

**Minutes of the Special Meeting of the Ernest Stevens Trusts
Management Committee,
Wednesday, 23rd February, 2022 at 6.00pm
in Committee Room 2, Council House, Dudley**

Present:

Councillor I Kettle (Chair)
Councillors T Crumpton, R Clinton, M Hanif and A Hopwood

Co-opted Members

H Rogers (Friends of Mary Stevens Park, Stourbridge)

Officers:

M Bieganski (Strategy and Governance Section Manager), D Fildes (Parks Development Manager), D Mcnane (Financial Services), M Wilcox (Principal Lawyer), and L Jury (Democratic Services Officer)

34 **Apologies for Absence**

Apologies for absence were submitted on behalf of Councillor L Taylor-Childs, J Marks and D Sparks.

35 **Declarations of Interest**

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

36 **Terms of Reference of the Committee**

The Chair advised that the Committee's Terms of Reference had been included in the agenda to assist Members during the discussion on the deeds of gift.

37 **Deeds of Gift**

The Committee received a report of the Lead for Law and Governance on a proposal to discuss the deeds of gift in respect of the land and buildings held in Trust by the Council.

The Chair advised that he had proposed a discussion be held with Members of the Committee to discuss the deeds of gift as set out in the report and appendix to the report, as it was considered important for Officers and Members to fundamentally understand the importance of the deeds and any restrictions when considering reports submitted by Officers.

It was noted that when the original concept by Ernest Stevens, and other similar Trusts, were laid down in the late 1920's, some of the ideas prevalent then were almost irrelevant in today's society and were proving challenging to maintain. The importance of protecting residents who neighboured the land and properties from anti-social behaviour from some land/park users and protecting the parks themselves was acknowledged, and the need to continue to do this and address the challenge being presented to the Committee to identify a suitable balance/solution to this issue going forward.

Arising from the presentation, Members made comments as follows:

- The Co-Opted Member (Friends of Mary Stevens Park) advised that the Committee had been formed in 2012 as a result of the authority's Area Committees being disbanded and a statutory body being required to deal with community grants and Trust matters with regards to the Ernest Stevens parks. Reference was made to the Committee's Terms of Reference, specifically points 1 to 3, which stated that it was the Trustees responsibility to consider and determine all matters relating to Trust land in the Borough within the terms of the appropriate governing documents, and that Officers of the Council work within the guidance of the Charity Commission.

The Co-opted Member expressed that she believed historically Officers had not realised the importance of the deeds of gift, in relation to the various parks and properties, acknowledging that these were legal documents, and noting the Trustees statutory duty to consider all activities carried out on the land, as this could result in members of the public making objections, which could subsequently be submitted to the Charity Commission who could revoke the Trustees decision and subsequent consequences. To address this issue, it was suggested that further training be offered to Officers and any Members of the Council who had Trust land/properties within their Wards.

- Councillor T Crumpton acknowledging the comments made by the Co-opted Member and recognising the complexity of the deeds of gift, referred to the challenges that the Committee would continue to face in relation to the dwindling resources made available to the Council to maintain these sites. It was noted that the covenants on many parks which stated that ball games were prohibited on a Sunday, was impacting on many parks in relation to them being unable to maximise on the income that could be generated by football clubs and other clubs such as cricket clubs, who wished to play on the parks on a Sunday and this had resulted in the land not being fully utilised. The differences in society when the covenants were established, and today's society, was acknowledged with the public's desire to use the parks on weekends to play ball games with their families and friends.

However, the importance of protecting the land and buildings in line with the deeds of gift was acknowledged, but the need to balance this with the need to generate income to enable the land/buildings to be maintained and improved and provide a facility for today's public to fully utilise was raised.

- The Principal Lawyer advised that she was the Legal Officer for the Committee and had extensive knowledge of the deeds of gifts, relevant legislation, Charity Law and the Charity Commission, specifically the deeds relating to Mary Stevens Park, but also other Trust land held by the Council. Therefore any queries related to these issues from Members or Officers should be referred to her and the team that assisted her. With reference to the proposal for training to be arranged, it was questioned what other specific information an external solicitor could provide to the Committee that the authority's Officers could not provide. In relation to points 3 and 5 of the Terms of Reference, assurance was given to the Committee that these were followed when reports were submitted to Officers (i.e. Legal and Finance) to complete, prior to the report being submitted to the Committee for consideration as to whether proposals submitted were in the best interest of the charity.

The Principal Lawyer presented examples of proposals that had been received that had deviated slightly from the deed of gift, where consent had been sought and granted by the Charity Commission. The buildings within the Trusts were also raised in relation to the need to ensure that they were occupied to safeguard the buildings and keep them in good condition going forward.

The Principal Lawyer made reference to a request that had been received from Communications and Public Affairs (CAPA) from a local company to hold an open-air cinema event for families in Mary Stevens Park. As the proposal was to hold the event in April, Members were requested to consider the proposal at this meeting, in line with the discussions being held. Further details would be provided to Members later in the meeting.

- In relation to the proposal that had been received to hold the cinema event, the Chair made reference to other requests that had been sanctioned previously, such as the introduction of cafés within some of the parks, ice-cream sellers and Tintern House, which had prompted the need for a detailed discussion on the pressures the Committee were facing going forward in relation to adhering to the deeds and considering activities to be held which would benefit the beneficiaries (the public) whilst continuing to protect the livelihood of the residents that resided near the parks.
- Councillor A Hopwood echoed the comments that had been made in relation to the need to balance the necessity to preserve the deeds to protect the parks and buildings but also the requirement to see the parks and use of the parks/buildings fully utilised in today's society. Specific reference was made to Swan Pool park where Sunday football was allowed as restrictions did not apply to the park, and it was requested that each proposal received should be considered on an individual basis and any decision made, should not set a precedent for other parks.

- With regard to the playing of ball games on a Sunday, the Principal Lawyer stated that if requests to play ball games on a Sunday were becoming prevalent, it was suggested that a further consultation exercise be undertaken by CAPA with the general public to ascertain their views and assess the level of interest in playing ball games on a Sunday. It was noted that consent from the Charity Commission would also need to be sought.
- Reference was made to other land available within the Borough that could be used by the public to play ball games on a Sunday and the Chair proposed that alternative provision be investigated.
- The Co-opted Member referred to Swinford Common, land opposite Mary Stevens Park, where football was played as there were no restrictions on the land, and it was noted that the teams used the changing facilities situated at Mary Stevens Park. It was proposed that the use of the land be promoted to other ball game teams, however it was acknowledged that the issue of flood water on the land would need to be further investigated.
- The Chair made reference to the affect Covid 19 pandemic had had on people's attitude towards the importance of open space and the high numbers of people that were now utilising the parks managed within the Trusts and proposed that each proposal submitted to the Committee be considered on their own merits in line with the terms of reference of the Committee, the deeds of gifts and guidance provided by Officers. To ensure that the park land remained sacrosanct to the public and not be disposed of or leased, Members suggested that a further recommendation be added in relation to the footprint of the free open space of the park land managed by the Trusts for the public, to remain sacrosanct.
- The Principal Lawyer advised that the deeds of gift, including any covenants and the terms of reference of the Committee covered this issue as the terms of reference stated that the Committee needed to adhere to the deeds of gift and when a report was submitted to the Committee for consideration, the Committee needed to consider the proposal in line with the deeds of gift, the legislation, and in consultation with the public, as the beneficiaries. For example, if a report was submitted to the Committee for the lease of a property, and as the result of the lease, the property would develop and give another benefit to the general public, this report should be considered by the Committee as it was anticipated that the Charity Commission would sanction the decision if it was within the interest of the general public and would be beneficial for them.

In conclusion, the Parks Development Manager advised on a request that had been received from a local company based in Stourbridge, known as the Neighbourhood Friendly Out-door Cinema, proposing to hold film events in Mary Stevens Park, in April on a Friday, Saturday and Sunday. Each day a screen would be erected, and seating would be provided around the band stand area for approximately 120-150 people. This would be a ticketed event and would cost approximately £10 and it was anticipated that the Council would charge for the hire of the facility. It was anticipated that the films would be family friendly but the specific film titles had not yet been confirmed. It was noted that the company had held similar events at the Bonded Warehouse and the Green Duck Brewery both situated in Dudley.

Following a short discussion Members considered the deeds of gift of the park and were reminded of similar activities that had taken place previously in the park, the Committee approved the proposal.

Resolved

- (1) That in the future Officers and Members of the Committee consider all governing documents and any scheme of the Charity Commission before a discussion and a decision on any proposals at future meetings and copies of the governing documents/deeds of gift be emailed to all Members and Officers prior to consideration.
- (2) That Ward Members be invited to all Committee meetings in order for them to fully participate in any discussions with regard to reports submitted for consideration on properties or land, within their Wards, held in Trust by the Committee.
- (3) That a report on the current service provided by Mary Stevens Hospice be submitted to a future Committee for consideration.
- (4) That a typed interpretation of the Deeds of Gift be produced and provided to Members and Officers of the Committee.
- (5) That the proposal submitted by the Neighbourhood Friendly Out-door Cinema Company to hold an out-door cinema event in Mary Stevens Park on a date in April to be confirmed, be approved.

38 Installation of a defibrillator at Richardsons Hall, Wordsley

A report of the Director of Regeneration and Enterprise was submitted on a proposal to install a defibrillator unit at Richardson Hall, Wordsley.

In response to a question raised by H Rogers with regard to whether the building had listed building status, the Principal Lawyer undertook to investigate the building's status.

Resolved

- (1) That the installation of a defibrillator at Richardson Hall, Wordsley, be approved.

- (2) That the Director of Regeneration and Enterprise be authorised to agree the specific location for the unit to be installed under the terms of the lease.

39 **Mary Stevens Café, Mary Stevens Park, Stourbridge – Lease Renewal.**

The Committee received a report of the Director of Regeneration and Enterprise on a lease renewal of the Café within Mary Stevens Park, Wollescote Street, Stourbridge.

The Strategy and Governance Section Manager presented the report, and in doing so, advised that the current tenant had leased the café from the Council since July 2015. The lease had subsequently expired in July 2020 and the tenant had remained in occupation holding over on the terms of the original lease.

It was noted that the tenant wished to renew the lease and the terms for the renewal had been negotiated for a 5-year lease backdated to 8th July 2020.

In conclusion, the Strategy and Governance Section Manager advised that the café operation would remain as previously and would allow a successful business to remain operational within the park providing a much-welcomed service to park users.

Members welcomed the renewal proposal as the café appeared to be a very necessary business in the park, due to its popularity with park users, and were pleased to see a business continuing to flourish after the pandemic.

Resolved

- (1) That the grant of a lease renewal of the café to the current tenants, Smiths Development Limited, on the terms set out, be approved.
- (2) That the Lead for Law and Governance be authorised to complete the lease.

The meeting ended at 7.35pm

CHAIR