project would become operational, the Greenspace Team Leader stated it would be a lengthy process with a bid for Heritage Lottery Funding submitted in August 2018, but that a decision would not be known until January, 2019. It was anticipated that the project would be fully functional by 2020.

Arising from a query raised in respect to the lack of changing room facilities proposed at the site, the Greenspace Team Leader commented that the recycling aspect of the project would take up a lot of the space and although there was sport pitches at the park, this was predominately used by children who did not require the use of change room facilities. It was noted that an adult team did currently use the football pitch; however, these could be accommodated at other sites locally, if necessary.

Members expressed concern in the lack of security at the property and the Greenspace Team Leader assured Members that shutters and bars were proposed to be installed on all lower ground windows and CCTV would be installed.

Concerns were also raised in respect to the suggested retail space, in that it would be contrary to the deed of gift to trade at the site. It was also feared that to change the deed of gift would set a precedent for all deeds of gifts and these documents should be protected and preserved. The Greenspace Team Leader advised that the retail space was to enable the recycled bikes to be sold and all income/profit made would then be put back into the project and feared if the retail space was not approved, this could jeopardise the partnership.

Following a lengthy debate, it was suggested rather than selling the restored bikes, that a donation be requested and that the terminology be changed from retail space to recycling centre to avoid hindering the project from moving forward.

Resolved

That the principal of leasing Tintern House to the Emily Jordan Foundation for a peppercorn rent for five years with break clauses, subject to the comments referred to above, be approved.

38 Stevens Park, Wollescote – Restoration of Park Walls Update

The Greenspace Team Leader provided an update in respect to the collapsed wall at Stevens Park, Wollescote.

It was reported that the site investigation had now been completed and as a result, the Structural Engineer had prepared two design options to replace the collapsed retaining wall and associated garden wall. Reclaimed bricks to match the original wall would be used in the reconstruction, details of which to be agreed with the Conservation Officer and Historic England and a further report with the quotations for the two designs would be submitted to a future meeting of the Ernest Stevens Trusts Management Committee.

It was noted that an inspection of the other walls around the site had also been requested to identify areas in need of repair to ensure the condition of the walls were preserved and that a review of security at the site would also be undertaken to address anti-social behaviour issues that were currently being experienced at the site since the walls had collapsed.

A Member requested an update on the recent arson attack that had taken place at the park. The Greenspace Team Leader advised that West Midlands Police were investigating the incident and that further security options were being discussed including the possibility of gating the car park at the site, however how this would operate during weekends was still under consideration. It was also acknowledged that this would not prevent people on foot entering into the park on an evening.

Arising from a suggestion made by a Member, the Greenspace Team Leader agreed to contact Dudley Youth Service to see if they could provide some support in dealing with the youths at the Park to address the anti-social behaviour issues.

Resolved

- (1) That the verbal update provided at the meeting in relation to the collapsed wall at Stevens Park, Wollescote, be noted.
- (2) At the request of Members, a further update report be submitted to the next meeting of the Committee.

40 **Severn Trent Works on Swinford Common**

It was noted that this item had been deferred to a future meeting of the Ernest Stevens Trusts Management Committee.

41 **Mary Stevens Hospice – Application to enter into a Legal Charge in accordance with the lease – Consent of Trustees**

(At this juncture, Councillor J Cowell declared a non-pecuniary interest in that she had previously served on the Board of Trustees at Mary Stevens Hospice.)

A verbal report was presented by the Principal Property Surveyor in respect of a request from Mary Stevens Hospice to enter into a legal charge in accordance with the lease.

It was reported that the Ernest Stevens Trusts Management Committee granted consent in July 2016 for the Hospice to undertake works and for the lease to be extended to 75 years in order for them to secure funding for the proposed works, subject to planning consent, independent legal advice and the necessary approval of the Charity Commission.

It was noted that the conditions of the lease required the Hospice to seek consent from the Landlord/Freeholder prior to any legal charge being applied to the land. The total cost for the improvement works equated to £3 million, £1 million of which would be funded from reserves, £1 million from fund raising and £1 million would be from a loan. The loan was initially intended to be from Charities Aid Foundation, however an alternative competitive offer had been made from a High Street bank. Either lender would require a legal charge over the site and the bank would have the right to take possession should the Hospice breach the conditions of the legal charge. The risk of the Hospice defaulting on the repayment of the loan was considered low by the Hospice and lenders.

It was emphasised that should the rent or any other payment be more than fourteen days overdue, conditions within the lease enabled the property owner to enter the property and forfeit the lease with immediate effect.

Arising from the verbal presentation, Members expressed grave concern in that the Committee had not received a written report on the item nor had opportunity to fully consider the implications of the legal charge, with the expectation that Members would make a decision without adequate information being provided.

Members also expressed concern in that the requirement of a legal charge had not been referred to during the initial application that was considered and agreed by the Committee in July 2016.

The Finance Manager suggested the possibility of the Council loaning the required money to the Hospice to reduce the risk of repossession, and agreed to pursue the issue with relevant Council Officers and the Chief Executive of Mary Stevens Hospice.

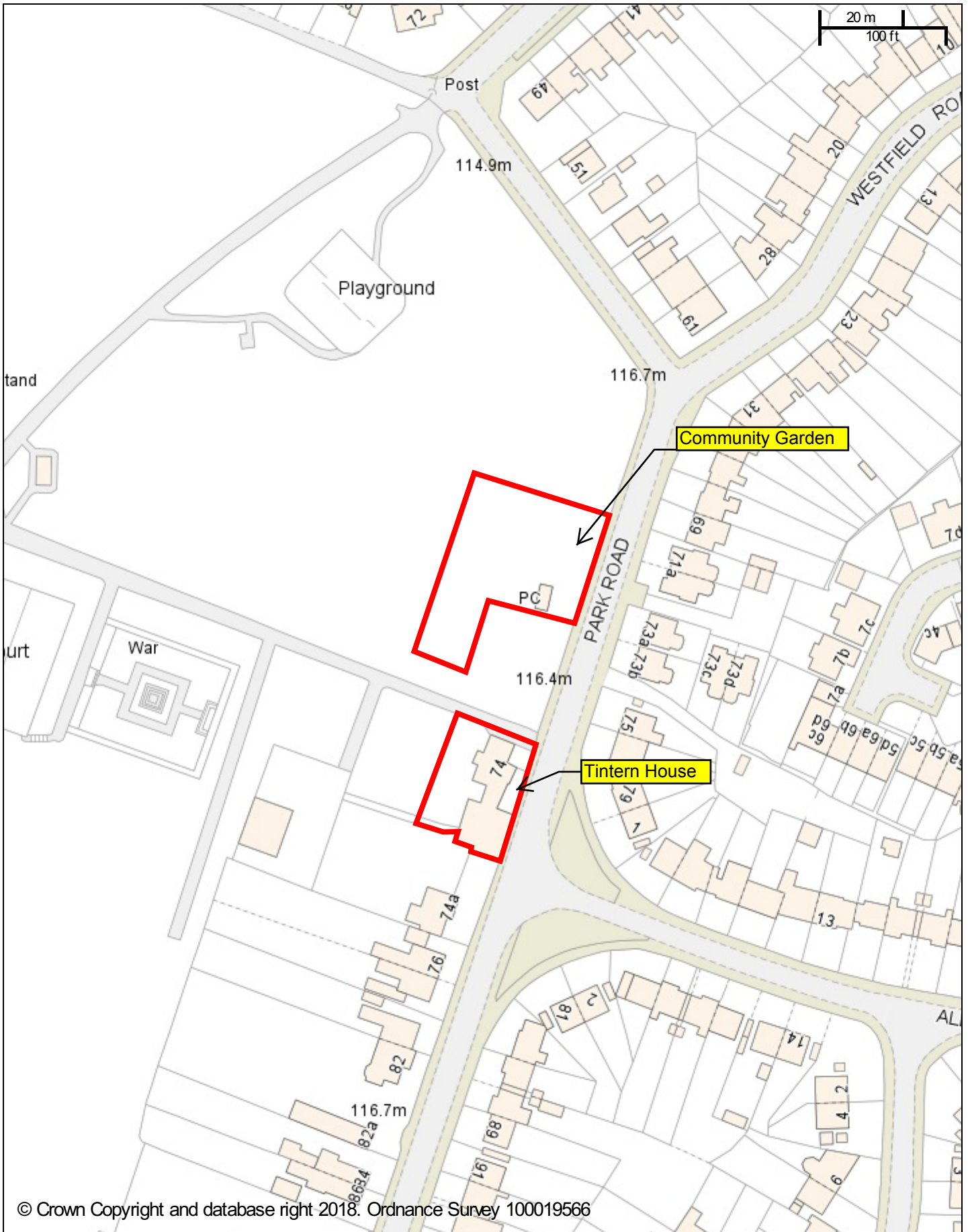
Although it was acknowledged that the charity provided a good and respected service, it was unanimously agreed by Members that to ensure the issue was given full consideration, a written report and all relevant information would be required, before a decision could be made and that if the item could not be delayed until the next meeting of the Ernest Stevens Trusts Management Committee, a special meeting of the Committee be arranged. It was requested that a representative from Mary Stevens Hospice also be invited to attend the meeting.

Resolved



- (1) That the verbal information presented in respect of a request from Mary Stevens Hospice to enter into a legal charge in accordance with the lease, be noted.
- (2) That a written report, including all the relevant information required to enable Members to make a decision, be submitted to a future meeting of the Ernest Stevens Trusts Management Committee, a date to be agreed in conjunction with the project timeframe and a representative from Mary Stevens Hospice be invited to attend.
- (3) The Finance Manager to pursue to possibility of the Council loaning the required money to the Hospice with relevant Council Officers and the Chief Executive of Mary Stevens Hospice.



The meeting ended at 7.20 pm

CHAIR



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	Title: Tintern House, 74 Park Road, Stevens Park, Quarry Bank		
	Dudley Metropolitan Borough Council The Council House, Priory Road, Dudley DY1 1HF		
Scale: 1: 1250	Created: 18/6/2018 at 13:42 PM		

		
1	<p><i>Property address</i></p> <p><i>Lease Demise</i></p> <p>– sublease to DMBC</p>	<p>Tintern House, (Park House) 74 Park Road, Stevens Park Quarry Bank DY5 2HP</p> <p>1. Whole of building including store / workshop / terrace.</p> <p>2 .Access and use of Community Garden-horticulture land.</p> <p>Room(s) for DMBC use</p> <p>a) Greencare rest room 1st floor</p> <p>b) Joint use of 1st floor toilets.</p> <p>Rent and service charge proposed £2,500 pa</p>
	Landlord details	DMBC
	<p>Tenant details</p> <p>Contact-</p>	<p>The Emily Jordan Foundation Unit 9, Fine Point, Kidderminster DY11 7FB</p> <p>01562 861154</p> <p>Registered Charity No: 1125382</p>
	Rent	<p>Rent agreed is a to be peppercorn rent subject to satisfying the agreed community outputs (Community Asset Transfer)</p> <p>[£13,500 p.a. the assessed market rent]</p>

	COMMUNITY Outputs	Cycle repairs <i>(help individual people with learning disabilities to be able to find employment and remain in it, in the future).</i> Café Horticultural training. Community gardening & open days. Community activities & events. Community groups hire of room (s) Recycling
	Other incentives	Council to signpost the service provision by EJF to appropriate audiences.
	Type of lease	Agreement for lease, then grant of Business lease of whole.(from 2021) Sub-Lease back of 1 st floor room for DMBC Greencare use.
	Landlords initial works	To provide a refurbished Building for immediate occupation, to include all services renewed or in good order- See summary of Refurbishment work-and Architects drawings Security grilles to ground floor windows.
	Tenants initial works (Including timing)	Tenant to provide own furniture and equipment (EJF to attach schedule)
2	Guarantor- identity Rent deposit	N / A None.
3	Lease length	10 years
	Lease Start date	Within 10 days of practical completion of works and issue of architects completion certificate together with electrical wiring certificate and other health and safety certificates
	Break clause	After 3 years, After 6 years
	1954 Act protection	No - outside of Act
	Rights (Access Car parking etc)	Access from Park Road(public highway) along the Stevens Park Drive No designated car parking but use of the 4 spaces indicated when available Access to Spokes shop directly from Park Road
5	Assignment (consent or not)	No.
	Subletting	Yes subject to consent & agreement.

6	Service Charges	None.
7	Landlord Repairing obligations Decoration	Structure including external walls the roof timbers and roof covering and gutters and downpipes and window maintenance External decoration
	Tenant Repairs Decoration	All window glazing, all doors and all interior walls and finishes Maintenance of all wiring, plumbing, drains pipes, heating boilers- subject to 2 year guarantee on parts All internal decoration
	Schedule of Condition	See photographs after refurbishment
	Collateral warranties	1 year after refurbishment
8	Alterations (allowed or not) External Internal	No Yes with consent
	Permitted use Opening times Any time restrictions	Charitable activities relating to Emily Jordan Foundation.(EJF) Community activity and events. Activities to raise income to sustain EJF in Tintern House. Open Monday to Saturday. 9.0 to 5.0pm Sunday times 10-4 pm Any extended hours subject to subject to Park opening and closing times
9	Insurance Recharge Employee/Public	Council to insure against usual perils (Zurich policy Fire lightning explosion riot malicious persons storm, flood, escape water, impact own vehicle) and recharge. Yes -Council to recharge ---anticipated £700.00 Tenant to have own contents insurance and employee/public liability & provide DBMC with copies.
10	Lease management Dilapidations Other	Notices of repair when applicable Forfeiture clause for non-compliance
11	Rates	Tenant to pay any business rates (charity use is exempt)
	Utilities	Tenant to pay all utility bills (anticipated ---- £4400.00) (to apportion on % of floor area for DMBC room use, and recharge- included in rent and service charge)

	Legal costs Surveyors costs	Each party pay own costs.
	Conditions	Ensure building is secure when empty.
	Board approval	Subject approval Trustees of Ernest Stevens Park Management Committee.
	Planning approval	Subject planning approval. DMBC to apply.
	Other consents	Subject to Charities Commission & EJF Board of Trustees.
12	General	
	Equality access	Ramp access to ground floor Lift to 1 st floor.
	Asbestos Register	Report available
	Health and Safety File	To be kept by tenant.
	Energy performance Certificate	To be provided(after works)
	Electrical Wiring Safety test	To be provided(after works)
	Gas Safety Test	To be provided(after works)
	Alarms	To be provide with refurbishment. Tenant to enter into maintenance contract with suitable contractor.
	CCTV	To be maintained & monitored by EJF.
	Environment Good practice	Storage of rubbish-Tenant responsible for agreement with Trade Waste contractor (contact at Lister Road depot) Keep premises clean and tidy
	Meters	Electric, Gas, Water
13	Landlords solicitors	Mandy Wilcox, DMBC, 4 Ednam Road Dudley.
	Tenants Solicitors	
	Timing and Other matters	Subject to HLF funding approvals & Subject to Charities Commission approval. Expected completion of works and grant of lease in June 2021.
	Annual statement of community benefits	Tenant to provide this to demonstrate delivery of community outputs.
	No Contract	These terms are subject to contract
	Landlords Agents	Jerry Peterson – Property surveyor Garry Dean – Head of Service.
	Tenants Agents	
	Date	20/06/18



TO BE READ IN CONJUNCTION WITH SITE MASTERPLAN 0469-PLI-DR-L-0101

- (4) PARK ROAD ENTRANCE**
 4.1 New vehicular access gates at entrance.
 4.2 Minor repairs to boundary wall; re-pointing and brick copings replaced.
 4.3 Existing bricked-up entrance opened up to provide new (stepped) pedestrian access to Tintern House courtyard.
 4.4 New paving to courtyard.

- (5) PARKING**
 5.1 5nr Parking bays (2nr accessible/ 3nr standard) to support Tintern House/ community use.
 5.2 Telescopic bollards to prevent unauthorised vehicular access to the wider park

- (7) EAST PATH**
 7.1 New asphalt path connecting Tintern House with the Community Garden

- (16) PARK SIGNAGE**
 16.1 Location of new signage incorporating directional (informative) map panel and lockable notice board.

- (22) COMMUNITY GARDEN**
 22.1 2.0m Weldmesh fence enclosure.
 22.2 3.0m double-leaf gated access to accommodate occasional vehicular deliveries
 22.3 20 x 78ft (6.1 x 23.77m) Polytunnel
 22.4 5nr planed oak raised planters; two heights provided (400mm and 800mm).
 22.5 Future growing plots/ demonstration beds within secure Community Garden and adjacent Tintern House to support 'Amenity Horticulture' through Third Part Operator with additional 'Plant Sales' area adjacent to the new car park.
 22.6 Future deck/ canopy to existing brick structure - potential use for community/ local school activities.

- (23) TINTERN HOUSE**
 Refer to architects drawing 2637.06E Proposed Floor Plans B.
 23.1 West terrace; accessed by steps and ramp
 23.2 Location of external servery counter
 23.3 East (secure) courtyard; including cycle parking and recycling collection point (drinks cans)
 23.4 Bin store
 23.5 New picnic tables and litter bins to lawn area below west terrace
 23.6 Minor tree removals required to facilitate new terrace

DRAWING NOTES:

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REFERENCE FILES:
 1. THIS DRAWING IS BASED ON THE FOLLOWING EXTERNAL CONSULTANTS DRAWINGS:

CONSULTANT	REFERENCE FILE	DATE RECEIVED
GF/DWBC	OS MASTERMAP 429402_264395	24/08/17
	STEVENS PARK TREE COUNT DATA MAP	09/10/17

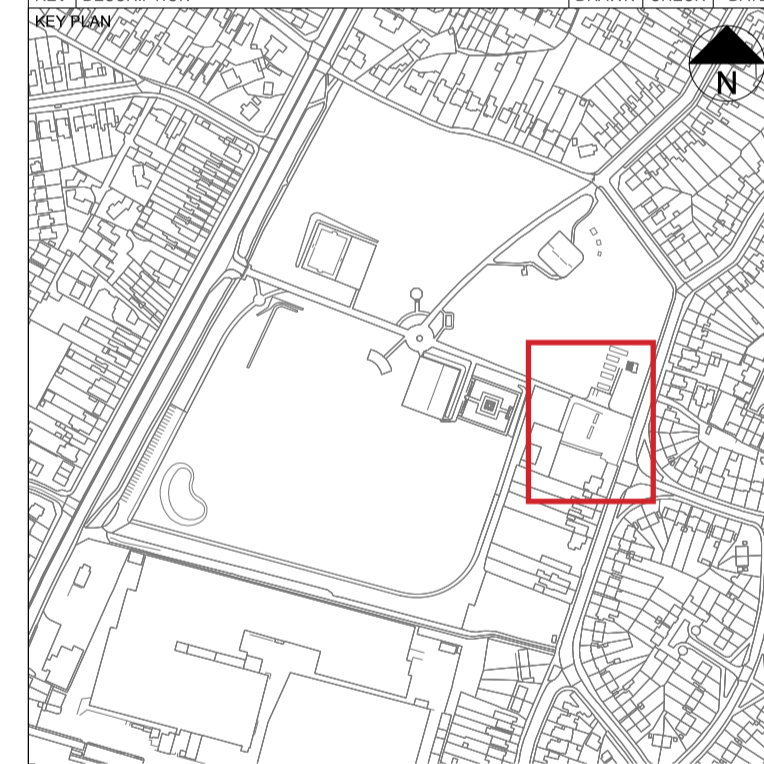
HEALTH, SAFETY & ENVIRONMENTAL INFORMATION:
 1. IT IS ASSUMED THAT ALL WORKS ON THIS DRAWING WILL BE CARRIED OUT BY A COMPETENT CONTRACTOR AND WHERE APPROPRIATE, WORKING TO AN APPROVED METHOD STATEMENT.
 2. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL OTHER HAZARDS/ RISKS WHICH HAVE BEEN IDENTIFIED AND RECORDED WITHIN THE PRE-CONSTRUCTION INFORMATION PACK AND / OR THE CONSTRUCTION PHASE HSS PLAN.
 3. IN ADDITION TO THE HAZARDS/ RISKS NORMALLY ASSOCIATED WITH THE TYPES OF WORK DETAILED ON THIS DRAWING, NOTE THE FOLLOWING:

ITEM N°	RISK REGISTER DETAILS

NOTES:

REV	DESCRIPTION	DRAWN	CHECK	DATE
P05	MINOR LAYOUT AMENDS FOLLOWING PIT MTG 10.04.18 ON-SITE PARKING OFFER CLARIFIED; TINTERN HOUSE	RW	RAW	13/04/18
P04	REMOVED ANNOTATIONS CORRECTED COMMUNITY GARDEN AREA INCREASED IN SIZE; PERIMETER FENCE REALIGNED; POLYTUNNEL REVISED TO LARGER SIZE; RAISED PLANTERS REGENERATED; 'FUTURE' PLANTING BEDS AND SALES AREA ENHANCED	RW	RAW	09/04/18
P03	MINOR UPDATES FOLLOWING REVIEW WITH FRIENDS GROUP; GRASS AND GRAPHIC REVISED; CYCLE RACK POSITIONS CORRECTED; EXISTING SMALL PIT HAZARDED;	RW	RAW	30/11/17
P02	TITLE BLOCK CORRECTED; HLF LOTTERY LOGO ADDED;	RW	RAW	23/11/17
P01	FIRST ISSUE	RW	RAW	17/11/17

KEY PLAN



MANCHESTER LONDON
 t: 0161 237 9223 t: 0207 739 3330
 e: north@plincke.co.uk e: london@plincke.co.uk

PROJECT TITLE
STEVENS PARK RESTORATION & RENEWAL

DRAWING TITLE
TINTERN HOUSE & COMMUNITY GARDEN

PROJECT No. 0469 DRAWING No. PLI_DR_L_0220 REVISION P05

SCALE BAR @ 1:200

SCALE @ A1
 1:200
 DATE 17/11/17

Meeting of the Ernest Stevens Trust Management Committee
- 30th January 2023

Report of the Director of Regeneration and Enterprise

Mary Stevens Hospice, Hagley Road, Stourbridge – Lease Terms

Purpose

1. To inform the Management Trust Committee, in respect of the Mary Stevens Hospice on Hagley Road and the terms of their lease.

Recommendations

2. It is recommended that:-
 - The Ernest Stevens Trust Management Committee note the content of the report.

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 Hospice, is constructed on land let by the council from 6 February 2018. This land together with the Mary Stevens Centre and park adjacent was gifted 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 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.
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.
6. There are changes pending in respect of the legislation that may reduce the requirements in respect of the qualified surveyor and advertisement process.
7. 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.
8. Mary Stevens Hospice (MSH) is a convalescent home providing care of patients and patients with family from counties of West Midlands, Staffordshire, Shropshire and Worcestershire with progressive incurable life shortening illnesses and support for their families. The home itself provides a 10 bed in patient unit and a day services unit, offering modern facilities in a warm friendly comforting environment and the services are available to adults aged 18 and



over who need palliative, respite or end of life care. The care is free of charge to all who need it. Funding of the service is through annual government funding (20%) and donations and other support (80%)

9. The lease is a public record and available to all through making an application to the Land Registry. The lease to Mary Stevens Hospice was authorised by the Ernest Stevens Trust Committee at its meeting of 13 July 2016 – minute no 5.
10. The terms of occupation are a lease for 75 years from 6 February 2018 to 5 February 2093, at a rent of £39,100 pa subject to review every 5 years. The extent of the property is per the appendix 1 lease plan
11. The tenant pays a rental of a peppercorn on the basis the agreed outcomes are delivered. The outcomes will be monitored on an annual basis. The outcomes are shown in appendix 2 lease outcomes. These outcomes are able to be reviewed annually
12. The tenant is to repair the property both internally and externally, and must not alter or make structural changes to the property without the landlord's consent
13. The hospice shares its access with the park and Mary Stevens Centre.
14. A service charge is applicable to the repair of common services and areas, the hospice paying a fair proportion calculated by reference to the rateable value of the hospice, the Mary Stevens centre and any building or property erected in the future
15. In October 2021 the hospice presented to this committee on the work they do and advised the occupancy rate for the first quarter 2021 had been 80% and the average occupancy rate is 75%.
16. The tenant has the right to quiet enjoyment of the premises without interruption or disturbance by the landlord. As Landlord the council (and by definition this includes the trust committee members as well as officers) have the right to challenge the evidence which sits behind the statement of outcomes and outputs, and a right to enter the property on giving reasonable notice to inspect its state and condition, or where necessary to undertake works on the council's



adjoining property. The council as landlord does not retain a right to inspect the services being provided at the hospice, such is retained by the service governing body.

Finance

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

Law

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

Risk Management

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

Equality Impact

20. The proposals contained in this report are consistent with the Council's Equality and Diversity Policy.

Human Resources/Organisational Development

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

Commercial/Procurement

22. There are no Commercial / Procurement implications arising from this report



Environment/Climate Change

23. There is no impact on the environment/climate change as its simply a position statement on a lease to a third party.

Council Priorities

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



.....
Helen Martin
Director of Regeneration and Enterprise

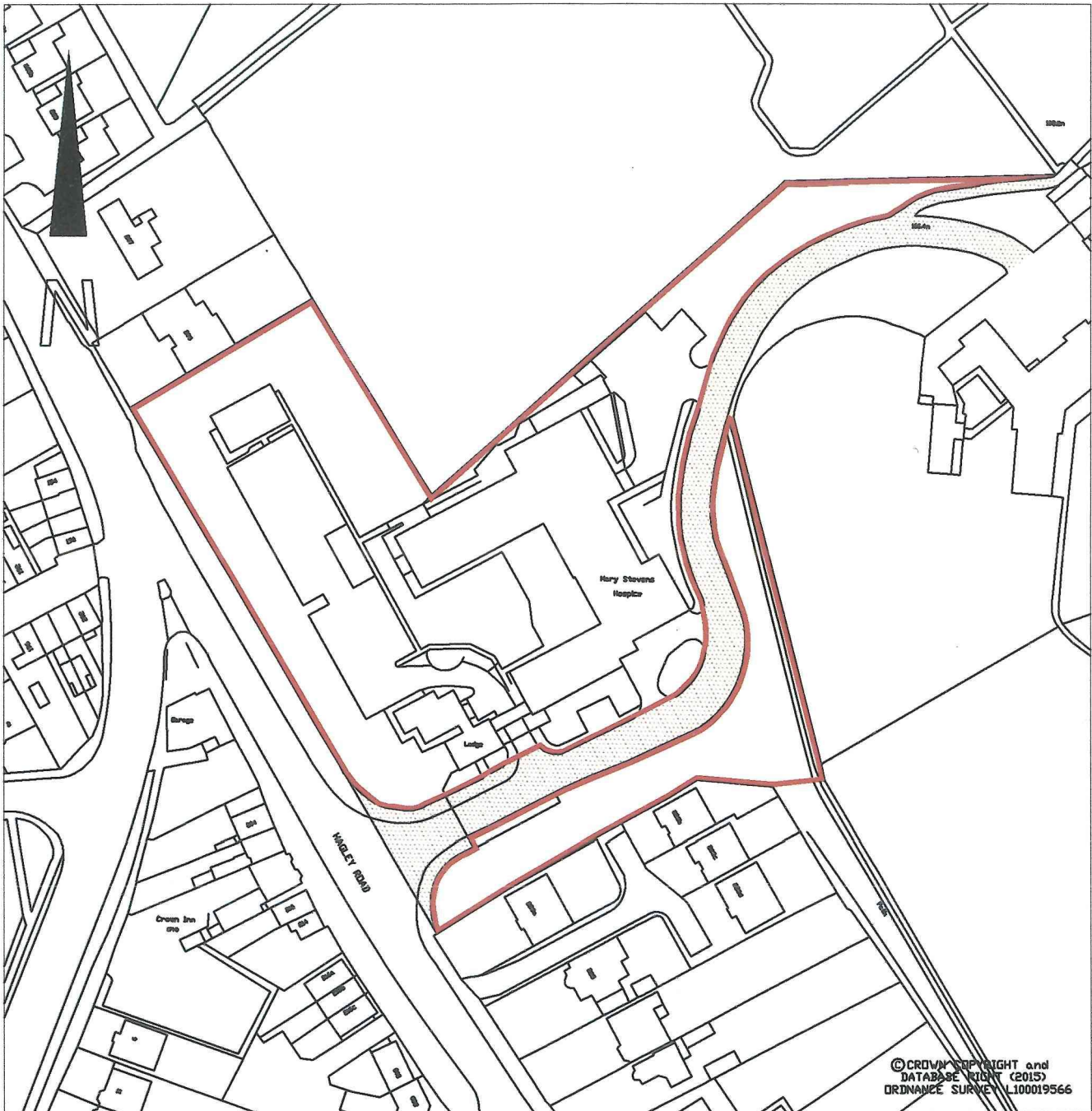
Contact Officer: Mark Bieganski
Telephone: 01384 816846
Email: Mark.Bieganski@dudley.gov.uk

List of Background Papers

Appendices

Appendix 1 lease plan,
Appendix 2 lease outputs.





AREAS EDGED RED TOTTALLING 9600 SQ.M. APPROX
 AREA SHADED BROWN RIGHT OF ACCESS

Environmental Services, 4 Ednan Road, Dudley DY1 1HL				PLACE DIRECTORATE	
Project Title THE MARY STEVENS HOSPICE, HAGLEY ROAD OLDSWINFORD (LEASE PLAN)				Drawing No. XVDD10575	
Drawn By SF	Checked By DJB	Revision No. 2	Date 7/10/2016	Scale 1:1250@A4	

Caring Matters	
Healthy Communities - Better Health	
Provide access to specialist palliative care inpatient and day services.	Evidence Day hospice attendance data and inpatient unit occupancy data.
Services offered by the day hospice will enable patients to leave their home environment and maintain/promote personal independence.	Case studies.
Provide support for clients and families by giving the opportunity to attend MSH Bradbury Day Unit (2500 attendances per annum in first two years of this lease) and thereafter 5000 per annum	Record of attendees
Provide a safe meeting place for carers to promote their physical and mental well being.	Evidence of carers group attendance.
Environment Matters	
Environmentally Aware Communities	
Buildings and land maintained in a state of good repair.	Evidence Hospice Estates and Facilities Department will maintain a schedule of all works carried out.
Learning Matters	
Improved Leisure Facilities	
	Evidence

Opportunities for patients to spend quality time engaged in a range of activities including the sensory garden.

Regeneration Matters

Economically Active Communities

Provision of educational activities and informal learning support.

The hospice will be available for wider educational use, including The Healthy Schools Programme.

To provide volunteering opportunities for local people to help build up confidence and skills and improve employability of volunteers (25,000 volunteer hours per annum. This equates to 25000 x £11.09 per hour = £277250)

Safety Matters

Safer Communities

Safe & secure environment for all services / activities.

All hospice employees and volunteers DBS checked.

Safeguarding procedures employed in the protection of vulnerable adults and children.

Records of activities operating within the hospice.

Evidence

Numbers of people accessing support and volunteering placements.

Directory of educational programmes available and registration of bookings.

No of volunteers involved, record of volunteer hours worked per annum, number of volunteers accessing work as a result of volunteer experience, associated financial value of volunteering.

Evidence

Health & Safety equipment & procedures to be regularly checked. Work carried out to be logged appropriately.

Personnel files.

Policies and staff training records.

Equal Opportunities

The hospice service will be accessible to the diverse population of the community without discrimination.

Evidence

Register of persons admitted to the hospice. Feedback from service users and their families.

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.**



Helen Martin
Director of Regeneration 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](#)

Place Directorate
Corporate Landlord Services
Lease Terms /Challenge outcomes MARY STEVENS CENTRE.
We Love Carers. Year 2018 – 2019

Caring Matters	Evidence
Healthy Communities - Better Health	
Serving Stourbridge and surrounding area	Training for carers
	Health sessions- Yoga classes, wellbeing for carers.
Information and advice	Signposting to other organisations
	Help with form filling - Educational, Healthcare Plans for school, ESA, PIP, DLA, Attendance Allowance benefit forms, charity forms for equipment to name a few.
	1:1 support
	Forum meetings for carers with other professionals in health and Local authority
	Information events for carers (legal matters, regarding wills, power of attorney, carers roles...)
Environment Matters	Evidence
Environmentally Aware Communities	
Learning Matters	Evidence
Improved Leisure Facilities	
Regeneration Matters	Evidence
Economically Active Communities	

<p>Safety Matters Safer Communities</p>	<p>Evidence</p>
<p>Safe meeting space</p>	<p>Having the accommodation we will be able to support more carers and have a base where it will be a safe space for them and their loved ones to come. Having a quiet space for talking is very important for us as carers will usually divulge personal information and can be quite emotional when talking to us.</p>
<p>Quality Service Matters Equal Opportunities</p>	<p>Evidence</p>
<p>Welcoming All</p>	<p>We have a welcome all policy where what ever your religion, colour, beliefs, disability or background. You are welcomed by the group and encouraged to make use of our beautiful park.</p>

**Place Directorate
Corporate Landlord Services**

Appendix 2

We Love Carers

Mary Stevens Centre

Year 2021/2022

Caring Matters	Evidence
Healthy Communities - Better Health	
Offering exercise groups as in Yoga, Seat Yoga and Nordic Walking. This allows exercise for all ages and all abilities for our carers. Using outside agencies to provide varied sessions.	No of people taking part in physical activities
Running support groups and coffee mornings for our carers allowing peer to peer support	No of people attending sessions
Providing either 1:1 or group counselling sessions by a trained counsellor	Written Feedback from those participating and number of people attending
Running Mental Health First Aid and Mindfulness Courses	Written Feedback from those participating and number of people attending
Promoting Healthy Eating and providing cooking classes	Number of people attending sessions
Running gardening club growing fresh fruit and vegetables by our carers	No of people attending sessions
	Evidence
Environmentally Aware Communities	
Ensure that the centre and surrounding area is kept clean and tidy	Number of items donated to other good causes
Running a gardening club showing young carers the link between growing and food on the table	Number of people attending sessions
Encourage recycling within the Centre	No of bags of rubbish recycled

Promoting recycling of donated items with other support groups and charities	Number of items donated to other good causes
Learning Matters	Evidence
Improved Leisure Facilities	
The centre used as a base for events and activities	No of leisure activities run at the centre
Running a carers library for our adult carers	Number of people using service and written feedback
Running a Toy Library for carers disabled children and their siblings	Number of people using service and written feedback
Regeneration Matters	Evidence
Economically Active Communities	
Give the opportunity for volunteers to gain practical experience, build confidence and self-esteem	Miniumum of 6289 volunteer hours per year (6289 x £11.07) = £69,619.23
Provide training sessions and courses for our carers	Number of volunteers on the courses
Safety Matters	Evidence
Safer Communities	
Offer youth club activities to offer learning experiences and promote life skills	No of young people taking part
Provide training sessions and courses to our young carers and disabled children	Number of young people on the sessions
We have all our policies and procedures regarding all risk assessments in accordance to current guidelines. The volunteers are DBS checked and go on regular training in	Policies and procedures on line and in paper form on the premises along with current insurance and training certificates
Quality Service Matters	Evidence
Equal Opportunities	
Ensure the centre is used by a wide cross section of the community	Records of attendance
Centre is run by representatives of centre user groups which gives users a say in the running of the building	Annual AGMs, Records of decisions, Minutes of Meeting etc

Ensure that the building is used and is accessible by people with disabilities	Ensuring the building has requisite adaptations in place

Caring Matters	Evidence
Healthy Communities - Better Health	
Provide access to specialist palliative care inpatient and day services.	Day hospice attendance data and inpatient unit occupancy data.
Services offered by the day hospice will enable patients to leave their home environment and maintain/promote personal independence.	Case studies.
Provide support for clients and families by giving the opportunity to attend MSH Bradbury Day Unit (2500 attendances per annum in first two years of this lease) and thereafter 5000 per annum	Record of attendees
Provide a safe meeting place for carers to promote their physical and mental well being.	Evidence of carers group attendance.
Environment Matters	Evidence
Environmentally Aware Communities	
Buildings and land maintained in a state of good repair.	Hospice Estates and Facilities Department will maintain a schedule of all works carried out.
Learning Matters	Evidence
Improved Leisure Facilities	

Opportunities for patients to spend quality time engaged in a range of activities including the sensory garden.	Records of activities operating within the hospice.
Regeneration Matters	Evidence
Economically Active Communities	
Provision of educational activities and informal learning support.	Numbers of people accessing support and volunteering placements.
The hospice will be available for wider educational use, including The Healthy Schools Programme.	Directory of educational programmes available and registration of bookings.
To provide volunteering opportunities for local people to help build up confidence and skills and improve employability of volunteers (25,000 volunteer hours per annum)	No of volunteers involved, record of volunteer hours worked per annum, number of volunteers accessing work as a result of volunteer experience, associated financial value of volunteering.
Safety Matters	Evidence
Safer Communities	
Safe & secure environment for all services / activities.	Health & Safety equipment & procedures to be regularly checked. Work carried out to be logged appropriately.
All hospice employees and volunteers DBS checked.	Personnel files.
Safeguarding procedures employed in the protection of vulnerable adults and children.	Policies and staff training records.
Quality Service Matters	Evidence

Equal Opportunities	Evidence
The hospice service will be accessible to the diverse population of the community without discrimination.	Register of persons admitted to the hospice. Feedback from service users and their families.

Place Directorate / Ernest Stevens Trust Corporate Landlord Services

Lease Terms /Challenge outcomes

Mary Stevens Centre Year 2019 – 2020

Venue :

Organisation -

Beacon Centre for the Blind

Caring Matters	Evidence
<p>Healthy Communities - Better Health</p> <p>Improve physical health of VI communities</p>	<p>Group activities, walks in the green space around the centre, sensory garden has been developed for use, litter picks, group exercise sessions, ball games involving the local community, healthy eating initiatives,</p>
<p>Improve mental health of VI communities</p>	<p>Alternative therapies such as Reflexology and alexander technique, one to one support, group outings and social activities, creating friendships and neighbourhood networks, coffee mornings,</p>
<p>Develop services that are responsive to the needs of VI communities</p>	<p>service user steering group to inform and lead on what VI communities needs are, some aspects of development have been; therapy classes, coffee mornings, external speakers technology classes, social activities,</p>
<p>VI Communities have more access to support and advice</p>	<p>Policy work, Information services, Technology training, one to one support around benefits, employment and training, workshops, external speakers,</p>
Environment Matters	Evidence
<p>Environmentally Aware Communities</p> <p>Develop a sensory garden for VI communities to use</p> <p>Improve mental and physical health by sensing nature activities</p>	<p>Sensory garden has been developed for use, litter picks, exercise routines in the green space, ball games in the green space involving the local community, group walks around the green space, flower planting, weeding,</p>
Improved Leisure Facilities	Evidence
<p>Develop leisure facilities in consultation with VI communities</p>	<p>Alternative therapies, walking group, social activities calendar, physical exercise programmes, gardening,</p>
Regeneration Matters	Evidence
<p>Economically Active Communities</p>	

VI communities accessing employment, education and training opportunities	classes on employment, training and education, workshops, external speakers, BBO programme, Employment programme
Safety Matters	Evidence
Safer Communities	
Volunteer befriending service	Befriender goes out 4 hours per week to support individuals
Linkline service	Telephone contact and conversation about how people are and feeling
Creating friendships	developing friendships so that people can support each other, we monitor all our members and will flag up any issues on safety/safeguarding with the relevant agencies. We have a great relationship with the Chief of Police in Dudley and are delivering Programmes with them
Quality Service Matters	Evidence
Equal Opportunities	
consultation, evaluation and review	All services are developed in consultation with the steering group and the VI community at large, robust evaluation system in place to ensure equal opportunities, safety, health outcomes, and opportunities created

Crafting for Communities (CforC), Mary Stevens Centre April 2021

Caring Matters	Evidence
Relieve poverty by providing items to individuals in need and charities / organisations	Items regularly sent to Women's Aid, BWO among others
Promote sense of well-being and aid the mental health of our makers, as they know that the items they create are useful to those in need or will bring the recipients joy	Number of volunteer makers who have remained a part of the group for many months, not just for the "first wave" of the covid pandemic, and who are planning on continuing to make items for CforC
Offer to help combat social isolation with knit and natter groups at Mary Stevens Centre	Number of people attending sessions
Environment Matters	Evidence
Ensure that our designated areas at Mary Stevens Centre remain clean and tidy	Regular cleaning of areas
Encourage recycling wherever possible	Amount of rubbish recycled We reuse and upcycle fabric and use wool and kits that would otherwise be on landfill sites
Learning Matters	Evidence
We will use part of our designated area to hold knit and natter groups and to share learning of crafting skills We also share skills and knowledge online with and from our makers	Number of sessions run by CforC at Mary Stevens Centre In our Facebook group, there is regular sharing of tips and instructions etc.
Regeneration Matters	Evidence
Give the opportunity for volunteers to gain practical experience, build confidence and self-esteem	Volunteer hours = 800 hours per week x £10/hour = £416,000 per year.
Safety Matters	Evidence
Ensure that Risk Assessments are carried out for any activities run at Mary Stevens Centre and that activities are covid-19 secure	Risk Assessments for activities will be kept on site for any such activities, we will follow government-prescribed covid-19 guidelines
Ensure Safeguarding, especially children / vulnerable people participating in activities	Ensure we have the correct insurance and the presence of person with current DBS check
Ensure safety of volunteers and participants in our area of Mary Stevens Centre	Have first aid kit and incident book on site, also 2 fire extinguishers in our designated area
Quality Service Matters	Evidence
Ensure that activities are offered to a wide cross section of the community	Attendance at activities
Ensure the building is used by and accessible by people with disabilities	Ensure the building has requisite adaptations in place
CforC is run by representatives of the group which gives users a say in what happens	Annual AGM, records of decisions made, minutes of meetings

Meeting of the Ernest Stevens Trust Management Committee

– **24th October 2022**

Report of the Director of Regeneration and Enterprise

Mary Stevens Centre, Mary Stevens Hospice

Purpose of report

1. To inform the Management Trust Committee of the draft proposal received from Mary Stevens Hospice, in respect of the centre.

To advise officers of the Council as to the way the Trust wishes to proceed with this application.

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. Engage with the discussion at the Committee meeting. 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 authorise the Director of Regeneration and Enterprise to open discussions as directed by the committee with the Mary Stevens Hospice and their agents and report back to the committee their outcome.

Background

3. 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.
4. 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.
5. 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.
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.
6. There are changes pending in respect of the legislation that may reduce the requirements in respect of the qualified surveyor and advertisement process.
7. 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.

8. Mary Stevens Hospice (MSH) occupy a convalescent home to the front of the Mary Stevens Centre, on Hagley Road and share the access route into the park grounds.
9. Mary Stevens Hospice have teamed with Create, if to put together a draft proposal for the committee to consider in respect of the centre. This proposal is appended. In summary MSH have taken a high-level view of the increasing demand for convalescent care in the area and how this might be catered for. They are expressing interest in taking over the Mary Stevens Centre in its entirety and refurbishing the building at their cost to ultimately provide between 38 and 40 beds. While they have undertaken some outline costings they are seeking the committee's support to their proposal before progressing further with their investigations.
10. The Committee has since 2017 given consent to the granting of leases to Beacon Centre, Mary Stevens Hospice, Crafting for Communities and We Love Carers. In each case the lease is for a short-term period, excluded from any security of tenure and the rent has been at a peppercorn with outcomes to be delivered to the value of the market rent. An occupation charge is also to be made (representing a fair proportion of the utilities cost, general repairs, facilities costs and building insurance). The council funds any costs related to the building including any long-term maintenance or investment. No discussion has been had with Mary Stevens Hospice how their plans might be compatible with the current occupiers, or what alternatives might be available for the occupiers.
11. The building is an ageing facility, originally designed and set up as a maternity home and more recently a residential care home. It is not designed to be multifunctional and multi occupied, which its current use is now causing friction between the occupiers. It is using gas fired boilers which will require considerable investment to upgrade to move to more ecological means of heating. and broadly one quarter of the building is unable to be used without major investment.

Finance

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

Law

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

Risk Management

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

Equality Impact

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

Human Resources/Organisational Development

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

Commercial/Procurement

18. Not applicable to this report.

Environment/Climate Change

19. There is no currently identified impact of this report upon the environment.

Council Priorities and Projects

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



Director of Regeneration and Enterprise

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List of Background Documents

Appendix 1 Joint Proposal Mary Stevens Centre and Create iF.
Appendix 2 Government guidance on the role of trustees.



Create.iF
manage

Dear Trustees

Mary Stevens Hospice has provided specialist palliative care to the residents of Stourbridge and the surrounding Borough of Dudley for the past 30 years. Care is delivered via a 10 bedded Inpatient Unit and as outpatient care via the Hospice Day Services Unit. The hospice also delivers bereavement care for the local population as well as facilitating Carer support groups. All these services are complemented by Social Work support and spiritual care.

During the past 3 years Mary Stevens Hospice has worked in partnership with Dudley Continuing Health Care (CHC) to operate 3 beds as hospital avoidance admission beds. Patients can be admitted to these beds from the community when there is a crisis and there is a need to provide care or move to 24-hour care but there is a lack of available capacity. The beds are also utilised to facilitate early discharge from the local acute hospital to ease their capacity whilst care packages or 24-hour care is sourced. The people accessing these services often do not require specialist hospice care but good generalist care /end of life care.

The NHS Long Term Plan proposed that out of hospital care would be boosted with the divide between primary and community health services being dissolved. The plan also advocated the need to increase the capacity and responsiveness of intermediate care services to those in most need.

1 in 7 people over the age of 85 live in a care home. With an aging population the need for community care and residential care will continue to increase. Evidence suggests that many people living in care homes are not having their needs assessed often resulting in unnecessary and avoidable hospital admissions. Annually there are 185000 emergency admissions from care home residents with 35-40% of these admissions being potentially avoidable.

As a provider of care to the local population, Mary Stevens Hospice has been rated as Outstanding by the regulatory body CQC (Care Quality Commission). The values of care, compassion and kindness underpin all the services delivered by the hospice. The strategic aims of the hospice propose to extend the provision of care to the wider local population that need it. There is a need to support our community to age well and have access to good care at end of life. This care may be in the form of care in a patient's own home but there will always be people that require 24-hour care to meet their needs.

The hospice now proposes to extend its capacity to deliver this care, however, to do so there is a need to source appropriate facilities from which to operate services.

As a charitable organisation the hospice currently must raise 83% of its annual running costs as it only receives a 17% contribution from the CCG. It is proposed that any new care provision would be commissioned through partnership working with Dudley CHC, Black Country CCG and Social Services.

In order to achieve the joint goals of extended care provision and the creation of a strategy to protect the financial health and longevity of the hospice,

We have been working with the team at Create.iF to consider how re provisioning the Mary Stevens House facility might achieve this. As a team, we needed to understand the costs involved in a refurbishment and reprovision of Mary Stevens House, providing more bed space to serve the increasing need in the local area.

We have surveyed the building to establish the accommodation that it might provide, works required to meet the specification and the costs involved.

Our early appraisal of the costs is as follows:

Developer Cost: £ 220,662

Construction Cost: £3,066,542

Total: £3,287,204

There will of course be staffing and other operational costs increases which the Hospice will manage, the levels of which are dependent upon the bed need over the coming years should any redevelopment take place. We envisage being able to provide between 38 and 40 extra beds.

We do not have visibility of the costs that the council incur in maintaining and servicing the building, managing utility costs and other standing charges. These can be added to our overall cost benefit analysis during the process. We are sure however, that the Trust / Council are likely to see significant year on year cost savings should the MSH proposal be accepted, the necessary planning permissions be obtained and the building redeveloped for the future.

We may see further saving when looking in more detail at areas such as energy efficiency, a subject where governmental funding is available to support projects.

MSH are keen to ensure that any redevelopment will meet the objectives of the Ernest Stevens Trust in providing beneficial services to the local community. These aims align with those of MSH in undertaking to support those most vulnerable with high quality provision, redeploing the building to its full potential and helping to solve a key issue that is only going to get more acute.

...C.E.Towns

Claire Towns

p.p. M. Tubbetts

Mark Walker

Ernest Stevens Trust Management Committee

Report of Head of Neighbourhood Services

Parks Licensing Scheme

Purpose

1. To inform the Ernest Stevens Trust Management Committee of proposals to manage Personal Trainers operating in Council owned Parks and Open Spaces.

Recommendations

2. It is recommended that:-
 - The Ernest Stevens Trust Management Committee note the content of the report.

Background

3. Following the meeting of the Ernest Stevens Trust Management Committee on the 24th October 2022, the Parks Development Team have been working with Legal Services to develop a protocol and agreement to manage Personal Trainers operating in Council owned Parks and Open Spaces.
4. It is the view of Officers that the most appropriate way to manage Personal Trainers would be to operate a permit system, with each application being renewed and reviewed on an annual basis. This system has been used successfully by a number across the country.
5. Any permit would include a number of Terms and Conditions including:

Registration

- The Personal Trainer (PT) must be Registered with the Council to carry out fitness training or small-group activity sessions in Council owned Parks and Open Spaces.
- For the Council to consider an application for a permit, the Registrant must complete and submit an Application Form.

REGISTRANT'S OBLIGATIONS

- This ensures the PT's sessions proceed smoothly and safely and do not interfere with other users, neighbours or local traffic.
- The permit will set out the areas of the park eligible to be used and the operational times.

LICENSING AND ENVIRONMENTAL HEALTH

- Ensuring the PT has the appropriate licences to use and play music during the fitness sessions.

ASSESSMENT AND MONITORING

- This will set out the monitoring process of the activity to ensure it operates in line with the terms and conditions.
- This will also set out the information required to be recorded by the PT's for future analysis.

PERMIT FEE AND PAYMENT

- Ensuring the PT understands the permit fee and the process for payment.

INSURANCE AND LIABILITY

- Ensuring the PT has the appropriate insurance cover to operate on Council owned Parks and Open Spaces.

TERMINATION AND CANCELLATION

- This section will set out the terms of cancellation of the permit by both the Council and the PT.

GENERAL PROVISIONS

- This section will set out any other legal requirements, concerning this type of permit.

6. Based on the above, Parks Development documents and procedures will need to be updated to ensure they are robust and fit for purpose.
7. A review of the application form will also be undertaken alongside these Terms and Conditions. A set of standard letters regarding the acceptance and approval of the booking will be developed. All of these documents will be reviewed by Legal Services and presented to a future meeting.



Finance

8. Any charges relating to the permit will be charged in line with the Councils approved fees and charges.

Law

9. Section 1 of the Localism Act 2011 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 gives power to authorise dealings with charity property (as amended by the Charities Act 2022).

Risk Management

- 10 There are no material risks presented by this report.

Equality Impact

11. The proposals contained in this report are consistent with the Council's Equality and Diversity Policy.

Human Resources/Organisational Development

12. None.

Commercial/Procurement

13. None.

Environment/Climate Change

14. The proposals in this report do not have any direct impact on the environment or climate change.

Council Priorities & Projects

15. This decision will improve the quality of the green spaces.

Developing Green Space: Providing a framework of good quality and accessible community space, parks & nature reserves with interconnecting green networks.

This proposal is not anticipated to have any implications for current activity.



E Bradford

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Ed Bradford
Head of Neighbourhood Services

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List of Background Papers

None.

Appendices

None

