



Please ask for Frances Green
Direct Line: 01246 588669
Email: democratic.services@chesterfield.gov.uk

NOTICE OF EXECUTIVE DECISION TO BE MADE

The following Executive Decisions are due to be made by the CABINET MEMBER FOR HEALTH AND WELLBEING on TUESDAY, 3 OCTOBER 2023.

1. Consideration of the community right to bid (assets of community value) nomination for the Rose Hill United Reformed Church (Pages 3 - 18)

Reports relating to the decision(s) to be taken are attached to this notice, unless they contain confidential or exempt information. A meeting will not necessarily take place when the decision is made. Please contact Democratic Services for more information.

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For publication

Consideration of the community right to bid (assets of community value) nomination for the Rose Hill United Reformed Church (HW000)

Meeting:	Cabinet Member – Health and Wellbeing
Date:	18 th September 2023
Directorate:	Corporate
For publication	

1. Purpose of the report

- 1.1. To consider the listing of the Rose Hill United Reformed Church, Soresby Street, Chesterfield as an asset of community value.

2. Recommendations

- 2.1. That Chesterfield Borough Council does not list Rose Hill United Reformed Church, Soresby Street as an asset of community value.

3. Reason for recommendations

- 3.1. Rose Hill United Reformed Church, Soresby Street is not considered to meet the asset of community value criteria.

4. Report details

Background

- 4.1. The Localism Act 2011 created the Community Right to Bid (Assets of Community Value). The Assets of Community Value regulations introduce a new right for community or voluntary bodies to request that a local asset (buildings or land) should be listed as an “Asset of Community Value).

- 4.2. This new right covers both public and private assets and is designed to facilitate a “Community Right to Bid” for assets deemed to be of community value.
- 4.3. The regulations also set out new duties and responsibilities for local authorities including keeping a list of assets of community value, scheme operation and regulation and payment of compensation.
- 4.4. The regulations came into force on the 20th September 2012, with a non-statutory advice note being issued to local authorities in October 2012. This legislation applies to district and unitary authorities.
- 4.5. In July 2023, Chesterfield Borough Council received a nomination from Chesterfield and District Civic Society for Rose Hill United Reformed Church, Soresby Street, Chesterfield to become an asset of community value. The attached Eastwood Memorial Hall (including the former caretaker’s flat) was not included in the nomination.

Nominator and asset qualification for the right

- 4.6. The right to make a nomination and subsequently to bid can be used by:
 - A local voluntary or community group that is not incorporated but has at least 21 members who are locally registered to vote in Chesterfield Borough or a neighbouring authority.
 - A Parish or Town council
 - A Charity
 - A neighbourhood forum designated as such for planning purposes under the Town and Country Planning Act 1990
 - A company limited by guarantee or an industrial or provident society which does not distribute any surplus it makes to its members
 - A community interest company.
- 4.7. The nomination of the Rose Hill United Reformed Church was made by Chesterfield and District Civic Society, which is a registered charity, and therefore qualifies for the right to nominate an asset.
- 4.8. Under the Community Right to Bid some categories of land and buildings are exempt. These include:
 - Residential premises, including sites for mobile homes and boats. For a building which is or includes residential premises this will include land held with the residence owned by a single owner. This could go beyond immediate gardens, outbuildings, yards etc. and extend to all

land held by that owner. Every part of the land must be able to be reached from the residence without having to cross land which is not held by the single owner unless the intervening land is a railway, road, canal or river.

- Caravan sites - Land for which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960.
- Operational land - as defined in Part 11 of the Town and Country Planning Act 1990. This is land used for transport infrastructure and some other related purposes by specified bodies with statutory powers. For example land held by railways or highway authorities.

4.9. Rose Hill United Reformed Church does not meet the criteria for exemption from the right.

Asset of community value criteria

4.10. Chapter three of the Localism Act 2011 states that land or buildings within the local authority's area are of community value if in the opinion of the authority it is:

- (a) An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests (which include cultural, sporting or recreational 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.

Location of the nominated building and availability of facilities and amenities within the vicinity

4.11. Rose Hill United Reformed Church is located in the Spire ward in the centre of the borough. The church is located on Soresby Street, Chesterfield S40 1JN within the town centre, close to Chesterfield Town Hall. The building itself is Grade II Listed, and it is located within the Town Centre Conservation Area.

4.12. Regarding the existing/recent use, in planning terms the current lawful use is F1(f) 'For, or in connection with, public worship or religious instruction'. Any changes in use (including to a community hall F2(b)) would require a planning application (and Listed Building Consent for

any changes to the building).

- 4.13. During 2010, the Church received funding to turn the sanctuary into a multi-use space to enable community use and associated income from room hire. It has since been used by community groups for meetings, concerts and their rehearsals, as well as community Carol services and coffee mornings. The owners have advised that as the church has been in receipt of rent from the letting of Eastwood Hall adjacent to the property, it has been possible to let these user groups use the church sanctuary and meeting rooms at very low or no cost. This would be considered an ancillary use of the Church.
- 4.14. Due to declining congregation and financial implications arising from structural issues with the roof, the church closed on the 10th September, and the members dispersed to other churches. The owners have confirmed that, other than regular inspections for insurance purposes, there will be no one using the church, and it will not be possible to enable user groups in the community to use the buildings. The Church was not able to open while work was carried out on the roof, and has not recently been 'hiring' out the venue since deciding to close.
- 4.15. In relation to the room hire use of the Church, the following venues offering similar facilities are available for hire within the borough, several of which are less than a mile away.

Facility available for hire	Distance from Rose Hill URC
Assembly Rooms (Market Hall)	348 ft
Chesterfield Town Hall	528 ft
Pomegranate Theatre	0.5 miles (but currently closed for refurbishment)
Winding Wheel	0.5 miles
Donut Creative Arts Centre	0.6 miles
West Street Studios	0.6 miles
Chester Street Club	0.8 miles
St. Andrews Church Hall	1.0 miles
Boythorpe Community Centre	1.2 miles
Derby Road Methodist Church	1.4 miles
Loundsley Green Community Centre	1.5 miles
St. Thomas Centre	1.5 miles

Technique Stadium, Whittington Moor	1.6 miles
Peter Webster Centre	1.6 miles
The Eagle Club, Littlemoor	1.9 miles
Newbold Working Men's Club	2.0 miles
Birdholme Working Men's Club	2.0 miles
Hasland Village Hall	2.1 miles
Brimington Community Centre	2.7 miles
Speedwell Rooms	4.7 miles
Staveley Hall	5.0 miles

The Rose Hill United Reformed Church nomination

- 4.16. Chesterfield and District Civic Society nominated the Rose Hill United Reformed Church to be considered for listing under the Community Right to Bid (Asset of Community Value) legislation in July 2023. The completed Community Right to Bid nomination form is attached at Appendix A.
- 4.17. The nomination form requests the following information:
- Explain how the main use of the asset currently contributes to community value.
 - Has the main use of the asset in the recent past contributed to community value?
 - Explain how this asset could provide a realistic future contribution (in the next five years) to community value.
- 4.18. Chesterfield and District Civic Society have listed a number of unique and historical features of the building which is prominent within the town centre. However, Localism legislation limits the material considerations which apply when considering whether to list an Asset of Community Value.
- 4.19. Below is a summary of how the Chesterfield and District Civic Society have stated that they believe Rose Hill United Reformed Church meets the criteria for an Asset of Community Value, and whether the Council considers each to be a material consideration in this case:

Consideration listed by nominating group	Relation to criteria
1. Rose Hill United Reformed Church on Soresby Street in Chesterfield is a Grade II	This is a material consideration when

<p>listed building opened in 1823, which will close as a place of worship later this year. The Civic Society is keenly interested in its future and hopes to ensure that it remains in community use, as it has done for two hundred years. We consider that this is the use to which it is best suited and the one which will involve least alteration (and no damage) to the historic fabric.</p>	<p>assessing the nomination of an asset of community value under the Localism Act.</p>
<p>2. Rose Hill United Reformed Church was built in 1822-3 by a congregation which traces its origins from the opening c.1772 of a meeting house in Froggatt's Yard, behind Low Pavement, although the history of Congregationalism in the town can be traced back to the early seventeenth century. The building is therefore of great importance in the history of Free Church worship in Chesterfield, which is in turn an important theme in the general history of the town since c.1600.</p>	<p>This consideration would be relevant upon receipt of a planning application, as opposed to assessing the nomination of an asset of community value under the Localism Act.</p>
<p>3. The building is also of considerable architectural merit. It epitomises the best qualities of provincial middle-class Dissent in its plain, dignified external elevations, and in the high quality and quietly harmonious internal layout, fixtures and fittings. It has been very well looked after by the congregation and, apart from the need for major roof repairs, is in good order externally and internally.</p>	<p>This consideration would be relevant upon receipt of a planning application, as opposed to assessing the nomination of an asset of community value under the Localism Act.</p>
<p>4. The exterior remains virtually unaltered since it was built; changes to the interior have been well thought out and executed to a high standard. In recent years it has been reordered to make it suitable for a variety of uses besides worship. Among the fixtures and fittings are items moved from the former Congregational Church on Chatsworth Road, which gives the Rose Hill building added importance.</p>	<p>This consideration would be relevant upon receipt of a planning application, as opposed to assessing the nomination of an asset of community value under the Localism Act.</p>

<p>5. The building occupies a very prominent position within the Town Centre Conservation Area. Its setting was improved by the building of Rose Hill in the 1930s, since access to it was previously from Soresby Street. It is visible from a wide area and is a familiar landmark in the town.</p>	<p>This consideration would be relevant upon receipt of a planning application, as opposed to assessing the nomination of an asset of community value under the Localism Act.</p>
<p>6. Apart from serving one of the main Nonconformist denominations in the town for two centuries, the church has (especially in recent years) been used by other organisations for lectures, meetings, concerts and recitals. In this respect it makes an enormous contribution to the cultural life of the town, which it would be tragic to lose. It is arguably the best medium-sized meeting place in the town centre. The acoustics are excellent and it contains a fine organ. There is a servery for refreshments in the main hall and a virtually new, well-equipped kitchen elsewhere in the building. As at present arranged, there is flexible seating in the hall and a gallery (added in 1860) which retains what appear to be its original pews.</p>	<p>This is a material consideration when assessing the nomination of an asset of community value under the Localism Act.</p>
<p>7. The church has without doubt been a major asset to the community for many years and the Civic Society is determined that this shall remain the case.</p>	<p>This is a material consideration when assessing the nomination of an asset of community value under the Localism Act - Has the main use of the asset in the recent past contributed to community value?</p>
<p>8. One reason why we believe the building should remain in community use is that it is unsuited for several other possible uses.</p>	<p>Although registering an asset of community value</p>

<p>Residential or office use is presumably precluded by the lack of parking space, and use as a restaurant (with an alcohol licence) would be seen by many as offensive for a former place of worship. There are in any case plenty of cafes, restaurants and pubs in the town centre, and we consider it highly undesirable that a former Congregational church should be used to add to their number.</p>	<p>considers previous, current and potential future community use, change of use of the premises would be subject to Planning Law, rather than the Localism Act.</p>
<p>9. For both positive and negative reasons, therefore, we consider that the best future for the church is for it to remain available for hire by community groups of all sorts, including those who wish to put on small and medium sized choral or musical performances there, for which it is particularly well suited and which is a wholly appropriate use for the building. One reason why the church is closing is that the congregation is falling in number as existing members grow older and are not replaced. This is true of virtually every place of worship in the country. This does not mean that the building is not an asset to the community and could not remain so in the future.</p>	<p>This is a material consideration when assessing the nomination of an asset of community value under the Localism Act.</p>
<p>10. There remains a strong tradition of voluntary organisations of all kinds in Chesterfield, most of which do not have meeting places of their own. Rose Hill United Reformed Church is centrally located, adjoining large car-parks and a short walk from town centre bus stops. It is therefore a very well located building. It has been adapted in recent years to meet statutory requirements for disabled access and would need no further alterations to be used generally by the community.</p>	<p>This is a material consideration when assessing the nomination of an asset of community value under the Localism Act.</p>
<p>11. We believe that the building could become a very popular meeting place for a wide variety of organisations, although it is</p>	<p>This is a material consideration when assessing the</p>

<p>clearly impossible to list them at this stage or give the number of likely users. What we can say is that the building has very little competition in the town centre as a place for voluntary organisations to meet, and no competition at all as a suitable venue for small or medium-sized musical events for which the Winding Wheel would be too large.</p>	<p>nomination of an asset of community value under the Localism Act.</p>
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Site visit

- 4.20. In order to assist Chesterfield Borough Council in the consideration of the Community Right to Bid nomination an officer site visit took place on 24th August 2023.
- 4.21. During the site visit, officers were able to view the part of the building that has been nominated, which includes the Church Sanctuary, a smaller meeting room, kitchen and toilets. Eastwood Hall, which forms part of the overall building, is currently leased to Chesterfield Studios. Eastwood Hall has not been included in the nomination.
- 4.22. The two parts of the building are both owned by the United Reformed Church East Midlands Synod, and are physically connected and currently inter-dependent, sharing a heating system, utilities and alarm. There is also an interconnecting fire escape door.

Stakeholder comments on the nomination

- 4.23. As part of the assessment process, Chesterfield Borough Council contacted the owner of the Church, and the leaseholder of the adjacent Eastwood Hall, to notify them of the nomination and asked to provide comments.
- 4.24. Comments were received from the United Reformed Church East Midlands Synod Property Manager acting for the Synod which owns the property.
- 4.25. In summary, the owners are objecting to the registration as an Asset of Community Value on the grounds that it would significantly harm any possibility of sale and is likely to result in deterioration of the property.

Additional comments made by the owners have been summarised below: (The full (redacted) comments can be viewed at appendix B)

- The church has enabled community groups to use the premises for meetings, concerts and their rehearsals, as well as community Carol services. As the church has been in receipt of rent from the letting of Eastwood Hall adjacent to the property, it has been possible to let these groups use the church sanctuary and meeting rooms at little or no cost.
- Following closure of the church on 10th September, members will disperse to other churches. Other than regular inspections for insurance purposes, there will be no-one using the church, and it will not be possible to enable groups in the community to use the buildings.
- The church has received a valuation for the building in its current state, and have stated that market value would need to be achieved. A purchaser would also need to be able to fund investment required for structural repairs and maintenance as well as property costs such as insurance and utilities.
- The listed status of the building, and planning requirements will impact on future use/changes to the building, and offer protection of some of the features referred to in the nomination.

4.26. The leaseholder for the adjacent Eastwood Hall, Chesterfield Studios, responded to confirm their support of the nomination and for the building to be listed on the register as an Asset of Community Value.

4.27. A representative from Chesterfield Borough Council Planning Services, who attended the site visit confirmed the following:

- In planning terms the current lawful use is F1(f) 'For, or in connection with, public worship or religious instruction'.
- The church building subject to the nomination is Grade II Listed, and within a Conservation Area.
- Any changes in use (including to a community hall F2(b)) would require a planning application (and Listed Building Consent for any changes to the building).
- My understanding is that the church is being disposed of due to falling congregation (current membership of 40 with attendance of around 30). The on-going maintenance costs (insurance, energy etc) and the cost of major roof repairs are not affordable for the Church.

- I would consider that the on-going running and maintenance costs and immediate structural repair costs present a significant constraint to any realistic/viable community use.
- There is a policy in the Local Plan CLP10 Social Infrastructure which is used to determine planning applications for change of use of churches, aiming to protect against the loss of churches (and other local community facilities). Part of the policy requires that proposals demonstrate that the current use is economically unviable, and all reasonable efforts have been made to let or sell the unit for the current use over a continuous 12 month period that includes advertisement for let or sale at a realistic price. In recent years for example we have granted permission for change of use of St Patricks Church Hall High Street New Whittington and the Chapel at Cavendish Place Barrow Hill.
- Many of the reasons put forward in the nomination relate to the historic status of the building, which is listed and as such has a good level of protection through the planning system.

Asset consideration

- 4.28. The information provided by the Chesterfield and District Civic Society, the United Reformed Church East Midlands Synod, and the officer visit indicate that the Rose Hill United Reformed Church does not currently meet section A "An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests (which include cultural, sporting or recreational interests) of the local community" of the Asset of Community Value criteria." The church has closed and is no longer open to the public. There has been sporadic use of the facility for some time due to the building's condition.
- 4.29. The information provided by the Chesterfield and District Civic Society, the United Reformed Church East Midlands Synod, and the officer visit indicate that the Rose Hill United Reformed Church does not meet section 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." Previous community usage (prior to building condition issues and closure) has been undertaken on a no or low cost basis. Due to the running costs and structural issues this is not considered viable in the short to medium term.

- 4.30. It is likely that a listing on the register of Assets of Community Value would be considered a 'part listing'. The Localism Act guidance refers to exempt disposals (sales) of registered assets. One of those exemptions is where the disposal is a part-listed disposal. Part-listed disposal" means a disposal of an estate in land: part of which is land included in a local authority's list of Assets of Community Value; and part of which is land not included in any local authority's list of Assets of Community Value.
- 4.31. Therefore, if only the Church part of the land (not the Eastwood Building) is listed as an Asset of Community Value, and the owners decide to dispose of all the land including both the listed church and the Eastwood buildings, then it seems likely that this would be exempt from the notification provisions in the moratorium.
- 4.32. This does not impact on the Council's decision as to whether list or not having regard to the definition of an Asset of Community Value at S.88 Localism Act 2011. It would be an issue to be dealt with if there was an intention to enter into a relevant disposal once it is registered and subject to the moratorium.
- 4.33. The interconnection issues and part-listing of the land do call into question the value of listing Rose Hill United Reformed Church as it is likely that if the whole building was sold, it would be considered an exempt disposal.

5. **Alternative options**

- 5.1. To list Rose Hill United Reformed Church as a partial asset listing. The assessment however, has confirmed that the Rose Hill United Reformed Church does not meet the criteria within the Localism legislation, and as such, should not be listed as an Asset of Community Value.

6. **Implications for consideration - Financial and value for money**

- 6.1. No implications identified.

7. **Implications for consideration - Legal**

- 7.1. The Council is discharging its duties under the Localism Act 2011, which created the Community Right to Bid (Assets of Community Value).

8. **Implications for consideration - Human resources**

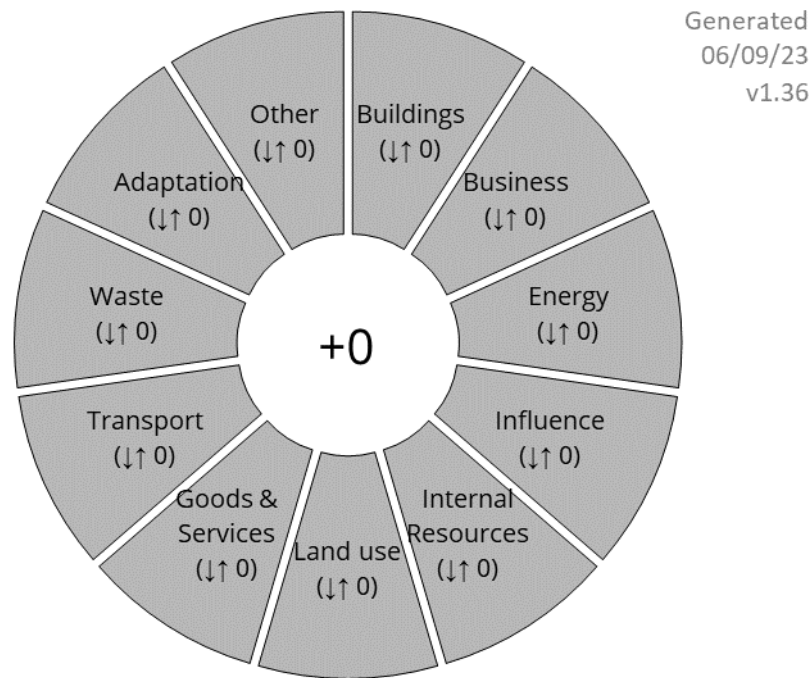
- 8.1. No implications identified.

9. **Implications for consideration - Council Plan**

9.1. No implications identified.

10. **Implications for consideration – Climate Change**

10.1. A climate change impact assessment has been undertaken and discussed with the Climate Change Officer, and the decision is considered to have a neutral impact.



Chesterfield Borough Council has committed to being a carbon neutral organisation by 2030 (6 years and 3 months away).

Risks	Impact	Likelihood	Mitigating Actions	Residual Impact	Residual Likelihood
If the asset is listed – there is likely to be an Appeal requested by the owner	Medium	Very likely	<ul style="list-style-type: none"> • Robust consideration of the asset nominated. • Procedures in place for a review of the original decision. • Ongoing communication with the owners. • Procure specialist legal advice. 	Low	Likely

If the asset is listed – First tier tribunal proceedings requested by the owner.	High	Very likely	<ul style="list-style-type: none"> • Robust consideration of the asset nominated. • Procedures in place for a review of the original decision. • Ongoing communication with the owners. • Procure specialist legal advice. 	Medium	Likely
If the asset is listed - Request for compensation by the owners for costs incurred during litigation and loss of income from lease/sale due to delays.	High	Very likely	<ul style="list-style-type: none"> • Ongoing communication with the owners. • The £20k compensation in any one year has to be funded by the Council; the remainder can be claimed back from DCLG. 	Low	Possible
If the asset is not listed – reputational damage to the Council and negative impact on community relations in the local area.	Medium	Very likely	<ul style="list-style-type: none"> • Robust consideration of the asset nominated. • Ongoing communication with the local community 	Low	Possible

Key decision number	Non-key
Wards affected	Spire

Document information

Report author

Katy Marshall - Policy and Partnerships Manager

Background documents

These are unpublished works which have been relied on to a material extent when the report was prepared.

Non-statutory Advice Note – [Community Right to Bid: non-statutory advice note for local authorities - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Impact Assessment - [Community Right to Bid - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Appendices to the report

Appendix A	Nomination Form
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Appendix B	Owner Response
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