

REPORT FROM: Director of Place

TO: West Craven Committee

DATE: 6th June 2023

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Gospel Hall, Hollins Road, Barnoldswick.

PURPOSE OF REPORT

- (1) To advise Members of a request to release the Council's Restrictive Covenant on use of the above land in order that the land can be used for residential development.

RECOMMENDATIONS

- (1) That Committee agree to the principle of removing the covenant.
- (2) That the Chief Executive be authorised to negotiate and agree on the level of premium for lifting the covenant.

REASONS FOR RECOMMENDATIONS

- (1) The covenant is no longer relevant or necessary to control the use of the site.
- (2) In order to ensure that the Council receives an appropriate level of capital receipt for the increase in the value of the site resulting from the lifting of the covenant.

ISSUE

1. The site was conveyed to the Trustees of the Barnoldswick Gospel Mission Hall by the Urban District Council of Barnoldswick in 1957. The conveyance contained a covenant limiting the use of the land and buildings erected thereon to a Church or Gospel Mission Hall and buildings appurtenant thereto. The covenant prohibits any other use whatsoever.
2. A Gospel Mission Hall was erected on the site and was used for that purpose for many years. Recently the property has changed hands a number of times. There was a request in 2019 to remove the covenant which was declined by Committee. Since then, a Notice pursuant to Section 79 of the Building Act has been served to bring the building back from a dilapidated condition. The Court has sought for the Council and owner to work together to try and find a solution to the use of the site.

3. The current owner has written to formally request that the covenant is lifted. The following points have been put forward for consideration:
 - The property has been vacant for 15 years.
 - Owing to the restrictive covenant and no religious groups wanting to use the site the building has become dilapidated.
 - It is not financially feasible or sustainable to use the site with the restrictive covenant on it.
4. Covenants are put in place for specific purposes at the time land is conveyed. Over time the purposes and reasons for imposing it initially can alter. They can be challenged for a number of reasons. Two common grounds for challenge are 1) the covenant has become obsolete 2) The covenant prevents some reasonable use of land.
5. The evidence we have before us is that the site has not been sought for or is likely to be used in future for a Church or Gospel Hall. Any challenge to a refusal to lift the covenant would need to be justified and defensible. It is highly unlikely that a case could be put to any Tribunal that the land is still needed for use as a Church or Gospel Hall. In that circumstance were the Council not able to show justified reasoning, the likelihood would be that the covenant would be lifted.
6. Committee is asked to consider the ongoing purpose of the covenant and whether it currently serves a legitimate and defensible purpose.
7. The recommendation is that Committee agree to the lifting of the covenant as the site is no longer useful as a Church or Gospel Hall Mission and the site, subject to planning permission being granted, could have a beneficial use through redevelopment for appropriate housing.

IMPLICATIONS

Policy:	None
Financial:	There would be some financial benefit to Pendle as there would need to be a premium paid for the benefit accrued by lifting the covenant. PBC would be required to pay any costs arising out of defending a challenge to not agreeing to lifting the covenant.
Legal:	Covenants can be lifted voluntarily by the beneficiary or upon application to the Upper Tribunal (Lands Chamber) if there are reasonable grounds to do so.
Risk Management:	None resulting from this.
Health and Safety:	The building on the site is in a parlous condition and a solution needs to be found to its condition and future use of the site. Vandalism could lead to a danger to those vandalising it.
Sustainability:	None
Community Safety:	The building is in a parlous condition and a solution needs to be found to its condition. Vandalism could lead to a danger to those vandalising it.
Equality and Diversity:	None