

Report to the Council

Committee: Cabinet

Date: 5 November 2013

**Portfolio Holder: Councillor A Grigg
(Asset Management and Economic Development)**

RELEASE OF COVENANTS AND RIGHT OF PRE-EMPTION - 94/94A LAWTON ROAD, LOUGHTON

Recommending:

That the restrictive covenants and right of pre-emption in paragraphs (a), (b) and (c) of the Third Schedule of a Conveyance dated 6 January 1955 in respect of 94/94a Lawton Road, Loughton be released for the consideration of £127,500.

1. 94 & 94a Lawton Road is an Essex County Council owned Family Centre now surplus to requirements. The land is subject to covenants restricting the use to education and health and requiring the District Council's consent to future development on the land. There is also a right of pre-emption (first refusal) in favour of the District Council in the event of the purchaser wishing to sell the land.
2. Covenants may be released or modified in a number of ways and the most used way is through the Lands Tribunal. In 1998, the Council sought specialist advice from Montagu Evans Chartered Surveyors on the removal of the restrictive covenant relating to the use of the land. A compensation payment would normally be payable to reflect the increase in the value of the land resulting from the development potential. The advice confirmed that if the Council refused to release the covenant, the matter would be referred to the Lands Tribunal who would be likely to agree to the release. The level of compensation would be restricted to the difference in the value of the land with and without the covenant when the transfer took place in 1955 and accordingly it would be nominal.
3. We have been advised that the County Council wishes to sell the property for conversion into residential accommodation for the nearby E15 University of Essex Acting School and that agents acting on behalf of the County Council have applied for the covenants and right of pre-emption to be released. We understand that terms have been agreed for the sale of the property to a third party and the prospective purchaser has submitted a planning application for change of use from a family centre to student accommodation.
4. Whilst the value of the covenants is limited there is value in the right of pre-emption.
5. Following a precedent some years ago when ECC sold a number of its surplus school sites for residential development it is proposed that ECC will pay the District Council a percentage of the gross sale proceeds for the release of the covenants and the right of pre-emption.

6. The release of the covenants and right of pre-emption would be consistent with the District Council's exercise of well-being powers as it will facilitate a transaction which will bring significant benefit to the local population.
7. A sum of £127,500 has been agreed with ECC for the release of the restrictive covenants and right of pre-emption and we recommend as set out at the commencement of this report.