

The Emmanuel Church, Wilder Road, Ilfracombe – nomination as an Asset of Community Value (ACV)

Note: References to the “Act” are to the Localism Act 2011.

References to the “Regulations” are to the Assets of Community Value (England) Regulations 2012.

On **12th August 2024** a nomination was received under the provisions of the Regulations to list as a community asset the **Emmanuel Church, Wilder Road Ilfracombe**. The nomination was in the name of the **Ilfracombe Community Land Trust**.

<p>Conclusion: Based on the available evidence the Emmanuel Church, Wilder Road, Ilfracombe not be added to North Devon Council’s list of Assets of Community Value.</p>

Consideration 1: Has the nomination been made by an appropriate body?

89(2)(b)(iii) of the Act provides for a Company Limited by guarantee or industrial provident society to nominate land in the Parish/Town Council’s area this is expanded upon in regulation 5(1)(e) of the Regulations.

This criteria is therefore met.

Consideration 2: Is the nomination complete, including the necessary matters specified in para 6 of the Regulations?

Paragraph 6 requires a description of the land, information on the owners and occupiers, reasons for believing there is a community value, and evidence that the nominator is eligible. This has all been provided and so the nomination is deemed valid.

Consideration 3: Does the Emmanuel Church, Wilder Road, Ilfracombe, qualify as being of “community value”?

s88(1) of the Act specifies that land is of community value “*if in the opinion of the authority–*

(a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the community; and

(b) it is realistic to think that there can continue to be” such use

Section 88(2) goes on to state that even if there is no current community use of the asset, for instance because the asset is currently closed, an asset might still be deemed to be of community value if the authority is of the opinion that

“(a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and

(b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building That would further (whether or not in the same way as before) the social wellbeing or social interests of the local community”

Section 88(6) defines “social interests” as including cultural, recreational and sporting interests but there is no definition of social wellbeing or any definition that limits the breadth of the meaning of social interests. There is also no definition of what constitutes the “local community” but various appeals have given some guidance.

Background

Following the receipt of the nomination, an email was sent on 12th August 2024, to the Ward Members and Ilfracombe Town Council. On 12th August 2024, a letter was also sent to the owner of the Church in accordance with the information provided on the nomination form. There were three responses received from Ward Members. The Ward Members expressed concerns over a conflict of interest in relation to plans to make the building a community cultural hub. No response has been received from the owner of the Church. The Town Council included an item to discuss and agree response to the Community Right to Bid nomination on their full council meeting of 9 September 2024 to discuss the application

The Town clerk sent the following draft minute extract of that meeting:

“Though they understand the reasoning behind the Community Right to Bid nomination, they have concerns regarding the timing of this. Reason being is that North Devon Council officers are in the process of discussions with the Emmanuel Church about its future. As we understand it NDC have already appointed a surveyor to carry out a survey of necessary works that will be required on the building. Through the Cultural Plan, this property was one of the key ones that were identified as a possible venue for the museum to move into when their lease were to come to an end. The Council are concerned that this Community Right to Bid may hinder these discussions.”

By way of background, the Church is still being used as a place of worship. The nomination states that although they have no current plans to sell, changes in

circumstances might bring about a need to do so. It also states that the community would like the opportunity to acquire the building if this occurs.

The building is a grade II listed building registered with Historic England, list entry number 1209025, first listed on 12 March 1990. The Methodist Church was built by W.H. Gould, of Ilfracombe, 1899-1900 and was built on the site of the former cattle market.

It is located in Wilder Road of the town of Ilfracombe and the nomination states that it is in an accessible position with nearby parking. It also states that the Church would make an excellent venue for amateur dramatics allowing for alternative use of the basement.

The Emmanuel Church has a basement space which provides a local meeting place for community groups and clubs, such as the Studio Theatre Group, the Ilfracombe Men's Shed, and weekly craft group meetings.

Officers in the Economic and Regeneration Team at North Devon Council have been in dialogue with the owners of the church and have sought permission to carry out a structural survey of the building with a view to creating a cultural/community hub in the future.

Ilfracombe is a town considered to be socially and economically deprived and ranks 1469 in the Index of Multiple Deprivation (2019).

Community Use

The nomination falls to be determined under section 88 (1) of the Act and to consider whether the actual current use of the land is non ancillary that furthers the social wellbeing or interests of the local community and it is realistic to think that there can continue to be such use.

The Council does not require evidence in a particular form to be submitted, however evidence of community use has been submitted as part of the nomination.

The Emmanuel Church, Wilder Road, Ilfracombe is currently used as a place of worship but it is understood from communication with officers of North Devon Council and the Minister of the Church that it may be closing its doors to its congregation at some point in the future.

The nomination lists a number of community activities and events that are currently held at the Church such as Theatre groups, Ilfracombe Men's Shed and weekly craft group meetings.

Sporting Use

The What's on In and Around Ilfracombe Facebook page lists Tai Chi classes being held at the Emmanuel Church rooms on Mondays, Tuesdays and Wednesdays.

Ancillary Use

To be capable of being listed, the land must have a current community use, or a recent one, which is not an ancillary use.

The original and primary use of the church is for religious worship. Although the building has been used for some community activities and events, the running costs of the building would not be met by the community use. In consequence, at the current time the primary use of the asset is as a church and the evidence suggests that such other uses as set out above are ancillary to this main use.

Social wellbeing or interests

As mentioned before, other than the definition of “social interests” in s.88(2), there is no statutory definition of what furthers the social wellbeing or interests. It has been left to local authorities to determine this in the light of local circumstances. In the case of North Devon, the adopted policy states that:-

“A property that enhances the social interest and social wellbeing of the local community is one that in its absence would deprive the local community of a building or property which is essential to the special character of the local area and provides a place to meet and socialise, place to shop, recreational, sporting or cultural facility or a place used to provide a community service.”

Neither is there a definition of what is meant by “local community”. It is difficult to put a clear meaning to this as it will differ depending on the nature of the area and the asset. In this instance, the local community would be defined as the town of Ilfracombe.

In the case of the *General Conference of the New Church v Bristol City Council* [2015] the First Tier Tribunal accepted that religious worship did not fall within the (non-exhaustive) definition of “social interests” at s.88(6); cultural interests; recreational interests; and sporting interests. It should be caveated that the Tribunal was unwilling to make a definitive finding, but it was able to support submissions that had Parliament intended to include religious interests in the definition above, it would have done so, as it has done in other pieces of legislation.

Next Five Years

Having reached that conclusion, it is necessary to go on to consider whether s88(2)(b) is satisfied. In other words, is it realistic to think that there is a time in the next five years when the Church could be put to a non-ancillary use which furthers the social wellbeing or social interests of the local community?

As mentioned previously, discussions are currently taking place between Officers in the Economic and Regeneration Team at North Devon Council and the owners of the church building with a view to creating a cultural/community hub in the future and permission has been sought permission to carry out a structural survey of the asset. Therefore, there may

be a time in the next five years when the Church would be put to a non-ancillary use which furthers the social wellbeing or social interests of the local community. Whether the possible listing as an asset of community value itself could hamper such plans, as put across by the Town Council, is not a factor that can be taken into account as regards whether or not there is an evidential basis of whether it is realistic that the Church will be put to a non-ancillary use which furthers the social wellbeing or social interests of the local community.

However there is no evidence of a formalised contract or other agreement with the Council or other body as to such proposed future use and therefore while such intended future use may be realistic it is still provisional. It is also not possible to say that there can *continue* to be non-ancillary use of the building which will further (whether or not in the same way) the social wellbeing or social interests of the local community because, at present, as set out above, the current non-ancillary use of the building is, on the evidence before me, still open as a place of worship and not as a cultural or community centre as is proposed.

Decision

The Decision is therefore that the Emmanuel Church, Wilder Road, Ilfracombe does not meet the definition of community value as detailed in the Localism Act 2011 and should not be added to the list of Community Assets held by the Council.

Simon Fuller
Senior Solicitor and Monitoring Officer
8 October 2024