

TITLE RESTRICTION - SOUTHFIELD PARK PRIMARY SCHOOL

Head of Service:	Mark Shephard, Head of Property and Regeneration
Report Author	Mark Shephard
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	Yes
If yes, reason urgent decision required:	To allow legal documentation to be completed on the academy conversion target date of 1 October 2025.
Appendices (attached):	Appendix 1: Location Plan Appendix 2: Pre-Emption Agreement

Summary

This report considers a request from Surrey County Council to release its land from a Land Registry title restriction registered by EEBC to protect the former EEBC land from non-educational use.

Recommendation (s)

The Committee is asked to:

- (1) Approve the proposal to terminate the Pre-Emption Agreement and thereby remove the restriction from Surrey County Council's Land Registry title.**

1 Reason for Recommendation

- 1.1 The Property and Regeneration Scheme of Delegation does not include officer authority to release a title restriction (a pre-emption agreement) from a former Council land sale.
- 1.2 An academy conversion of Southfield Park Primary School is in compliance with the Council's pre-emption agreement, that is, the permitted use of the Council's former land for educational purposes only.

2 Background

- 2.1 Southfield Park Primary School (adjacent to Long Grove Park) was expanded in 2011 to accommodate a larger number of pupils.

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- 2.2 As part of the expansion, Surrey County Council (as the local education authority), agreed terms to acquire some amenity land from the Council. The acquired land would be retained as outdoor space to provide a secure play area within the school curtilage.
- 2.3 The land, adjacent to Chantilly Way / Long Grove Road is shown at Appendix 1.
- 2.4 At its meeting on 13 November 2012, this Committee approved the sale of the land for £10,000 (reflecting amenity land value). The school would be responsible for fencing the land and its use restricted to school amenity and play area use only.
- 2.5 The Council also retained a contractual Pre-Emption right:
- *In the event that Surrey County Council wished to sell all or part of the land at a future date, EEBC would first be offered the right to repurchase the land at its market value.*
 - *Both parties would use all reasonable endeavours to agree the market value of the land, failing which an independent expert Chartered Surveyor would jointly be appointed to determine its market value.*
- 2.6 The right was documented in a Pre-Emption Agreement and its purpose was to ensure EEBC's land would only be used to expand the school as an educational establishment.
- 2.7 If school use ceased, any proposal by Surrey County Council to dispose of the land would trigger the Pre-Emption Agreement. The County Council would then serve an offer notice to EEBC for a period of 6 weeks and on expiry, EEBC would have the option to exercise the right and thereby commence the process to buy back the land at market value or decline the offer.
- 2.8 The Pre-Emption Agreement allows a "*Permitted Disposal*" defined as;
- "A disposal to another education authority or such other governing body, **academy trust** or other form of educational establishment as is required by law to hold the freehold or leasehold interest in the land comprising the School for the purpose of continuing to run the School as an educational establishment."*
- 2.9 The Pre-Emption Agreement dated 17 October 2013 is attached at Appendix 2.

3 Proposal

- 3.1 Southfield Park Primary School is currently the subject of an academy trust conversion. Legislation permits academies approved by the Secretary of State for Education to be granted 125-year leases at nil rent from the local education authority.

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- 3.2 The Academies Act 2010 further provides for a Funding Agreement between the Secretary of State for Education and the academy trust i.e. the academy no longer receives funding from the local education authority.
- 3.3 On behalf of Surrey County Council (the local education authority and landowner), the acting solicitors have been instructed to request whether the Council would agree to terminate the Pre-Emption Agreement and thereby remove the restriction from Surrey County Council's Land Registry title.
- 3.4 By agreeing to terminate the Pre-Emption Agreement, Surrey County Council would no longer be required to serve a 6 week notice period on the Council under the terms of the Agreement. This would not only simplify the Land Registry title but more importantly, allow the academy conversion process to be completed on the target date of 1 October 2025.
- 3.5 Surrey County Council have made this request as a disposal to an academy trust is permitted under the Pre-Emption Agreement and hence, it is anticipated that the Council would have no objection to the removal of the restriction and support the continued use of the land for a school.
- 3.6 The permitted 125-year lease is a standard form academy lease and provides protection to the local education authority. In the event that academy funding ceases or is withdrawn by the Secretary of State for Education (i.e. the Funding Agreement terminates), the academy lease automatically terminates, and the school reverts back to operational control by the local education authority i.e. Surrey County Council.

4 Risk Assessment

Legal or other duties

- 4.1 Equality Impact Assessment
 - 4.1.1 Not applicable
- 4.2 Crime & Disorder
 - 4.2.1 Not applicable
- 4.3 Safeguarding
 - 4.3.1 Not applicable
- 4.4 Dependencies
 - 4.4.1 None
- 4.5 Other

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4.5.1 None

5 Financial Implications

- 5.1 There are no financial implications arising from this report.
- 5.2 **Section 151 Officer's comments:** Terminating the agreement will simplify the land title and facilitate the timely completion of the academy conversion, without compromising the Council's strategic interests or financial position.

6 Legal Implications

- 6.1 **Legal Officer's comments:** None arising from the content of this report.

7 Policies, Plans & Partnerships

- 7.1 **Council's Key Priorities:** The following Key Priorities are engaged:
- Supporting our Community
 - Managing our Resources
- 7.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 7.3 **Climate & Environmental Impact of recommendations:** None
- 7.4 **Sustainability Policy & Community Safety Implications:** None
- 7.5 **Partnerships:** None
- 7.6 **Local Government Reorganisation Implications:**
- 7.6.1 Post LGR, the Pre-Emption Agreement would fall away as both parties would become the same entity i.e. the new unitary authority.

8 Background papers

- 8.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Proposed Transfer of Amenity Land to Southfield Park Primary School, S&R Committee 13 November 2012

Other papers:

- None