

Report to the Council

Committee: Cabinet

Date: 29 September 2009

Portfolio Holder: Councillor Mitchell Cohen

Item: 12A

1. EPPING FOREST COLLEGE, LOUGHTON - RELEASE OF RIGHT OF PRE-EMPTION

Recommending:

(1) That the release of the right of pre-emption in respect of an area of approximately 0.95 acres/0.38 hectares shown edged black only on the attached plan be agreed subject to Epping Forest College constructing new sports facilities when funding becomes available; and

(2) That the means of achieving the new sports facilities be agreed by the Legal and Estates Portfolio Holder and the Director of Corporate Support Services.

Background

1. The current Epping Forest College site was transferred in 1952 to Essex County Council by the then London County Council (LCC). The transfer was subject to covenants and a Right of Pre-emption which are now vested in the District Council (as successor to the LCC in this case). Essex County Council interests are now vested in the Epping Forest Further Education Corporation.
2. The covenants restrict the use of the land to use of the purposes of the Education Act 1944 and/or the National Health Services Act 1946 and require approval for the erection of any building.
3. In 1998 the District Council agreed to a request from Epping Forest College to release the restrictive covenant free of charge from surplus land, comprising 7.9 acres/3.2 hectares. On 10 April 2006 approval was given to release the same covenant from an additional 5.93 acres/2.4 hectares to facilitate residential development and investment of the capital receipt into the re-development of the College Campus.
4. On 18 December 2007 the Council resolved that its Right of Pre-emption be not exercised in relation to Loughton Hall and the Library site adjoining the College. This land is shown by black hatching on the attached plan. It was also agreed that the restrictive covenant affecting Loughton Hall be released and replaced with the following new covenants:
 - (a) prohibiting the use of the hall for any purpose other than residential care home, community, education or health purposes; and

(b) specifically prohibiting the use of the hall for any residential purpose other than as a residential care home.

5. On 9 June 2008 the Cabinet agreed that nursing home use be included in the restrictive covenant in addition to the residential care home, community, education or health purposes previously agreed.

Current Proposals

6. Epping Forest College now wish to dispose of an area of land on which is located a Sports Hall, previously occupied by the Debden Community Association. This is shown edged black only on the attached plan. The College has been approached by a health care provider, who wishes to purchase the land in order to provide a residential health care facility for the elderly. The provider is aware of the similar use for Loughton Hall.
7. The disposal of the land is seen as a benefit for both the College and potentially for the wider community, particularly if replacement sports facilities could be provided, possibly on the Luctons Playing Fields in Borders Lane. However, due to the College's current financial position, whilst they may have aspirations to provide new sports facilities, the management of the College have indicated that any capital receipt generated from the disposal of the Sports Hall site will be required to service existing debt.
8. The existence of the right of pre-emption is a particular concern to the College, especially within the context of the weak property market. This requirement imposes additional uncertainty to both potential purchasers and financial institutions, required to fund development of the site. If the Council wishes to exercise its right of pre-emption it is required to purchase the land and buildings at market value. It is unlikely that the buildings on site would match any future requirement of the Council so that any purchase of the site by the Council would be unlikely to represent best value.

Recommendation

8. We are recommending release of the right of pre-emption subject to the College giving a commitment to construct new sports facilities as and when future funding becomes available.