

## Agenda for a meeting of the Regulatory and Appeals Committee (sitting as Trustees) to be held on Thursday, 10 August 2017 at 3.00 pm or on the rising of the earlier meeting of the Committee, whichever is the later, in the Banqueting Hall - City Hall, Bradford

### Members of the Committee – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT AND INDEPENDENT
Brown Rickard	Warburton Wainwright Amran Watson	Griffiths

### Alternates:

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT AND INDEPENDENT
Ellis Miller	Azam S Hussain Lal Lee	Stelling

### Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.
- **A legal briefing for all Members will take place in the Banqueting Hall immediately prior to the start of the meeting.**
- Applicants, objectors, Ward Councillors and other interested persons are advised that the Committee may visit any of the sites that appear on this Agenda during the day of the meeting, without prior notification. The Committee will then reconvene in the meeting room after any visits in order to determine the matters concerned.
- At the discretion of the Chair, representatives of both the applicant(s) and objector(s) may be allowed to speak on a particular application for a maximum of five minutes in total.

### From:

Parveen Akhtar  
City Solicitor  
Agenda Contact: Sheila Farnhill  
Phone: 01274 432268  
E-Mail: sheila.farnhill@bradford.gov.uk

### To:

## **A. PROCEDURAL ITEMS**

### **1. ALTERNATE MEMBERS (Standing Order 34)**

The City Solicitor will report the names of alternate Members who are attending the meeting in place of appointed Members.

### **2. DISCLOSURES OF INTEREST**

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from Members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the Member during the meeting.

*Notes:*

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

### **3. INSPECTION OF REPORTS AND BACKGROUND PAPERS**

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Sheila Farnhill - 01274 432268)

## B. BUSINESS ITEMS

### 4. **PRIESTHORPE ANNEXE, MORNINGTON ROAD, BINGLEY** **Bingley**

1 - 12

Previous reference: Minute 78 (2016/17)

A report will be submitted by the Strategic Director, Corporate Services in relation to Priesthorpe Annexe, Mornington Road, Bingley which is held by the Council as Trustees of the former Bingley Science Arts and Technical School (**Document "S"**).

The report explains that the building has been empty since 2002 and is in a poor state of repair. The Council has been unable to find a use for it that would promote the objectives of the Trust (for the educational benefit of the people (children and adults) of Bingley) or to provide a revenue budget to maintain it.

Members will recall that proposals to dispose of the property were discussed at the meeting of the Committee held on 9 March 2017 when it was resolved:

- '(1) That the Strategic Director, Corporate Services seek representations from the public in respect of the proposed disposal of Priesthorpe Annexe, Mornington Road, Bingley.*
- (2) That, having given due consideration to the representations received, the Strategic Director, Corporate Services refer the matter back to this Committee for further consideration or, if no objections are received, progress the disposal of the property and, subject to further legal advice, use the net sale proceeds for the educational benefit of the people of Bingley.'*

The Strategic Director's report details the representations received since the last meeting for Members consideration.

**Recommended –**

- (1) That the Assistant Director, Estates and Property be requested to treat the Priesthorpe Annexe as an Asset of Community Value and to seek expressions of interest, with any organisation doing so being given until 29 September 2017 to submit a business case balancing educational purposes and best price.**
- (2) That the City Solicitor be requested to submit a further report to the November meeting of this Committee that includes a review, by the Assistant Director, Estates and Property, of each of the business cases that have been submitted.**
- (3) That the City Solicitor be requested to make an application to the Council's Project Appraisal Group for a financial contribution to support the cost of putting the building back into the position it was when the school closed in 2002, thus assisting in the disposal of the property.**
- (4) That the expressions of interest already received from Bingley Town Council and the Managing Director of Superfood Market be noted and that they be invited to submit a business case as proposed in (1) above.**

(Richard Winter – 01274 434292)



## Report of the Strategic Director of Corporate Services to the meeting of the Regulatory & Appeals Committee to be held on 10 August 2017

# S

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### Subject:

Priesthorpe Annexe, Mornington Road, Bingley

### Summary

Priesthorpe Annexe, Bingley is held by the Council as Trustees of the former Bingley Science Art & Technical School. The Committee's approval acting as Trustee is requested to the proposed disposal of the building.

Resolutions from the meeting on 9<sup>th</sup> March 2017 are as follows:-

### Resolved –

- (1) That the Strategic Director, Corporate Services seek representations from the public in respect of the proposed disposal of Priesthorpe Annexe, Mornington Road, Bingley.
- (2) That, having given due consideration to the representations received, the Strategic Director, Corporate Services refer the matter back to this Committee for further consideration or, if no objections are received, progress the disposal of the property and, subject to further legal advice, use the net sale proceeds for the educational benefit of the people of Bingley.

**ACTION:** *Strategic Director, Corporate Service*

### Report Contact

Richard Winter – Senior Lawyer (solicitor)  
Interim Team Leader Property Commercial and Development Law Team  
Room 302  
City Hall  
Bradford  
01274 434292

## **1. SUMMARY**

1.1 The building now known as the Priesthorpe Annexe, Bingley is held by the Council as Trustee of the former Bingley Science Arts and Technical School (the former school).

1.2 The terms of the trust is set out in a conveyance dated the 23<sup>rd</sup> October 1889 between Alfred Sharp Esquire and the trustees of the will of James Sharp Esquire who conveyed the property to the " Trustees of 'the former Bingley Technical School'. The conveyance sets out various educational objectives of the trust which benefit both children and adults of Bingley.

1.3 A conveyance of a second parcel of land ( blue land ) forming part of the current premises (see plan) is dated 29 September 1896 and made between (1) Elizabeth Sharp and Others and (2) The Trustees of 'the Bingley Technical school'. This conveyance also contains terms relating to the operation of the trust.

1.4 The charitable trust is not however currently registered with the Charity Commissioners (the commissioners). The commissioners did offer advice to the Councils Legal service on the interpretation of trust documents some 5 years ago.

1.5. The building has been empty since 2002 and is in a poor state of repair and is no longer used for the purposes of the trust. The Council after considerable efforts through it Estates and Property service have been unable to find a use for the building that would promote the educational objectives of the trust or a revenue budget to maintain it.

1.6 Following the meeting in March 2017 two consultation exercises were made in connection with the disposal of the building in accordance with the Charities Act 1993 and the Trustees Act 2000. The details of those consultations are set out in paragraph 3 below.

1.7 Approval is sought for the disposal of the former school in accordance with the recommendations and to apply the proceeds of sale after costs (and grant repayments where necessary) to further the educational objectives of the trust.

## **2. BACKGROUND**

2.1 Following the conveyance to the trustees of 'the School' in 1889 the property vested in Bingley Urban District Council as former education authority and later in the West Riding County Council under the Education Acts. Ultimately the property became vested in the Council on 1<sup>st</sup> April 1974 by virtue of the Local Government Act 1972. The Councils ownership is as shown in its registered title and plan

2.2 Broadly speaking the 1889 conveyance implies that 'the former school' (now known as the Priesthorpe Annexe) was to be used for the educational benefit of the people (children and adults) of Bingley. Until 2002 the building was used for the provision of education and vocational training.

2.3 The building has largely stood empty since 2002 due to the Council being unable to identify a use for the property which complies with educational aims and objectives. The Council has insufficient funds to repair and maintain the building. Consequently, the property has fallen into significant disrepair and is now considered to be beyond economic and physical repair and some financial liability may fall upon the Council as owner of the property.

2.4 A number of complaints have been received about the condition of the former school and officers are concerned that given the lack of resources the building will continue to deteriorate. To address this it is proposed that the Council as trustees dispose of the property and use the net sale proceeds to meet and support the aims of the Educational trust.

### **3. OTHER CONSIDERATIONS AND THE CONSULTATION EXERCISE**

3.1 The Council as owner is at risk of further criticism for failing to properly manage the asset. The disposal of the property for a use to further the objectives of the trust or on sale and use of the net proceeds in accordance with the aims of the Trust would ensure that the Trust's assets better serve its objectives.

3.2 The Council as trustees through the City Solicitors office published a notice in the Telegraph and Argus on two separate occasions namely in April and then June this year that the Council as Trustees were seeking to dispose of the land and Buildings (by sale or otherwise ) and in accordance with this committees resolutions of the 9<sup>th</sup> March 2017

3.3 The notice was also displayed in Bingley Library and swimming pool in order to bring it to a wider circulation of the residents of Bingley. The notice was also displayed on the land and buildings.

3.4 The notice gave details of the background and establishment of the trust in 1889 and 1896. The notice also stated "The Council as trustees is seeking representations /objections in writing in respect of the proposed disposal and views as to how the former school might be best used in future of educational or other unrelated proposes.

3.5 Representations were received from members of the Bingley Town Council (the Town Council) and Ms Gemma Price the Managing Director of Superfood Market Group PLC. (The Company) The representations of both parties are set out below.

3.6 A letter from the Town Council dated the 26<sup>th</sup> July 2017 was addressed to the Council Assistant Director (Property and Estates). Following meetings between the parties the Town Council has expressed the view that the disposal and development of the building should be for " either residential, community or acceptable commercial use given the nearby housing". The Town Council also requests that the Council as trustees should apply the principles which apply to Assets of Community Value (ACV) under section 88 of the Localism Act 2011. Were the building to be treated as such that would entail the Council as trustees to confirm by way of resolution that the "ACV" legal requirement

should apply voluntarily i.e. allowing expressions of interest within six weeks from the date of the meeting and 6 months for the Town Council to put a bid together. The Town Councils letter also makes objection to the recouping of legal costs for the disposal of the site due to the neglect by the Council as owner. The Town Council states that the legal or other costs involved in the sale, transfer or disposal of the building or site should be met by the Council as owner. In addition whilst the buildings future is been decided the Council as owner should tidy up the site attend to dilapidated hoardings and remove the trees from the building.

3.7 'The Company' through its managing director Ms Gemma Price sent an expression of interest to the Councils Estates and Property Manager by email dated the 10<sup>th</sup> July 2017. The email explains that Ms Price runs one of Bradford's largest food and drinks businesses and has the capital to restore the building and passion to see it done in keeping. The Company is currently based in Idle and the leasehold ends in three years time. The business is named " Superfood Market, and has many goals including educating consumers on better food options, removing human exploitation from the food chain, showing compassion to the poorest members of our society through the companies food bank and the rehabilitation of young offenders into the food and drink industry. The Company currently employs 50 staff and trades in 48 Countries. Ms Price expresses the wish to invest in the area she loves and calls home by saving the historic and beautiful building and restoring it to its former glory and relocating the company to Bingley.

#### **4. FINANCIAL & RESOURCE APPRAISAL**

4.1 The Council as owner also needs to consider through the Project Appraisal Group whether or not a financial contribution can be made to support the disposal of the property given the whole of the background circumstances.

#### **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

5.1 At present the Council is at risk of criticism for failing to properly manage the Trust's assets and the slowly diminishing value of the property due to the lack of maintenance.

5.2 Unless an educational use of the building is found some or all of the sale proceeds will have to be repaid to the Government which gave a grant to support the establishment of the trust in 1889.

#### **6. LEGAL APPRAISAL**

6.1 Given the 1889 and 1896 conveyances sets out trust objectives any net proceeds of sale must be applied to promote those objectives and repaid to central government in whole or in part.

6.2 There is also reference in the 1889 conveyance to a grant from the then "her majesties treasury' (made around the golden jubilee of Queen Victoria celebrated on 20 June 1887) being repaid if the property is sold.



6.3 It is worthy of note that the sale/disposal can in any event be authorised under the Charities Act 2011 subject to an independent report of a qualified surveyor on behalf of the Council as trustees and by giving notice of at least one month inviting representations from the public. That notice has now been given.

6.4 An independent valuation is already in existence but may need updating.

6.5 The Localism Act 2011 (section 88) provisions relating to Assets of Community value can voluntarily be adhered to in relation to the former school by the Council as owner and trustee.

## **7. OTHER IMPLICATIONS**

None

### **7.1 EQUALITY & DIVERSITY**

None

### **7.2 SUSTAINABILITY IMPLICATIONS**

➤ Contact the Sustainability Co-ordinator (Policy), on Bradford 434123 or e-mail [jamie.saunders@bradford.gov.uk](mailto:jamie.saunders@bradford.gov.uk) for further guidance.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

➤ Assessment of the impact of all recommendations on the Council's own and the wider District's carbon footprint and emissions from other greenhouse gasses. Contact the Environment & Climate Change Manager on 07582 108009 for further guidance.

➤

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

The disposal of the property would facilitate the building being brought back into use thereby resolving the on-going issues and dangers associated with a building in disrepair.

### **7.5 HUMAN RIGHTS ACT**

None

### **7.6 TRADE UNION**

None

### 7.7.1 WARD IMPLICATIONS

7. 1 The disposal of the property will facilitate the dilapidated building being brought back into use which will benefit the amenity of the immediate area. In addition, net sale proceeds will be used for the benefit of the residents of Bingley in accordance with the aims of the Trust.

7.2 The Bingley Town Council has expressed interest in seeking to have the building transferred into its ownership and being brought back into use for educational purposes.

### 8. NOT FOR PUBLICATION DOCUMENTS

None.

### 9. OPTIONS

**Option 1;** Voluntarily treat the former school as an asset of Community Value and if the Town Council express an interest and obtains necessary funding transfer the property (by long lease or otherwise) to it with restrictions and or covenants as to the future use of the building and the reinstatement the use of the building for educational use to support the objectives of the trust

*Pros;* The transfer of the property will remove an on-going liability from the Council as trustees and enable the former school to be used in accordance with the aims of the Trust.

*Cons;* None.

**Option 2;** Place the former school for disposal on the open market which will allow the Ms Prices expressions of interest to be considered.

*Pros;* The sale of the property will remove an on-going liability from the Council as trustees and enable the net sale proceeds to be used in accordance with the aims of the Trust. This could be to a third party who would reinstate the former school in keeping with its architectural and historical interest and have some direct or indirect educational purpose.

*Cons;* the building will fall outside the trusts ownership and control and unless the Council as trustees crated restrictions and covenants to promote and protect the buildings architectural and historical purposes acceptable to a developer the former school may not be developed in a way to support the original intentions of the trust. In those circumstances the whole or part of the proceeds of sale is repayable to central government.

A disposal which enables the Council as trustee to regulate the future use the former school and support some educational purposes of the trust for benefit of the people of Bingley is the preferred option.

## **10. RECOMMENDATIONS**

**Recommended -**

- (1) That the Assistant Director, Estates and Property be requested to treat the Priesthorpe Annexe as an Asset of Community Value and to seek expressions of interest, with any organisation doing so being given until 29 September 2017 to submit a business case balancing educational purposes and best price.**
- (2) That the City Solicitor be requested to submit a further report to the November meeting of this Committee that includes a review, by the Assistant Director, Estates and Property, of each of the business cases that have been submitted.**
- (3) That the City Solicitor be requested to make an application to the Council's Project Appraisal Group for a financial contribution to support the cost of putting the building back into the position it was when the school closed in 2002, thus assisting in the disposal of the property.**
- (4) That the expressions of interest already received from Bingley Town Council and the Managing Director of Superfood Market be noted and that they be invited to submit a business case as proposed in (1) above.**

## **11. APPENDICES**

Appendix 1 The Council's title and plan registered at Her Majesty's Land Registry Nottingham.

## **12. BACKGROUND DOCUMENTS**

Independent surveyors report.

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THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 20 OCT 2016 AT 13:23:50. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY LAND REGISTRY, NOTTINGHAM OFFICE.

TITLE NUMBER: WYK938639

There is no application or official search pending against this title.

## A: Property Register

This register describes the land and estate comprised in the title.

WEST YORKSHIRE : BRADFORD

- 1 (17.08.2011) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land on the south west side of Mornington Road, Bingley.

NOTE: The land tinted green on the title plan is not included in the title.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (17.08.2011) PROPRIETOR: CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL of City Hall, Bradford, West Yorkshire BD1 1HY trustees of the Bingley Technical School.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (17.08.2011) A Conveyance of the land tinted pink on the title plan and other land dated 23 October 1889 made between (1) Alfred Sharp and others and (2) The Trustees of the Bingley Technical School contains restrictive covenants.

NOTE 1:- There are no matters contained in the Indenture dated 30 August 1878 referred to in the above Conveyance that requires an entry in the register

NOTE 2: Copy filed.

- 2 (17.08.2011) The land tinted pink on the title plan is subject to the rights reserved by the Conveyance dated 23 October 1889 referred to above.
- 3 (17.08.2011) A Conveyance of the land tinted blue on the title plan and other land dated 29 September 1896 made between (1) Elizabeth Sharp and others and (2) The Trustees of the Bingley Technical School contains restrictive covenants.

NOTE 1:- There are no matters contained in the Indenture dated 30 August 1878 referred to in the above Conveyance that requires an entry

Title number WYK938639

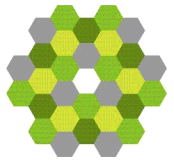
## C: Charges Register continued

in the register

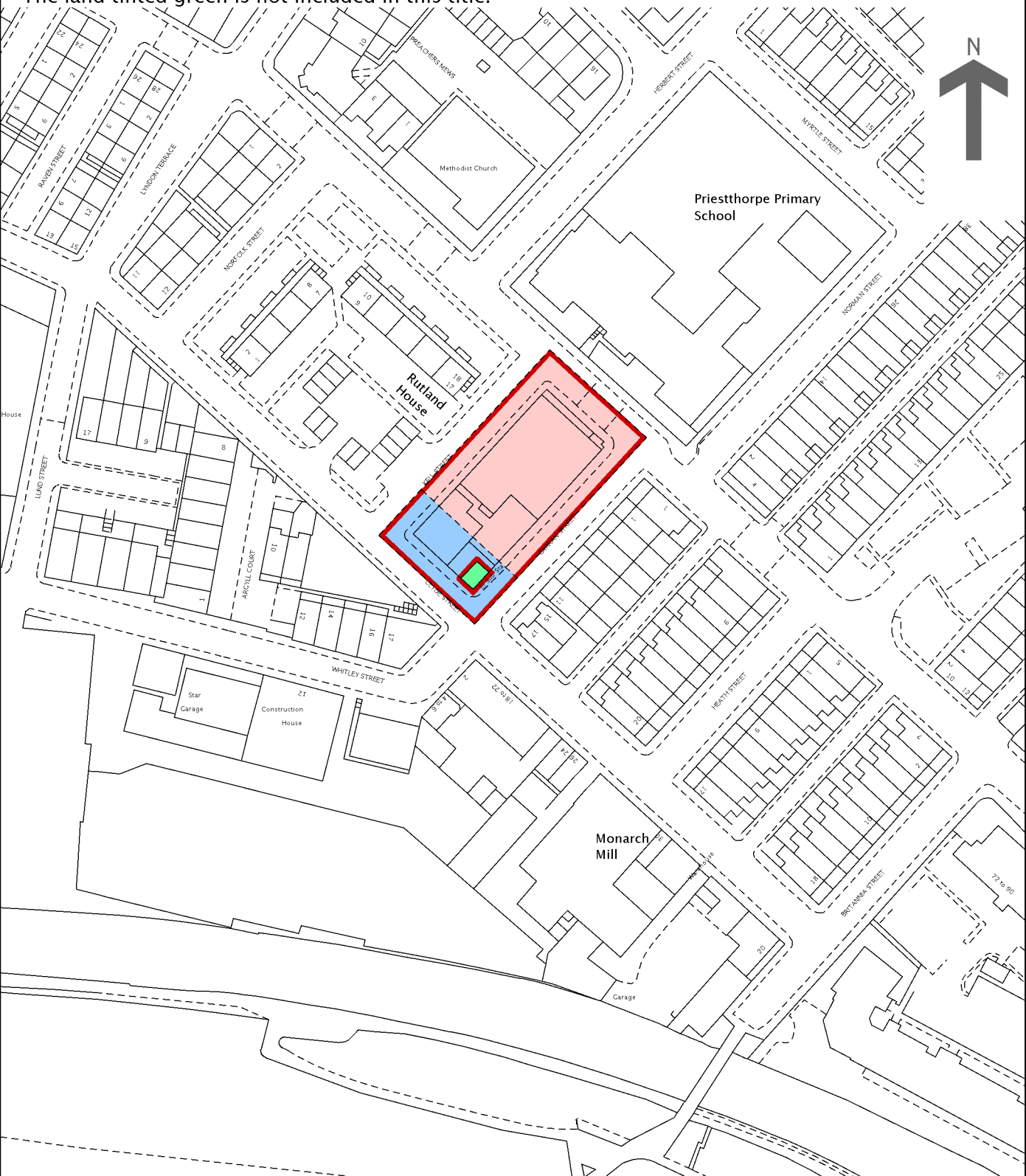
*NOTE 2: Copy filed under WYK899342.*

- 4 (17.08.2011) The land tinted blue on the title plan is subject to the rights reserved by the Conveyance dated 29 September 1896 referred to above.

End of register



©Crown Copyright. Produced by Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.  
The land tinted green is not included in this title.



This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 20 October 2016 at 13:25:10. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

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