

Housing, Health and Community Committee
18 September 2023

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| REPORT TITLE: | Asset of Community Value: St Andrews Methodist Church, Herongate |
| REPORT OF: | Tracey Lilley, Director of Community and Health |

REPORT SUMMARY

The Localism Act 2011 requires local authorities to keep a list of assets (meaning buildings or other land) which are of community value. Once an asset is placed on the list it will usually remain there for five years. The effect of listing is that generally speaking an owner intending to dispose of the asset must give notice to the local authority. A community interest group then has six weeks in which to ask to be treated as a potential bidder. If it does so, the disposal cannot take place for six months. The theory is that this period known as the “moratorium” will allow the community group to come up with an alternative proposal- although, at the end of the moratorium, it is entirely up to the owner whether a disposal goes through, to whom and for how much. There are arrangements for the local authority to pay compensation to an owner who loses money in consequence of the asset being listed.

A valid nomination has been received by the Herongate and Ingrave Preservation Society on 14 September 2023 (**Appendix A**) In relation to St Andrews Methodist Church and land as indicated on the attached site plan (**Appendix B**).

The report is for Members to list or not to list the land as an Asset of Community Value as indicated in **Appendix B**

RECOMMENDATION

R1: To list the land as a community asset as indicated in Appendix B of the report as an Asset of Community Value and that it is added to the Council’s Register of Community Assets.

SUPPORT ING INFORMATION

1.0 REASON FOR RECOMMENDATION

- 1.1 The nomination meets both the statutory tests as set out in 3.7 and therefore it is recommended to list St Andrew’s Methodist Church and land as an Asset of Community Value and add it to the Council’s Register of Assets of Community Value.

2.0 BACKGROUND INFORMATION

- 2.1 A report was presented to Policy, Performance and Resources Board on 7 December 2011 (min ref. 386) so that members were aware of the implications for the Council of the Localism Act 2011 which was given Royal Assent on 15 November 2011. Part of the Localism Act 2011 includes the ability for communities to be able to ask for community assets to be put on a register of 'Assets of Community Value'. These assets can include local pubs, shops, village halls, libraries and community centres.
- 2.2 The Localism Act provides an opportunity for communities to raise finance to competitively bid when a community asset comes on the open market. This is achieved through a legal framework governed by the Local Authority. The Act allows communities to nominate assets of community value (ACV's). The council is given eight weeks to determine whether it meets the criteria for listing from the date of submission, and then places its decision on the list. When the owner of a listed asset wishes to dispose of it, the Act introduces a delay or 'moratorium' before he or she can do so, to give any interested and eligible community groups the time to prepare a bid. However, at the end of the moratorium period the owner can sell to whomever they choose at a price agreed by the buyer.
- 2.3 The Council received a valid nomination (Appendix A) on 14 September 2023 from Herongate and Ingrave Preservation Society. The regulations made under the Localism Act 2011 require the Council to determine within 8 weeks whether to list the nominated asset. Therefore, the deadline for a decision would be 9 November which is outside the Committee cycle of meetings which is why this report is before Members tonight.
- 2.4 In broad outline the new provision under the Localism Act 2011 for listing an Asset of Community Value and subsequent disposal are set out in **Appendix C**. In particular, Members are reminded of what is meant by a relevant disposal of a listed asset (see. 1.15 of **Appendix C**).

3.0 OTHER OPTIONS CONSIDERED

- 3.1 The essential statutory test for an ACV is set out in Section 88 of the Localism Act 2011. It is for the local authority to judge whether the criteria are met (subject to any challenge by way of judicial review). The criteria are set out as follows:
- 3.2 **Is the nominating organisation an eligible body to nominate?** Yes, Herongate and Ingrave Preservation Society is a registered charity, number 289012.
- 3.3 **Does the nominating body have a local connection to the asset?** Yes, the charity is based in Herongate and Ingrave.
- 3.4 **Does the nomination include the required information about the asset?** (This includes the proposed boundaries, names of the current occupants of the land and names and current or last known address of those holding a freehold or leasehold

estate on the land). All of the necessary information was supplied to the Council (see Nomination form) Appendix A and (site plan) Appendix B.

- 3.5 **Is the nominated asset outside one of the categories that cannot be assets of community value (a residence together with land associated with that residence; land in respect of which site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960; and operating land as defined in section 263 of the Town and Country Planning Act 1990).** The land indicated is not one of the exempt categories that cannot be listed as an ACV, so this nomination cannot be ruled out on that principle.
- 3.6 **Is the current (or recent) usage which is subject of the nomination an actual and non-ancillary usage?** The current usage as submitted in the nomination form is that up until July 2023 as a Methodist Church that held regular services, together with gardens and allotments that are well used by the residents and the community garden has the added attraction of being used for mental health and wellbeing. **Appendix D** also provides further supporting information.
- 3.7 The Council also needs to consider if in their opinion (a) an actual current use furthers the social wellbeing or social interests of the local community, and (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community. They may take into account the following:
- 3.8 **What is the ‘local community’ of the asset as defined by geographical area?** Officers consider that this would include Herongate and Ingrave and the Borough of Brentwood and the immediate surrounding areas.
- 3.9 **What is the current/recent use of the asset?** The nominated asset’s usage was a Methodist Church, together with community garden and allotments.
- 3.10 **How well is the asset used?** The nominee has stated that The Methodist church has now ceased its operations which then allows for the residents to fully utilise the premises. To date, there are 15 users of the allotments, it's a drop-in centre for the community gardens which number upwards of 30 people, up to 30 visitors on open days, as well as the yoga group of 15 people, various other groups including the local rambling groups, meeting centre for the Parish Council and the Herongate and Ingrave Preservation Society. Now regular services are not being held, it is the intention to invite all faiths to utilise the space.
- 3.11 **What will be the impact is the usage ceases?** The nominee has stated that this very well-loved, well-used building that has enhanced village life for 140 years would cease.
- 3.12 **How does it meet the social interests of the community as a whole and not users/customers of a specific service?** For information in the Act ‘Social interests’ includes each of the following – cultural interests, recreational interests and sporting interests. The nominee has stated that it is located in the centre of our village within

easy walking distance of residents; they have the defibrillator sited there, there is the war memorial, and it will be a designated warm space. It is also the village disaster assembly point. The garden provides a safe, quiet place for reflection and contemplation. It is community meeting space and provides space for yoga classes.

3.13 **How is the asset regarded by the local community (community consultation, evidence of support)?** The nominee has stated that they have held two public meetings locally, having to hire a larger venue for the amount of people, circa 60, who wished to attend, two follow-up meetings have been held within the month and we have had no lack of support and offers of help from various professions within the village.

3.14 Members also need to consider whether it is realistic to think that there can continue to be non-ancillary use of the asset which will further the social wellbeing or social interests of the local community.

3.15 The recent usage of St Andrew's Methodist Church and land would suggest that it would seem reasonable that there can continue to be non-ancillary use of the asset which will further (whether or not in the same way as before) the social well-being or social interests of the local community since there are examples of similar and comparable assets serving these interests elsewhere in the Borough. The recent enhancements to the garden are also providing a place for mental health wellbeing as well as reducing social isolation. There is also interest of a local nursery to use it during the day.

4.0 RELEVANT RISKS

4.1 The Council has a legal duty to comply with the legislation relating to Assets of Community Value within the timescales specified in the Localism Act.

5.0 ENGAGEMENT/CONSULTATION

5.1 Two public meetings have been held, together with two follow up meeting which have been attended by around 60 people.

6.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Director – Resources & Section 151 Officer
Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk

6.1 Under the Assets of Community Value regulations the local authority is responsible for paying compensation in respect of listed assets within its area. There is no statutory cap on the amount of compensation that may be payable in respect of any one claim, and a local authority may face multiply claims in any one year. The Department for Communities and Local Government has issues guidance in relation to the Community Right to Bid. With regard to compensation claims, any individual or total payments of over £20k in a financial year will be funded by the government. In

addition, a New Burdens grant has been allocated to all administering councils to cover the costs associated with implementing the new scheme.

6.2 Whilst the funding from government will help to meet some of the costs of the new arrangements, local authorities will still be expected to fund the first £20k of any compensation payments.

6.3 The current balance in the Community Rights to Bid reserve has a balance of £37,644.

7.0 LEGAL/GOVERNANCE IMPLICATIONS

Name & Title: Claire Mayhew, Acting Joint Director – People & Governance & Monitoring Officer

Tel & Email 01277 312500 / claire.mayhew@brentwood.rochford.gov.uk

7.1 The Council has a statutory responsibility to comply with the provisions as set out in the Localism Act and the Regulations made under the Act, currently Assets of Community Value (England) Regulations 2012 SI 2421

8.0 EQUALITY & HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

Tel & Email 01277 312500 / kim.anderson@brentwood.gov.uk

8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c) Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

8.3 The proposals in this report will not have a disproportionate adverse impact on anybody with a protected characteristic.

8.4 The Localism Act provides equal opportunity for local communities to nominate assets that are important to them.

9.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Director - Place

Tel & Email: 01277 312500 / phil.drane@brentwood.rochford.gov.uk

9.1 There are no direct economic implications.

REPORT AUTHOR:

Name: Kim Anderson

Title: Corporate Manager, Community, Leisure and Health

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APPENDICES

Appendix A: Nomination Form - Asset of Community Value

Appendix B: Site Plan of nominated land -St Andrew's Methodist Church

Appendix C: Provisions under the Localism Act 2011 relating to Assets of Community Value

Appendix D – Additional supporting Information

BACKGROUND PAPERS

Localism Act 2011 – Assets of Community Value

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|------------------------|-------------|
| None | |