

CHAPTER 3, PART 5 OF THE LOCALISM ACT 2011
ASSETS OF COMMUNITY VALUE (ENGLAND) REGULATIONS 2012

NOMINATION OF BUILDING OR LAND TO BE INCLUDED IN
LIST OF ASSETS OF COMMUNITY VALUE

DELEGATED REPORT

Reference:	PR86-033
Case Officer:	Darren McBride
Site Address:	Wye Methodist Church (including hall, garden and car park), Bridge Street, Wye, Ashford, Kent TN25 5DP
Title Number(s):	K962352 (Freehold)
Nominating Body:	Wye with Hinxhill Parish Council
Nomination Validated:	15 November 2021
Deadline Date:	17 January 2022

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Introduction

Under the Localism Act 2011 ('the Act'), the Council must maintain a list of buildings or other land in its area that are of community value, known as its 'List of Assets of Community Value.'

There are some categories of assets that are excluded from listing, the principal one being a residential property. There is, however, an exception to this general exclusion where an asset which could otherwise be listed contains integral residential quarters, such as accommodation as part of a pub or a caretaker's flat.

Generally, buildings or land are of community value if, in the opinion of the Council:

- 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 local community, and
- 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 community¹.

Buildings or land may also be of community value if in the opinion of the Council:

¹ Subsection 88(1) of the Act

- 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 social² interests of the local community, and
- 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 or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community³.

Buildings or land which are of community value may only be included in the 'List of Assets of Community Value' in response to a community nomination by certain specified bodies such as parish councils or voluntary or community organisations with a local connection.

A valid community nomination must contain certain information, including:

- a description of the nominated building or land including its proposed boundaries
- a statement of all the information which the nominator has with regard to the names of the current occupants of the land, and the names and current last-known addresses of all those holding a freehold or leasehold estate in the land
- the reasons for thinking that the Council should conclude that the building or land is of community value
- evidence that the nominator is eligible to make the community nomination

A valid community nomination must be determined within eight weeks. In this instance, the nomination was validated by the Council on 15 November 2021 and so must be determined by 17 January 2022.

If the Council accepts a valid nomination then it must be included on the 'List of Assets of Community Value.' If the Council does not accept that the asset nominated meets the statutory definition, or if it is one of the excluded categories, then the valid nomination must be placed on a 'List of Assets Nominated Unsuccessfully by Community Nomination.'

Procedure

Information about this community nomination has been sent to the following:

- Wye with Hinxhill Parish Council (nominating body)
- Freehold Owner(s)
- Occupier(s)
- Cllr G Clarkson (Leader of the Council)

² Note: the wording of this condition is different to all of the other conditions in that it refers to furthering 'the social wellbeing or interest of the local community' rather than 'the social wellbeing or **social** interests of the local community'. However, in *St. Gabriel Properties Limited v London Borough of Lewisham and another (2015)*, Judge Warren held that the word 'social' should be read in here (*para. 27*)

³ Subsection 88(2) of the Act

- Cllr P Feacey (Portfolio Holder for Community Safety and Wellbeing)
- Cllr L Krause (Deputy Portfolio Holder for Community Safety and Wellbeing)
- Cllr N Ovenden (Ward Member)

If the Solicitor to the Council & Monitoring Officer includes the asset on the Council's 'List of Assets of Community Value' then the owner has the right to request, within eight weeks from the date when written notice of listing is given, the Chief Executive to review the decision.

If the owner is not satisfied with the outcome of the internal listing review then they have the right to appeal to the General Regulatory Chamber of the First-Tier Tribunal against the review decision.

The property will remain listed during the review and appeal processes.

Consequences of Listing

If an asset is listed nothing further happens unless and until the owner decides to dispose of it. If the owner does decide to dispose of the asset then, unless an exemption applies, the owner must first notify the Council in writing.

Interim Moratorium

There is then a six week interim period from the point the owner notifies the Council. The Council must then inform the nominating community group who may then make a written request to be treated as a potential bidder. If they do not do so in this period then the owner is free to sell their asset at the end of the six week period.

Full Moratorium

If a community interest group does make a request during this interim period, then a full six month moratorium will operate. The community group does not need to provide any evidence of intention or financial resources to make such a bid.

During this full moratorium period the owner may continue to market the asset and negotiate sales, but they may not exchange contracts (or enter into a binding contract to do so later). There is one exception: the owner may sell to a community interest group during the moratorium period.

After the moratorium – either the interim or full period, as appropriate – the owner is free to sell to whomever they choose and at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date of when the owner notified the Council of the intention to dispose of the asset).

Compensation

Private owners (not public bodies) may claim compensation for loss and expense incurred through the asset being listed. This may include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly

caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the First-Tier Tribunal. The assumption is that most claims will arise from a moratorium period being applied; however, the wording of the legislation does allow for claims for loss or expense arising simply as a result of the asset being listed.

The Council is responsible for administering the compensation scheme, including assessing and determining compensation awards.

As with the listing itself, an owner may request an internal review of the Council's compensation decision. If the owner remains unsatisfied then they may appeal to the General Regulatory Chamber of the First-Tier Tribunal against the review decision.

Assessment

The nominating body is 'a voluntary or community body' with 'a local connection,' as defined in Regulations 4 and 5 of the Assets of Community Value (England) Regulations 2012 ('the Regs').

The community nomination contains the information required by Regulation 6 of the Regs for it to be considered by the Council.

The community nomination form asked the nominating body to provide their reasons for thinking that the Council should conclude that the building/land is of community value.

Before turning to the nominating body's reasons it should be noted that the submitted nomination form and supporting documentation is comprised of nearly 400 hundred pages. Moreover, the nomination contains many links to a large amount of additional on-line material. Clearly, it would be inappropriate to reproduce the entire nomination in this report. Instead, in order to keep this report as manageable as possible, I will confine myself to the nominating body's lengthy (175 paragraphs) written answers (excluding the 'hot links' contained therein to the on-line material) to the two questions contained in the nomination form. The full nomination, including the appendices and 'hot links' can be found on the Council's website at:

<https://www.ashford.gov.uk/your-community/community-right-to-bid/assets-of-community-value/>

In this case, the nominating body has confirmed that the nominated premises are currently closed. Pausing here, the nominating body states that:

'Prior to closure the designated main use of the building was as a place of worship. However, by long established custom and practice, the evidence shows that the building functioned mainly as a community centre [...] Whereas for many years the use related to worship had been a relatively minor component, both in terms of the hours of use and the relatively small number of individual worshippers, compared to the high level of community activity...' [**my emphasis**]

Therefore, as the nominated premises are closed, the questions and answers state as follows⁴:

Q1. *If the land/buildings(s) main use in the recent past furthered the social wellbeing or social interests of the local community please confirm that use and explain how it did that (including dates for when this was)...*

A1. **Executive summary:**

1. The evidence of extensive and sustained non-ancillary use of Wye Methodist Church (the nominated building) is strong, long established, recent and very well documented. The evidence in the attached appendices and online links confirms that the building, in its entirety furthered the social wellbeing or social interests of the local community for decades.

2. Significantly, the earliest known record of the non-ancillary use of the building as a 'Club room' is dated 23rd January 1915, (see APPENDIX1(c)). This use continued throughout World War One, until 1919.

3. Post WW2, and into the 21st century until closure in March 2020, a variety of community uses flourished as the population of Wye grew, but in contrast the religious use of the building declined.

4. The Managing Trustee and Property Steward directly responsible for the building summarised reality and reported that: 'as is widely known, our building effectively functions as a community centre with 70-80 meetings per month' (Report to the Wye Annual Parish Meeting, 2016) (See APPENDIX5, APPENDIX8, APPENDIX13(a), (b), (c) and (e) and APPENDIX18).

5. Whereas worship comprised a relatively minor use of the building, compared to the consistently high level of community use over decades. For evaluation purposes based on available evidence, a ratio of 80:20 is a realistic approximation in terms of the hours of non-ancillary community uses and activities that furthered social wellbeing or social interests and its weekly use for worship.

6. Active community use continued up to the point of forced closure at the start of the first COVID-19 lockdown in March 2020. Moreover, closure of the building was mandatory, and imposed by the Government. There are practical difficulties entailed in reopening churches safely, which place 'a particular burden on the

⁴ Unless otherwise indicated, all emphases, parentheses etc. are as contained in the original nomination form. For the avoidance of doubt, all instances of '*emphasis added*' in [] parentheses are those contained in the original nomination form. My only interventions are those in [] parentheses at the nominating body's paragraphs (10), (68), (77), (120), (143), (150), (158), (162) and (167).

local trustees' as stressed by Rev'd Helen Hollands, the South Kent Circuit Superintendent (APPENDIX11).

7. This practical difficulty is evidenced in the South Kent Circuit service diary. For example, Appledore Chapel remains closed to date, and Charing Methodist Church remained closed and did not reopen for some 18 months until Sunday 5th September 2021).

8. Consequently, in light of:

- a) the evidence of the long and comprehensive history of non-ancillary use of the building by the community, for cultural, recreational and to a much lesser extent sporting uses;**
- b) non-ancillary use was the main use of the building;**
- c) the continuation of these uses until interrupted by the severe public health and practical safety constraints imposed by the COVID-19 pandemic and Government restrictions;**

the established non-ancillary use continued until the 'recent past' (for the purposes of assessing this ACV nomination. (See Land of community value, s.88(2) (a) of the Localism Act)

Overview and reference

9. To reiterate B2 above⁵, the nomination site is the Wye Methodist Church (the building), defined as the freehold land and building under Land Registry title number K962352 (title extract and plan attached), within the red line ownership boundary tinted pink and blue (APPENDIX1(a)).

APPENDIX1(a) Land Registry title extract and plan dated 8 May 2021.

APPENDIX1(b) For context, the Ordnance Survey extract centred on the site (scale 1,1,250 at A3) shows the internal ground floor division between the two main spaces within the building, as it was built in 1869, i.e. the original place of worship (PW) and the adjacent hall.

10. In 1980-1981 the trustees agreed to reduce the floor area of the Victorian chapel by about one third and change the shape from a rectangle to an octagon[.] The redesign created space for the atrium, additional meeting rooms, accessible WCs, kitchens, stairs to the Thomas Berry Room. The layout included storage, more circulation space and public noticeboards. The trustees instructed the architect Frank Lee Evans to redesign the layout to enable greater community use of the building. This furthered the social wellbeing or social interests of the local community more effectively than, as Lee Evans termed it, the Victorian 'oblong box' with its hard fixed pews. This layout adapted the building [to] meet [...] changing needs, and it remains in place today.

⁵ Reference to 'B2' is merely referring to the question numbering in the community nomination form.

11. The chapel is the largest of the five rooms. This was also used for community functions on weekdays and Saturdays. These five rooms are described verbatim in the text provided by the Property Steward Dr Geoff Chapman in 'Halls and facilities for hire in Wye'. He describes the worship area as '*Our octagonal chapel, used for Sunday worship, is available for ordinary meetings during the week. There are comfortable chairs rather than pews and a movable projector screen is available on request. It seats 60 people and has a hearing loop.*'

12. The APPENDIX1(b) map also shows the rectangular Garden Room, garden and car park to the south of the main building, but it does not show the internal layout (atrium, small meeting room or WCs and the kitchen on the ground floor). Nor does it show the Thomas Berry Room on the first floor above the atrium, small meeting room and WCs. (Map reproduced under Wye Parish Council's Public Sector Geospatial Agreement, Licence number: 100051457, issued by OS 6th July 2011)

13. Wye Methodist Church (the building) is described in detail in The History of Methodism in Wye (1810-2020) ('Methodism in Wye'), a monograph by Dr CP Burnham completed in 2021, now in publication.

14. Dr Burnham also authored 'A Window on the Church of England: The History of Wye Parish Church 2015, (96pp) published by Wye Historical Society. This referenced the first known non-ancillary use of the building by 300 troopers of the 3rd Hussars as a '*recreational facility*' In January 1915 the Wye Parish Magazine recorded that '*...it is evident that Anglican antagonism continued, for no mention whatever of the Wesleyan community can be found either in 19th Century Vestry minutes or in any issue of the Church magazine from 1889 (the first extant) until 1915, and then only to mention that the **Wesleyan Sunday school room had been made available as a recreational facility for soldiers billeted in Wye.***' [Emphasis added].

APPENDIX1(c) Wye Parish Magazine report, February 1915 (extract).

15. 'Methodism in Wye' states that: '*the site of the new chapel was at the heart of the village. Just outside was the village pump, its main water supply, now marked by a plaque. This was chosen as the central point of the village during discussions on the recently prepared village plan. The chapel could not now be ignored as a significant part of community life*' [see Objective 1. (page 30) Wye Neighbourhood Plan].

16. The building is located at the crossroads in the centre of Wye, where desire lines intersect. This provides a natural meeting place for the community, close to shops and facilities. High footfall and ease of access has enabled the building to flourish as a community hub. As such, the location conferred an advantage on the building and helped it to achieve a high level of daily community activity. This in turn furthered the social wellbeing or social interests of the local community.

17. Community use of the building also complemented the range of larger social functions held in the larger spaces at the Village Hall. This facility is also located in Bridge Street, but as it is not as central, and is approached via a steep slope, it is harder to access for those with impaired mobility. Therefore, the building furthered the social wellbeing or social interests of the less able members of the local community.

APPENDIX2 Ordnance Survey map at 1:5000 site located at the centre of the 400m walkable village, as defined in the Wye Neighbourhood Plan, Objective 1 (page 30).

APPENDIX3(a) Wye Neighbourhood Development Plan 2015-2030 (link to document stored on Ashford Borough Council's website)

APPENDIX3(b) a PDF copy of the Wye Neighbourhood Development Plan 2015-2030 (2.4MB file).

Evidence of change and increasing non-ancillary use 1869 - 2020

18. Wye Methodist Church (the building) was built as a place of worship in 1869, and it was funded by public subscription. The adjacent schoolroom (now called the Wesley Room/Hall) followed soon afterwards. The building was Listed Grade II in 1989 and the Historic England photograph taken in 2003 shows the building as it is today.

19. The entry includes photographs taken by Helen Morecroft Historic England Listing Systems Programme Manager. She noted in 2017 that *'on the wall directly in front of the church is a local history plaque which claims that near this spot from 1869 to 1911 stood the village pump. The date of the building of this church therefore potentially coincides with the installation of the village pump.'*

20. Until 1911 Wye residents would have converged on the pump in front of the building for the daily chore of collecting their drinking water. Inevitably, the location would have been central to community life.

21. Pre-COVID-19 lockdown, the building also provided, as the South Kent Methodist Circuit web page for Wye states succinctly, **'a social centre for all manner of organisations'** [emphasis added].

APPENDIX4 Methodist South Kent Circuit webpages – profiles of all 17 churches in the Circuit, facilities, and preachers' guide to the weekly religious service (see page 33 for the Wye Methodist Church profile and APPENDIX13(d) for service times in September 2020)

22. Indeed, the social centre function proved so successful that after WWII it evolved naturally into the primary use of the building. Dr Geoff Chapman (as the Wye Methodist Church Property Steward for thirty years until 2021, and Trustee of the Methodist South Kent Circuit) stated the obvious in 2016 when he reported that:

'As is widely known, our building effectively functions as a community centre with 70-80 meetings per month.'

APPENDIX5(a) Annual Parish Meeting Report 2015-2016 (extract) given by Dr Geoff Chapman (published by the Parish Council for residents). The Annual Parish Meeting is a statutory requirement under the Local Government Act 1972 c. 70 SCHEDULE 12 Part III Parish Meetings 14.

23. Further confirmation of the community centre role is evident in Dr Chapman's annual parish meeting reports from previous years. In 2012 he reported that 'Many people cross our threshold in the course of any week including a number from well beyond Wye.'.... **It is not unusual for us to host between 60 and 100 meetings per month with up to seven on a given day.** [emphasis added].

APPENDIX5(b) Annual Parish Meeting Report 2011-2012 (extract)

24. Dr Chapman reported in 2011 that 'in terms of position, Wye Methodist Church is at or near the centre of the village. In recent years this has come to have an additional meaning **since our building hosts so many community activities. In February and March 2011, for example, the number of bookings exceeded 100** which is remarkable for what, to outward appearance, is just a small country chapel.' **A point particularly to stress is our gratitude for the care with which our hirers treat the building.** [emphasis added].

25. The report also mentioned that 'during the past year we have been grateful to Wye with Hinxhill Parish Council for a grant in aid toward the cost of new guttering.'

APPENDIX5(c) Annual Parish Meeting Report 2010-2011 (extract)

Timescale

26. As a place of worship, the building was in continuous use for over 150 years. From the completion of construction until compulsory closure under the first of the COVID-19 'lockdown laws'. These came into force 26th March 2020, and effectively stopped the clock for most of the next 18 months. However, Methodist Church House in London pre-empted the lockdown and advised all local circuits 17th March 2020 in a statement which began: "*It is with sadness that we recommend that worship services in Methodist Churches are suspended for the time being in line with Government guidance.*"

27. The government did not lift legal restrictions on indoor meetings until 19th July 2021. Today, the building remains closed to all, following the managing trustees' decision to cease worship, and sell the building. The auction date is 22nd September 2021.

Changes in building use 1918 - 2020

28. Over recent decades, the extent of religious use has remained fairly constant at between about two to four hours per week. As the congregation aged and the membership dwindled, services become shorter, more informal and less frequent. In addition to the services there were occasional funerals and wakes, but very few weddings.

29. In 1984 the Wye Village Appraisal recorded that: *'Services are held every Sunday at 6.30pm and on other special occasions. The normal attendance is about 40. There is a prayer meeting on Wednesdays at 1.30pm and a Bible study class on Sunday evenings during term time the 15- 20 year-olds meet at 8pm. **The hall attached to the chapel is used by several organisations for coffee mornings and fund-raising events, The Brownies meet here during term-time.**'* [emphasis added]

APPENDIX6 The Wye Village Appraisal 1984 (see page 35 for the profile of Wye Methodist Church)

30. The early 1980s marked the post-war high point in the religious use of the building. However, nearly forty years later, 'Methodism in Wye' recorded that: **'the average attendance in 2004 was thirteen'** and by October 2020 the congregation had declined to the point that **'there were now only seven remaining church members.'**

31. Clearly, this low level of membership was unsustainable. Especially given the need for able volunteers to take day-to-day responsibility for the building maintenance and the safety of users. Understandably, it was a critical factor in the decision to close. The Parish Council understands that loss of letting income during the pandemic was a secondary consideration. However, there is no evidence that the managing trustees considered alternative ways to mitigate the impact of closure and sale on the community, or ask the Parish Council for any financial help or practical support as a way forward. In the past the Parish Council provided financial and planning support for improvement works, and gave capital grants when requested.

32. These grants of public money (made under LGA 1972, s.133) recognised the high community use and value of the building.

33. The South Kent Circuit Membership and Attendance Statistics confirm that the attendance for worship in Wye prior to the pandemic was consistently low. The total Methodist membership recorded for Wye (Circuit 25 South Kent) was 14. For comparison the statistics recorded 12 members in 2018 and 2017. The estimated average attendance figures were similar, with 12 attendees in 2019 and 13 in 2018.

34. For context, pre-COVID-19 the total membership for all seventeen churches in the South Kent Circuit averaged only 300 members (2017: 299, 2018: 302 and 2019: 299) across Ashford and Folkestone districts.

APPENDIX7(a) 2018, (b) 2019 South Kent Circuit Membership and Attendance Statistics (published October 2019) and **(c) 2017** Summary

APPENDIX7(d) South East District Circuit Membership and Attendance

Examples of community and religious uses

35. 'Methodism in Wye' draws on the Wye Parish Magazine archive to cite the first known record of non-ancillary use of the building as a recreation centre during in WWI.

36. 'Sadly the Wesleyan Sunday School lapsed during the 1914-18 War, probably in 1916 when the schoolroom was taken over as a recreation centre for Royal Flying Corps personnel stationed at the training airfield off Bramble Lane. But such Wesleyan contributions to village life were little regarded. A Parish Magazine had been started by the Anglican Church in 1889, but it contained no mention whatever of the Wesleyans or their local activities until 1923. So much so that when, in 1918, the Wesleyan schoolroom was used for a function, the Parish Magazine gave thanks not to the Wesleyans but to the Royal Air Force, whose use of the room had been interrupted!'

37. The Wye Parish Magazine (APPENDIX1(c) recorded that the first troops to be billeted in Wye were 300 troopers of the 3rd Hussars reserve. Subsequently, Royal Flying Corps personnel were billeted in homes around Wye in 1916 until the aerodrome closed in 1919. Some will have occupied the bedrooms vacated by the sons and daughters of Wye who were serving overseas. Naturally these young men and women socialised and took part in village life (see APPENDIX8(a).

38. Fifteen men were killed in training flights over Wye. Eight of these casualties remain buried in Commonwealth War Graves Commission graves in Wye churchyard. The names of all fifteen RFC (and subsequently RAF) casualties are recorded on a bronze plaque in Wye Church porch, dedicated in 2014 by the Bishop of Dover. In 2015 Wye Parish Council protected Churchfield Green, Wye in perpetuity as a Centenary Field and inscription on the granite memorial stone beside the village sign records that is 'dedicated to those who served at Wye Training Aerodrome Bramble Lane During World War 1'

39. As further evidence of the legacy of WWI and its lasting impact on the community today a short film records the history of Wye aerodrome in WWI and its significance in the relationship between residents past and present, and the air crew stationed in Wye.

40. There is a dramatic example of this interconnection. An aircraft from Wye Aerodrome crashed into the Kings Head Hotel in Church Street, Wye as the pilot flew low to celebrate a friend's wedding in the nearby parish church. Amazingly, the pilot survived, as did the Kings Head.

41. Extracts from the war diaries of Cpl Gordon Tucker provide an intimate insight into his close involvement with Wye residents and village life while he was billeted in Wye 1917-1919.

APPENDIX8(a) Extracts from the war diaries of Cpl Gordon Tucker: his close involvement in village life.

42. Given the evidence in Gordon Tucker's diaries of this close relationship, all of the servicemen and women who served in Wye though transient they deserve to be considered as members of the resident community. Therefore, their stories are an integral part of the long history of non-ancillary use of the building.

43. 'Methodism in Wye' does not shed light on the interwar period, but history repeated itself as it records that *'during the Second World War the schoolroom was used in the week as a canteen'*.

44. Post-war documentary evidence confirms that since WWII the whole building has been used for an increasingly wide range of secular activities, including the chapel to a lesser extent. Consequently, a wide range of cultural and recreational community activities furthered social wellbeing or social interest, benefitted all age groups. However, all community uses continued until they stopped abruptly on the day the building closed in March 2020.

45. For further historical context, 'Methodism in Wye' provides insights into both the religious and community uses of the building since 1927, as the following excerpts highlight in approximately chronological order. For example, the monograph notes that:

46. *'the earliest extant Circuit Plan, for October to December 1927, when the minister was the Revd. Arthur J. Summerfield, records that Wye Wesleyans had 27 members. The only Sunday Service was at 6-30, but there was a fortnightly weeknight service on Mondays at 7.'*

47. *'After the end of the War, the Sunday School continued to thrive. The Wye Guides and Brownies, the Methodist Women's Pleasant Hour (established in 1950), the Anglican Mothers' Union, and, at times, a Youth Club and various handicraft classes also met in the Schoolroom... In 1947 Mr. Buddle and Mrs. K. Bailey were Society Stewards and Mr. F.C. Smith was chapel steward, and there were 17 members.'*

48. *'On completion of the refurbishment there was a celebration on 16 November, 1949, ...and greetings were expressed by the Vicar of Wye, the Revd. J.N. Wells and the Principal of Wye College, Dunstan Skilbeck, So, by this time, the Methodist Church was well accepted as part of the Wye community, although there were only 15 members. From 1949 until 1954 there was a Sunday morning service at 11, in addition to the usual evening service at 6 p.m. There was a Young People's Fellowship and a Junior Club.'*

49. *'Between 1946 and 1952, Wye Methodist Sunday School was more active than at any other time in its history, reaching a roll of more than 70 children. Its activities reached out into the whole village community. For example, in May 1949, the Sunday School held a Flower Service in the*

village hall, during which children presented bunches of flowers to fifty of the oldest inhabitants of Wye.'

50. 'The morning service was discontinued from July 1954, leaving only an evening service, now at 6.30, as would remain the situation for many years. During 1955 the membership roll was reduced from 23 to 14... So the later 1950s were a difficult time for Wye Methodist Church. Nevertheless, the Women's Pleasant Hour was flourishing. There was still a Youth Club, under the leadership of Geoffrey Hunt, and the Sunday School continued, albeit much reduced in size, under the leadership of his wife, Rosa.

51. 'For such a small church, there were a good range of activities. On the third Sunday in the month, there was a Family Service at 9.45 a.m. otherwise Sunday School was at 10 a.m. The main Sunday service was at 6.30 p.m. The Women's Pleasant Hour met on the second and fourth Thursday at 2.45 p.m. Brownies and Guides met regularly in the schoolroom; a Church Youth Club existed intermittently. **However, although all these activities were reasonably well supported, the actual membership of the church was very small (only 9 in 1968).**' [emphasis added].

52. 'In 1971, Geoffrey and Mona Chapman joined the Church, following Geoff's appointment as a lecturer at Wye College. With Paul Burnham [the author of 'Methodism in Wye'] and Jeanne Ingram he started a 'Coffee Bar Youth Club' in the Schoolroom on Monday evenings with table tennis, billiards and table football accompanied by rather loud music. Its somewhat turbulent history lasted until 1985.'

53. 'The 1980s also saw a great flowering of other activities connected with the church... The Women's Pleasant Hour flourished, with attendances sometimes exceeding 20, and continued through the nineties with much input from Joyce Haynes, who also served as a Communion Steward and pastoral visitor. The renewed building made an attractive venue for ecumenical activities. A united service with the other Wye churches was held in it on Ash Wednesday 1984, a Lent course of devotional meetings in 1985 and a service for the Week of Prayer for Christian Unity in 1987. **Village activities also made use of the building, such as the Brownies, a foot clinic and a dancing class. For a time a 'Pop In' session for lonely people drew in forty or fifty.**' [emphasis added].

54. 'Best of all the renewal of the building marked the beginning of a period in which the church grew and flourished. A membership of 23 in 1981 grew to 28 in 1985, and there was strong support from Wye College students, both undergraduate and postgraduate.' [The last undergraduate student left Wye in 2009].

55. 'With the departure of the Turners and the arrival of a new Ashford Baptist minister, the number of students attending services dropped to just one or two. The average total Sunday congregation fell from about 30 in 1985 to 23 in 1993 and only 17 in 1997.'

56. *'The buildings of Wye Methodist Church were comprehensively reconstructed in 1980-1, following the failure of one of the trusses in the roof, and the chapel became an attractive venue for occasions with small congregations. For about eight years united Lent services and some monthly services of the Anglican Wye and Brook Fellowship were held there. As the only regular Methodist service was on a Sunday evening and evensong [in Wye Parish Church] was by now only monthly, there were also several people who attended both churches.'* Burnham CP, A window on the Church of England: the History of Wye Parish Church, (2015).

57. 'Methodism in Wye' describes the final 20 years, culminating in the pandemic and the unexpected death of the new Property Steward Les Johnson and the trustee's final decision to close Wye Methodist Church in 2020. Les Johnson was a qualified building professional who had his office nearby in Wye. The chapter headed *'Witness amid difficulties and decline in the twenty first century'* is a detailed chronicle of events facts and figures. This provides evidence of the steady decline in religious use of the building in the twenty years, prior to the pandemic.

APPENDIX8(b) In the final chapter headed 'Witness amid difficulties and decline in the twenty first century' 'Methodism in Wye' records how the emphasis of use in the building has changed since the building as a recreation centre in 1916. ***'when the schoolroom was taken over as a recreation centre for Royal Flying Corps personnel stationed at the training airfield off Bramble Lane.'*** [emphasis added]

58. Though even in the distant past recorded membership of the Wye Methodist Church was low relative to the active community use of the building during the week. The membership declined, despite the growth in the resident population of Wye over the past century.

59. In contrast to the gradual decline in religious use since WWII, by 2020 the building had evolved a new primary use and functioned as a lively and vital community centre, as social activities flourished all year round alongside worship.

60. Only on very rare occasions religious needs did take precedence over regular hall bookings. For example, in 19th September 2013 the Margaret Giles School of Dance notified parents that: *'unfortunately we are unable to have the hall on this day as it is being used for a Canterbury Diocese training event. I'm really sorry for this inconvenience. Therefore the Thursday Wye classes are for 10 weeks this term.'* (see APPENDIX15)

Recent past

61. When defining the term 'recent past', please note that the pandemic intervened and prevented the normal room hire and usage pattern for community uses. Up to the point of closure these uses furthered the social wellbeing or social interests of the local community. In England, the legal restrictions during the pandemic suspended the possibility of use for most of the past 18 months.

62. Confronted by the reality of force majeure, any consideration of 'recent past' should be measured in weeks not months. As a comparator in the South Kent Circuit service diary shows that Appledore Chapel remains closed to date, and Charing Methodist Church did not reopen until Sunday 5th September 2021).

Impact of COVID-19 and closure

63. The cumulative impact of COVID-19 lockdowns and restrictions precipitated the Wye Methodist Church Council's decision in October 2020 to cease worship and not reopen the building. This decision was unexpected and it was contrary to the optimistic announcement the previous month in the September 2020 edition of the Parish Magazine for Wye, Brook Hinxhill and Boughton Aluph.

64. The Rev'd Helen Hollands, the Superintendent of the Methodist South Kent Circuit (MSKC) stated that: '**we are working towards reopening at the end of the year** but the government guidelines are comprehensive and we do not have the capacity (in terms of people who are able to do the necessary work) to reopen. These requirements are more challenging in smaller buildings.' The article ending with the reassurance that 'we will keep you posted!' [emphasis added]

APPENDIX9 September 2020 Wye Parish Magazine (page 7)
Superintendent Rev's Helen Hollands article stated the intention to reopen Wye Methodist Church.

65. Rev'd Hollands reassurance proved misleading. There was no report in the October magazine and the second lockdown prevented publication of the November edition. Three months later Rev'd John Makey the supernumerary minister at Wye Methodist Church wrote a short piece in the Parish Magazine. In this he announced the decision to close the building as a fait accompli.

APPENDIX10 December /January 2021 Wye Parish Magazine article, by Rev'd Makey, and a sample of emails from residents in response.

66. Rev'd Makey opened his article by saying that: '*When earlier in the year Wye Methodist Church ceased worship and the chapel was closed also for **hosting the many village activities who used the excellent premises** it was hoped that once the lock down resulting from Covid 19 was over the premises would reopen and worship and other activities would resume. Sadly that will not happen.*' [emphasis added].

67. To extract the key points in Rev'd Makey's article, he went on to state that: '*it was decided that ...the chapel be allowed to 'cease worship' 'Once approval for that has been granted it is likely that the property will be sold.'*

68. Confronted by this unexpected announcement in the Parish Magazine (published by Wye Parochial Church Council, just before Christmas), the Parish Council met to consider its response. The Council resolved to first,

seek residents' views (see APPENDIX 10) and second, to open a dialogue with the Methodist South Kent Circuit and its trustees to [sic]

69. The Parish Council's prime aim being explore all options and find an equitable way to retain the building for community use. This was in preparation for whenever the public health emergency permits community activities and social life to resume.

70. For context, in January 2021 England was in the third lockdown, and COVID-19 related deaths were exceeding 1,000 a day.

71. Rev'd Hollands learned of the Parish Council's concern and her first email pre-empted the Parish Council's formal approach to her. She emailed the Parish Clerk as follows: *'I understand that you have been in touch regarding our decision to close the Methodist church in Wye and to sell the building. You may be unaware that we are hoping to worship alongside the Anglicans in the parish church so I am pleased to say that the worshipping community will not be lost to the village.* [emphasis added].

72. ***'Of course the Methodist church has had a role in the village for many years and, in addition to worship, by providing a space available for lettings for various social and other groups.... 'We are sorry that this will be a loss to the village but it is simply unfair to expect a very small group of older people to manage the premises and sadly we do not have the capacity in the Methodist circuit to manage it ourselves.'*** [emphasis added].

73. The Parish Council had had no previous contact with Rev'd Hollands prior to this. The following correspondence over two months is attached for reference. This confirms recognition of the value and loss of all community use of the facilities as a consequence of closure.

74. Eventually the Rev'd Hollands, agreed to the Parish Council's requests for an online meeting. The notes of this exploratory meeting held 13th April 2021 via Teams record the discussion in detail and it provides relevant evidence to support this nomination.

75. Significantly, Rev's Hollands did not challenge the use or significance of the community use of the building or by implication that its use had furthered social wellbeing or social interests of the local community.

APPENDIX 11 Correspondence between Rev'd Hollands and Wye PC

APPENDIX12 notes of the meeting 13th April 2021, with Rev'd Hollands, a representative of Wye Parish Council, and the Wye Ward member The Parish Council provided Rev'd Holland and her colleague Liz Talbot with these meeting notes, at the time, and neither disputed them as a record of the discussion.

Evidence that the building functioned as a centre where community activities that further 'social wellbeing or social interest' flourished.

76. Externally the building has changed little in appearance since 1869, However, as discussed above, the trustees repaired and reordered the building in 1980-1981. The chapel was reduced in size, and seating capacity reduced from 100 to 60 to reflect the declining need for worship space. The reordering replaced all the 19th C pews with chairs to create a flexible space, and provided heating and disability access to the building, WCs, and other modern comforts.

77. The reordering of the chapel [...] replaced the original 'oblong box' with the present-day five room layout. This major project responded to both the rising need for more community spaces, and the parallel decline in church attendance and membership.

78. Form follows function: 'Methodism in Wye' describes the transformation and the building layout we see today. This records that: *'the result was greeted with acclaim. The church was reduced in size by introducing a vestibule and a small extra room, but was immeasurably more attractive. It was carpeted, with space for 60 chairs, instead of very uncomfortable pews seating 100.'*

79. Throughout the following 40 years, and with limited means and much thought and ingenuity, the dedicated volunteer Property Stewards made incremental improvements to these five spaces. They made the most of the spaces within building and continued to upgrade its facilities. For example, the fitting of acoustic panels in the Wesley Room benefitted all users, including those without any hearing impairment.

80. This transformed the Wesley Room as a comfortable venue for the Parish Council's meetings in public. 'Methodism in Wye' confirms that: *'the Wesley Room, and to a lesser extent the Thomas Berry Room, were used almost every day of the week for community activities, including Parish Council committees and exhibitions. Whereas 'the Church proper is used much less, although the Pentecostal Church has resumed using it for their Sunday morning service...'*

81. The Ashford Pentecostal Church is peripatetic, and its membership has outgrown Wye. It now meets in Stanhope Parish Hall, though its website home page image still shows Wye Methodist Church.

82. As further evidence of how the building supported community life, the search engine behind the Parish Council's website shows 456 references to 'Methodist' 183 to 'Wesley' and 156 to 'Thomas Berry'. These search terms overlap, but the website only records the meetings and events held in the five years before the pandemic. Furthermore, the Council's online public diary understates the number of meetings held in the building, as some e.g. job interviews are not recorded.

83. In retrospect, the Property Stewards' investment of time and money shows an extraordinarily strong and sustained commitment to the future of the building for over forty years. None of which would have been justified were it not led by a clear and equally consistent local need for these extra facilities for community activities.

APPENDIX13(a), (b) and (c) Community group room users, derived from bookings in 2019-2020

APPENDIX13(d) services in Wye across all three places of worship Wye Parish Magazine September 2020

84. 'Methodism in Wye' records the working relationship between the denominations in Wye and community users of the building as follows: *'rent income from outside users helped in funding further improvements to the buildings. In 2004 the kitchen was upgraded and two toilets, one for the disabled, were installed. In 2018, a sophisticated fire alarm system was fitted. Wye Methodist Church has continued active community involvement, for example, as a valuable weatherproof base for the annual Christmas Street Party and as a base for the village tidying sessions of Wye Ground Force.'* [emphasis added]

85. For example of an 'outside user', Margaret Giles was a Wye resident. She founded the Margaret Giles School of Dancing after WWII and ran ballet, tap and modern dance classes in Wye. The Parish Council understands from the present and previous director (who took over the school from Margaret Giles), that it operated in the building for over 40 years. The MG Dance newsletters (see APPENDIX15) confirm that classes ran for 7 hours a week prior to lockdown.

86. Additionally, the generations of children who gathered for lessons in the building after school with their parents and siblings had thousands of hours of informal socialisation time while they waited in the atrium or on the steps outside. There they mingled with the parents and children waiting for the next class. This incidental waiting time spent weekly in close proximity with other residents is unquantifiable, but it helped to reinforce social networks and friendships for generations of young families. As such, this waiting time spent in the civic space outside the dance classes also furthered social wellbeing or social interests.

APPENDIX14 Letter from the proprietor of the Margaret Giles School of Dancing (MG Dance)

APPENDIX15 MG Dance newsletters and 2019 timetable of Wye classes held in the building and Wye Village Hall (highlighted website extracts)

87. The weekly Pilates classes provide another example of a regular 'outside user' and long-established non-ancillary community use. Each class provided three hourly sessions for eight people for (as APPENDIX 16 confirms), at least twelve years.

88. In terms of the number of building users multiplied by the hours of use, each week there were approximately twice the number of Pilates practitioners the number compared to the number of worshippers. The membership and average attendance being only about twelve.

APPENDIX16 Email from a Wye resident and Pilates practitioner for 12 years, and a web page confirming hours dates and hours of two of the regular Pilates classes held every week in the Wesley Room.

89. With regard to furthering social wellbeing, fear of crime is corrosive to social wellbeing, and a barrier to participation in community life. Activities that could further the social wellbeing or social interests of the local community, will not succeed if vulnerable residents are too fearful to go out in the dark evenings. Conversely, if fear of crime is low, then a sense of safety and satisfaction will be positive for wellbeing.

90. In response Kent Police held a local public engagement meeting in the chapel (not the hall as advertised), before the pandemic. The Parish Council has a duty under the Crime and Disorder Act 1988 to prevent crime and the fear of crime, and paid for the room hire, as Kent Police did not have the necessary licence, or the means to do so. The Parish Council considered it essential that the meeting was held indoors if it was to provide effective engagement with residents. Subsequently the Police public engagement events have been online and not as well advertised or attended. The Parish Council also supported the event with refreshments and advance publicity via its website, noticeboards, posters and social media channels.

91. *'PCSO Aaron Newell will be holding a drop-in meeting at in Wye 26th November. This is to enable residents to raise concerns about crime and anti-social behaviour, face-to-face. The meeting in the Methodist Hall, Bridge Street, will start at 18.00 and include Neighbourhood Watch. ...Wye parish councillors will be providing refreshments during the evening, and be on hand to answer questions about other local matters.'*

APPENDIX17 Letter from a Wye resident who attended the Police drop-in 26th November 2019 in the chapel within Wye Methodist Church. (The Parish Council booked the Wesley Room (hall) for this public meeting, but a yoga class overran so the Police moved the meeting to the vacant chapel instead.

92. In making its decision to cease worship and close the building the Methodist Church considered its priorities and the resources of the church. The Rev'd Hollands confirmed to the Parish Council that a key factor in this decision to close was the age of the members of the Wye church community.

93. In contrast to the dwindling and ageing congregation in the chapel, the level of community use of this building was very healthy. Activity was often constrained by room availability and diary clashes and the Police and Yoga class provides a clear example of this constraint.

94. Consequently, the building was a lively and well used community asset. It facilitated a hive of social activity that supported volunteerism and furthered the social wellbeing or social interests of the local community.

95. Furthermore, the central location of the building ensured that it was accessible on foot by the whole village. This is a key consideration for the wellbeing of the 188 lone pensioner and all pensioner one family households in Wye with no access to a car or van (47% of the total), Source: National Census 2011.

96. The accessibility of its central location is a significant advantage, as it enabled the building to repurpose itself over time to function as a hub in the very centre of community life: a busy part of the village where shops and services are concentrated, and paths cross naturally.

97. Chance meetings of residents outside the building are impossible to quantify, but they occur daily and further the social wellbeing or social interests of the local community. As such these impromptu conversations are a valuable part of everyday village life and the networking that is taken for granted in Wye, but rare in scattered, car dependent villages. In particular, the location benefitted the isolated, elderly and less mobile residents in Wye without car access.

98. Clerks and parish councillors past and present know how busy the building could be from their personal experience as frequent users. Within the living memory of retired councillors Wye Parish Council has met in the building for more than fifty years. In that time the Parish Council held over a thousand meetings in public. As such, the building has provided a central civic space and meeting venue, and enabled local democracy to function. This has also furthered the social wellbeing or social interests of the local community.

APPENDIX18 Examples of recent Parish Council invoices for room hire for meetings open to the public between 2014 – 2019.

99. From the Parish Clerk's perspective, given the increasing range of projects and problems that the Parish Council must now deal with, the Clerk often needs to arrange meetings at short notice, the Thomas Berry room being particularly useful for these occasions. However, the high demand for meeting space in Wye means that booking a room is often problematic, especially for one-off meetings which of necessity are often called at short notice.

100. For example, in 2015 Ashford Borough Council was unable to find an available venue in Wye to hold the public hearing for the Wye Neighbourhood Plan examination. Consequently, it was held in the Julie Rose stadium, contrary to best practice guidance.

APPENDIX19 Examination in Public change of venue poster issued by Ashford Borough Council, Planning Department.

101. After the public hearing Cllr Noel Ovenden's Parish Digest for January 2016 recorded in the Parish Magazine that: *'at the public hearing of the Wye Neighbourhood Plan held in December, Richard High, the examiner, was impressed by the large turnout despite the hearing being held outside the village. Both Ashford Borough Council and your Parish Council worked hard in an attempt to find a location, within Wye, that would meet Mr High's requirements. Unfortunately, all the usual venues were fully occupied or unsuitable. An enquiry was made with Telereal Trillium about the possible use of Wolfson Lecture Theatre – a location that historically would have been the natural venue. Sadly, the PC were informed that the buildings were now "mothballed" and as such, unable to be used.'*

APPENDIX20 Cllr Noel Ovenden's Digest for the Wye Parish Magazine January 2016 issue.

102. Recent conversations with the Methodist leaders in Wye (Rev'd John Makey, Dr Geoff Chapman, Dr Paul Burnham and Mary Lambert) confirmed that the building provided rooms for some 80 bookings a month until lockdown. Furthermore, in exceptionally busy months the number of bookings could exceed 100 (see APPENDIX5(c)).

103. Rev'd Hollands assisted the Parish Council by providing the most recent, pre-COVID-19 lettings income for Wye. This totalled £6,337 in 2019 and £6,874 in 2018. Rev'd Hollands also confirmed that whereas most lettings were paid for (albeit at a relatively low rate per hour), the meetings organised by Church members met for free. Notably the Options Club and Open House informal social drop-ins. Although organised by Church members, they were both expressly non-religious social events, and advertised as such in the monthly Wye Parish Magazine, as APPENDIX13(b) confirms.

104. Throughout the year these weekly drop-ins every Thursday and Saturday morning provided valuable social contact time, and companionship for dozens of mainly elderly and mainly single Wye residents, few of whom also attended Sunday worship in the building.

105. The Parish Council appreciated the high social value and wellbeing benefits of these regular, but understated weekly social gatherings, and gave public recognition for this in 2017 as follows: *'Congratulations and many thanks to Wye's Parish Award winners this year. At the Annual Parish Meeting Social Evening the Parish Council chairman Cllr Noel Ovenden announced the winners, and thanked them for their contributions to the quality of village life and the environment.'*

The winners are: [The late] *'Aileen Makey - for the foresight to set up the Options Club over 15 years ago. This thriving social club meets in Wye Methodist Church Hall every Thursday at 10.30 to enjoy eclectic programme of speakers and music and each other's company. Options Club welcomes newcomers, especially those living alone. Aileen was too ill to attend the event, so the presentation will made to her at home instead.'*

APPENDIX21 Congratulations and thanks to Wye Parish Award winners

106. During her meeting with the Parish Council to explore alternatives to the sale of the building Rev'd Hollands made the key distinction between the (many) paying and (very few) non-paying users. Regrettably, the booking secretary destroyed all booking records before the closure announcement, but it is still possible to estimate **that the building provided spaces for something over a thousand hours of non-ancillary community activities per year**. Furthermore, from the service programmes published by MSKC and other evidence, the main non-ancillary uses by numerous community groups exceeded, by an overwhelming margin, the hours that the building was used for worship. **For evaluation purposes based on available evidence, a ratio of 80:20 is a realistic usage estimate.**

107. The hours of community use can be approximated by averaging the following annualised bookings income of £6,605.50 achieved across 2018 and 2019, these figures being kindly reported by Rev'd Hollands.

108. From this total income figure equates to an average room hire income of £18.10 per day, including Sundays) At a rate of £7 per hour this equates to 943.6 hours of community room hire, or 78.64 hours per month. However, the income understates the actual level of community use, as Rev'd Hollands confirmed that some groups were either allowed a reduced rate, or not invoiced at all, (see APPENDIX12).

109. Non-ancillary events led by Methodist Church members did not pay room hire charges. Although this concession certainly furthered the social wellbeing or social interests of the local community, it also had an opportunity cost for the church finances. For example, the Margaret Giles School of Dancing is obliged to hire Wye Village Hall for classes on Saturday mornings as the Wesley Room (and its piano) was always required for Open House coffee mornings at that time every week.

110. As the MSKC Circuit Plan for September 2020 shows, only six of the 17 churches in the Circuit reopened after the first lockdown, and only did so briefly. A year later the South Kent Circuit news reported Sunday 5th September 2021 that *'the members of Charing Methodist Church were glad to return to worship in their redecorated building this morning. This was their first service since the first Covid lockdown, wonderful to see everyone, and to remember those who are no longer with us. A lively service was led by Mr Hugh Burnham.'*

Q2. *How do you anticipate that the land/building(s) will be returned to that use or put to some other main use which will further the social wellbeing or social interests of the local community and when do you consider this will happen?*

A2. **Executive summary**

111. The pandemic forced the Methodist managing trustees to close the building. It remained closed throughout 2020, not

because of any decline in the community need, or likely demand for its facilities (post pandemic), but because, as Rev'd Hollands explained, of 'the burden on local trustees.'

112. This is not a significant obstacle but an internal resource issue, which the Parish Council can resolve by taking a fresh and planned approach to facilities management.

113. Wye Parish Council is confident that when the pandemic risk eases, the latent need for community activity space will rebound and justify an investment in the building as an asset of great community value.

114. Although the timing remains problematic, it is realistic to expect that the threat posed by COVID-19 will subside within the next five years. When it does, community life and social activities can resume safely. Under new management, and with the benefit of clear aims and strong infection control measures the building can once again further the social wellbeing or social interests of the local community.

115. Meanwhile the pandemic continues to distort the level of need for community space. Thus, for many previously active residents who are isolating, or avoiding indoor meetings, their ability to participate in community activities remains on hold.

116. The effect of isolation and anxiety is certain to be harming wellbeing, and for some individuals that harm is likely to be considerable. However, Wye is fortunate to have some 60 established community groups and is therefore a resilient and well-connected community. The strong social networks will aid recovery and wellbeing.

117. Those individuals and community groups that have yet to emerge for safety reasons will once again need meeting and catering facilities. However, as the booking diary shows, Wye Village Hall is already operating at near capacity, despite the rising risk of infection. Significantly, Wye Village Hall is almost fully booked-up by very few user groups. Furthermore, the limited number of meeting spaces is a long-standing constraint in Wye (see APPENDIX20 and APPENDIX26).

APPENDIX22 Wye Village Hall booking diary week starting 13th September 2021

118. The building provided meeting spaces for small groups and community activities that complemented the Wye Village Hall facilities. All of which furthered the social wellbeing or social interests of the local community in their own way.

119. Typically, the building supported many of the smaller, quieter and less active meetings in Wye. This facility enjoys a strong locational advantage which served the needs of older, single residents well.

120. 'Methodism in Wye' states that: '*The site of the new chapel was at the heart of the village. Just outside was the village pump, its main water supply, now marked by a plaque[.] This was chosen as the central point of the village during discussions on the recently prepared village plan. The chapel could not now be ignored as a significant part of community life.*'

121. Being both central and accessible on foot the building encourages community life and social interaction to flourish. In the analogous context of town centre retail footfall, the building is located in a prime site for the 'social economy'. As such it is well placed to further the social wellbeing or social interests of the local community.

122. In summary, based on the strength of the evidence that a wide range of community social activities used the building before the pandemic, there is a clear need to retain the building for its main use as a community centre. A resumption of community use is both realistic and sustainable in both the practical and financial senses. Though the range of community uses that the building supported may change to reflect changes in community needs and interests.

123. As the building was managed in the same way for many years, the chapel was a very underused asset. However, a fresh and flexible approach to building management can reinvigorate the facility and increase its capacity. By concentrating on the sole purpose of providing community benefit, the building can, once again, further the social wellbeing or social interests of the local community.

124. Fortunately, with minimal adaptations to the internal layout the building can perform this community centre role more effectively than it achieved before the pandemic forced its closure.

125. Rev'd Hollands confirmed that the repairs identified in the recent quinquennial review were costed at some £20,000 over the next five years. Funding this work is manageable from within existing Parish Council free reserves.

Viability (revenue) and outline business case

126. When the pandemic passes there is pent-up need for a variety of non-ancillary uses for the building. These community uses would return to further, albeit not in quite the same way as before, the social wellbeing or social interests of the local community. However, some activities, where the risk of infection can be managed at a low level, could resume as soon as the building is available to return to community use. The main constraints being lawful access and the time needed building to bring the building back into a safe and fit condition for use. The discussion below will expand the Parish Councils' reasoning.

127. Developing a sustainable mixed income stream is essential for resilience. Wye Parish Council calculates that that the fresh approach outlined below will cover ongoing overheads and building maintenance costs, build a reserve for future repairs and improvements, and employ staff.

128. The mix of income streams outlined below assumes that COVID-19 will become endemic, and need layers of infection control measures installed and either in operation, or kept on standby.

129. **Lettings:** revitalised to enhance the established practice of licenced lettings, but with the space managed more efficiently and proactively, for community benefit. For example, with public Wi-fi, an integrated online booking system and active promotion, in coordination with the Wye Village Hall facilities, and contactless payment options for hirers. The prime aim being to offer users a wider range of modern, quality facilities, with greater capacity and flexibility for community use in the future.

130. **The chapel:** 'Methodism in Wye' acknowledged that '*the Church proper is used much less...*' In practice, the largest and most attractive space in the building was left unused on most weekdays. Whereas a fresh approach can change this situation and increase the earning potential of this premium space. From its present low base line use providing say, three hours of services per week, if this use is exchanged for non-ancillary use at only thirteen chargeable hours at £10, this would double the historic letting income for the whole building and further the social wellbeing or social interests of the local community considerably. In part it could compensate for the recent loss of the Wolfson Lecture Theatre and Latin School as a community spaces. That said, as Sundays are not usually a peak time for community activities there is the possibility of retaining a worship use in the mix of non-ancillary community uses.

131. **Leases:** for parts of the building to one or two anchor tenants to underpin the income stream, and keep room hire rates low to encourage higher community use.

132. The tenants envisaged are Wye with Hinxhill Parish Council, and potentially KCC Libraries. The premises costs that the Parish Council pays currently for its leased office could instead support the building and underpin the revenue budget. The relocation is viewed as a cash neutral move for the Parish Council, however there is a clear financial advantage to KCC Libraries as the present library premises cost £16,538. This covered rates, rent, maintenance, cleaning, energy and security in 2019-2020.

APPENDIX 23 KCC Libraries Use of Libraries statistics 2019-2020

133. The presence of these anchor tenants would complement, and extend the level of social activity and interaction in the building.

134. KCC's statistics show that Wye Library received a total of 9,316 visits in 2019. Thus, if that additional footfall and extra hours of community

time are diverted to the building it will increase its active use overall, and thus further the social wellbeing or social interests of the local community.

135. A higher daily footfall will also increase the number of chance social contacts made in the building, and thereby reinforce Wye's already strong social networks and further enhance wellbeing.

136. **Working from home:** the combination of broadband and the pandemic have opened new alternatives to commuting and 2020 altered the whole concept of work. WFH also has environmental and social and health benefits, and many former commuters and the self-employed freelancers now spend some, or all of their time working from home. However, isolation and loneliness are harmful to wellbeing at any age. Ex-commuters are potential new users of the building, with new needs for social meeting space and new activities at different times. Whereas absentee commuters will remain a hard-to-reach group within the community, there is now a choice.

137. For example, a monthly breakfast club with guest speakers would enable people who used to chat together every morning on a train to catch-up, and make new friends and local contacts over coffee. In particular, this type of informal event will help newcomers to Wye who lack local contacts and opportunities to meet people, build their own network of local contacts, feel welcome and be encouraged to take an active part in the community. This will further the social wellbeing or social interests of new and existing members of the local community.

138. **Kitchen:** the Wesley room has a large and well provided kitchen. However, like the chapel this facility is under used. In recent years it did little more than provide tea making facilities. For example, a working kitchen could provide the weekly Wye Community lunch with the secure facilities and income that it needs to be sustainable.

139. **Wider scope:** The Methodist Church's national standard lettings licence to occupy (11.03.2020 v5) imposes a strict condition on permitted use that differentiates the building from other community halls, or indeed Church of England owned premises.

140. Condition (3.g) of the lettings licence prohibits any consumption of alcohol or gambling on the premises. This stops users from holding raffles, 100 Club draws, wine and cheese parties, and simple fundraisers that community groups use, typically to raise petty cash. Often needed just to cover their room hire costs. Furthermore, the condition inhibits social interaction and wellbeing, but under new management it would not apply. Released from Condition 3.g the building can offer terms comparable to other facilities, and all kinds of community celebrations will be in scope.

141. As Rev'd Hollands confirmed during the meeting in April (see APPENDIX12 above) Wye Methodist Church trustees allowed groups led by its Wye members to meet without paying room hire charges. Ending this grace and favour practice will release about four hours a week for chargeable community activities. At the 2020 letting rate of £7 per hour

this approach could raise annual income by about £1,300, without any reduction in the scale of community social benefit, or use of the building.

142. In practice, regular users of the building had their own keys and came and went without any direct involvement of either the Property Steward or the Bookings Secretary. Consequently, the relationship between hirer and community user groups was remote and transactional (see APPENDIX18 above for examples of invoices).

APPENDIX24 Methodist Church standard room lettings licence to occupy Document reference 11.03.2020 v5.

Viability (capital)

143. To augment any capital grants for which works may be eligible, Wye Parish Council has access to low, fixed rate funding Public Works Loan Board (PWLB) for capital regeneration works. This borrowing facility, subject to PWLB rules and public support, will enable the [Parish] Council to improve the structure of the building and increase its ability to be a vibrant and financially self-sustaining village asset. As a precedent to match fund the Wye Village Hall upgrade the Parish Council borrowed £100,000 on a fixed rate loan from PWLB to part finance the works. This initiative enjoyed strong public support, backed by consultations and policy support in the Wye Neighbourhood Plan. This borrowing was necessary to compensate for the absence of any CIL or s106 funding from housing development.

144. The Parish Council structured the finance to ensure that no additional precept contribution would be required during the whole loan period.

145. **VAT** Subject to HMRC rules, there is potentially a further efficiency in that the Parish Council may be able to reclaim VAT on some premises repair and renovation costs. The detailed business plan will consider the options and use this tax efficient advantage where possible.

Policy support

146. The Care Act 2014 has a direct bearing, as wellbeing covers a range of outcomes, such as physical and mental and emotional wellbeing. This wide definition of wellbeing also covers participation in work, education and training and social and economic well-being, and relates to the different needs of all age groups.

147. In response to community consultations the Parish Council initiated the Our Place Wye programme and obtained funding from MHCLG as a national pilot. This social research work informed the Wye Neighbourhood Development Plan, and shaped in particular 5.1 Community and wellbeing and its Policy WNP7 Community support. This states that:

148. 'Where new housing development takes place, developer contributions through CIL and Section 106 agreements where the legal

requirements in paragraphs 203 and 204 of the NPPF are met having regard to the development proposed, will be directed towards;

- improvements to the village hall complex,
- **the provision of a day care facility for elderly residents in Wye.**' (Emphasis added)

149. The Wye Neighbourhood Development Plan provides planning policy support for the community projects that need physical space in which to operate. The Our Place Wye Business Plan Logic Model identified '*Reducing incidence of loneliness and isolation*' as one of its top twenty outcomes.

APPENDIX25 Our Place Wye Business Plan Logic Model, (approved by the Ministry of Housing, Communities and Local Government, now DLUHC) Intended outcomes – What does good look like?

150. The broad vision of the Our Place Wye programme is to develop a complementary, asset-based approach that promotes community health and wellbeing[.] The first aim is to promote wellbeing, and raise the quality of life for older residents, those of working age with disabilities, their carers and families.

151. The Our Place Wye Business Plan (2015) stated that: '*Our aims are to nurture a more inclusive, integrated community, which is more resilient and responsive to individual needs, age and social profile, and stimulates a healthy, caring and sustainable community in Wye and the surrounding areas.*'

152. The Business Plan identified a set of activities to address social, health and wellbeing deficiencies in Wye. In particular, the needs of one third of the parish population who were aged over 60 (787 people 2011 Census) Over 16 % of the population are aged over 75 years (373 people) and 54 of whom are aged over 90. From one-to-one community research interviews the clear priority for this demographic is an affordable community café. This is needed and prioritised not for its nutritional benefits, but primarily as place to meet and be sociable, and counter loneliness. Wye benefitted from just such a facility until 2009, but it was lost with the closure of Wye College and its dining hall.

153. The Business Plan identified key indicators of social and wellbeing need, notably that over 10% of the population are widowed and a further 7% are either separated or divorced. Whereas the district average of elderly on state support is 2.5%. Wye is around 13.5%. And that just over 9% of the population report that their day-to-day activities are limited a lot by their health. Again, this has a direct correlation to wellbeing across the community.

154. In response to this data, and evidence from interviews Our Place Wye developed activities to address needs in Phase Two. Two of which depend on the availability of premises for delivery. The Business Plan outlined these activities as:

155. **1. Community Cafe (food - eating & socialising)**

'As highlighted by the informal study undertaken last year, there are no opportunities for people to gain access to nutritious, value for money lunches aimed at "older people". There have been a range of initiatives in the past in the village, including voluntary lunch clubs, meals delivered akin to "meals on wheels" from the local primary school, even concessionary meals for seniors provided by local public houses. Each of these has now ceased to operate.

156. 'It is firmly believed that opportunity for eating in a social context, access to nutritious, value for money meals is a crucial element of the programme. It helps reduce social isolation, encourages social inclusion, and provides a focus, and is in essence, another social space, but with a clear purpose. Many people living alone often do not go to the trouble of cooking proper meals. The report also indicated the number of people without access to cars; and frailty does not make it easy to shop by public transport. We have reviewed existing arrangements and intend to research different models and opportunities, which are realistic and cost effective.

157. 'There is strong local support for this area of activity; many people recall that Imperial College (currently closed and disused) allowed the local community access to its dining rooms. The emerging vision of this venture is to establish a 'community cafe' (emphatically not an older people's lunch club); to strive to create a vibrant 'age inclusive' space that people wish to be part of and visit, as the heart of village life.

158. 'NHS colleagues also take the view that the healthcare cost of managing malnourished patients was more than twice that of managing non-malnourished patients, due to increased use of healthcare resources [...]. After adjusting for age and comorbidity, malnutrition remained an independent predictor of mortality. Malnourished people saw their GP twice as often, had three times the number of hospital admissions and stayed in hospital more than three days longer than those who were well nourished.'

159. Our Place Wye provided a weekly Community Lunch for a capacity of 24 residents until lockdown in 2020. Although it was highly successful and much appreciated by the elderly residents for over four years, the Community Lunch project is dependent on the availability of suitable premises and access to its own kitchen if it is to reopen as a safe and reliable facility that furthers the social wellbeing or social interests of the local community.

160. **3. Community Hub (Information/Information technology)**

'Currently the branch library provides some aspects but is severely constrained by space. The library has been a keen partner to examine what might be possible; this is closely aligned with its own future development. The emerging vision is to explore how to draw together the

existing programmes of support, and re-shape the current facilities to promote more digital inclusion amongst older people.'

161. The Parish Council has discussed the issue of premises with KCC Arts and Libraries at intervals over the past 25 years. Most recently in 2019. The reason being that the KCC rents its library premises in Wye.

162. These discussions revealed that the lease is expensive per square foot relative to other rented libraries in Kent, and the space is too small to enable provide [*sic*] a range of modern library services. The Parish Council is acutely aware of the rising cost pressures on KCC's budget and is most anxious to retain a library in the centre of Wye.

163. KCC has remained open and interested to the principle of shared premises in a community centre in Wye, confirmed most recently in the context of Wye College.

164. The option to relocate Wye Library to the building would provide social benefits as a meeting place out of library hours, a larger and more flexible facility for the community, a reliable income for the building manager and potentially lower rent costs for KCC for a larger and more flexible space, with natural light for reading.

165. While the option of this partnership is speculation **(and commercially sensitive)**, it is based on the solid evidence of previous engagements and discussions with KCC officers over the past 25 years.

166. Relocation of the library would enable the present library building to revert to its previous residential use, and provide an additional home.

167. Although constrained currently by the lack of space in normal times Wye Library is popular and well used. Within its space constraints it provides events and activities that further the social wellbeing or social interests of the local community. These include weekly Storytime, Talk Time, Rhyme Time and Digital Dens meetings, and quarterly HI-Kent drop-ins for the hearing impaired. Currently, these groups are suspended until further notice as a COVID-1[9] safety measure.

168. KCC states that it is 'slowly reintroducing events and activities at some of our libraries where possible.' However, the lack of space was severe constraint in Wye Library pre-pandemic.

169. Co-location of the Wye Library in the building would provide it with a larger and more flexible multi-purpose space suitable for a wider range of activities than the present site permits. This would reach more people, and further the social wellbeing or social interests of the community.

Other community activities and unmet space needs

170. In January 2021 the Parish Council responded to a request from Ashford Borough Council for a paper to justify the retention of the Latin School for community use. As events showed Ashford Borough Council did

not support the retention of the Latin School for community use. However, as the community of Wye has now lost that valuable 50m2 building to exclusive private residential use, there is an even more compelling case for retaining the Methodist Church in community use. Some possible uses are described in the three extracts from the Executive Summary, Uses of the Latin School in Parish Council stewardship (January 2021) as follows:

171. 3. *'Given the Latin School's central location and ease of access, the range of community uses to which it could be put are legion, even with restrictions on type and hours of use. The likely users would include: the PC, both as an office and for face-to-face engagement with residents; the community support group Our Place Wye (OPW); community groups; and possibly a Visitors Centre.'*

172. 4. *Pre-COVID19 the Village Hall was fully booked during the week, and the two other facilities, the Methodist Hall and the church, were equally busy. Demand for community space will rise proportionally with the expected population expansion. Post COVID19 demand for greater 'localness' is also likely to increase demand.'*

173. 28. *Methodist Hall. The Methodist Hall houses 5 rooms: the Thomas Berry Meeting Room (on first floor), (capacity 15), The Worship Room, (60), the Vestry and Garden Room (10), the Small Fellowship Room (10), and the Wesley Activities Room (30). There are coffee facilities and an en-suite kitchen. The Methodist hall facilities between them take over 80 meetings per month.'*

APPENDIX26 Wye Community use of the Latin School December 2020

174. The Latin School paper identifies community uses and a clear need for additional space at a time in December 2020 when the Methodist Church was closed. Crucially the paper presumed that the Methodist Church was expected to reopen when safe to do so. (see APPENDIX10)

175. The case made for the Latin School can be reapplied to add to the case made above for the return of the Methodist Church building to a community centre role. This use will further the social wellbeing or social interests of the local community.

*

The Council cannot list buildings or land on its own initiative – they must be nominated. Therefore, the onus is on the nominating body to give their reasons for thinking that the Council should conclude that the building/land is of community value.

There is little guidance on the criteria a local authority should consider when deciding whether an asset is of community value. When the Act was at the Bill stage, the Minister stated that:

'...We have suggested that one of the criteria for assessing what is an asset of community value could be evidence of the strength of community feeling about supporting the asset's being maintained for community use'

In this case, the nominating body is a parish council and so, although there is no evidence of the strength of community feeling, it is reasonable to assume that the Parish Council is representing the views, or is expressing the general wishes, of a significant percentage of their local community.

For a building or land to be included in the 'List of Assets of Community Value' its main use – not 'an ancillary use' – must further the social wellbeing or social interests of the local community.

As mentioned above, the nominated premises are currently closed and so the Council must consider whether:

- (a) there is a time in the recent past when an actual use of the building/land that was not an ancillary use furthered the social wellbeing or social 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/land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

There is a time in the recent past when an actual use of the building/land that was not an ancillary use furthered the social wellbeing or social interests of the local community

There is no statutory definition of 'recent past.' The Department for Communities and Local Government's guidance⁶ provides the following comment on the meaning of 'recent past':

'With regard to "recent past", our current view is that we will leave it to the local authority to decide, since "recent" might be viewed differently in different circumstances. For example, "recent" might be taken as a longer period for instance for land which was formerly used by the public until the MoD took it over for live ammunition practice, than for a derelict building. Ten or even twenty years might be considered recent for the former but not for the latter.'

I understand that some authorities have treated the 'recent past' as being the five year period preceding the nomination but in *Scott v South Norfolk District Council (2014)*⁷, Judge Warren in the General Regulatory Chamber of the First-Tier Tribunal said that the phrase 'in the recent past' was deliberately loose in contrast to the five years in the second condition and that it was 'not the Tribunal's role to undermine that by giving the phrase a meaning which is certain.'

⁶ Assets of Community Value – Policy Statement (2011)

⁷ CR/2014/0007

In *Worthy Developments v Forest of Dean District Council (2014)*⁸, Judge Warren (again) stated that:

'It seems to me illogical to seize on the period of five years, as some suggest, when applying the past condition. This figure is chosen because it is the length of time specified by Parliament over which the future condition is to be assessed. It seems to me, however, that Parliament's failure to specify the precise period of five years when defining the past condition, cannot be taken as intending that the more precise period used in the definition of the future condition should be imported'

In *Crostone v Amber Valley Borough Council (2014)*⁹, Judge Lane stated that:

'The "recent past" is not defined in the Localism Act 2011 or any relevant subordinate legislation. What constitutes the "recent past" will depend upon all the circumstances of a particular case. To that extent, the expression is a relative concept. In this regard, it is relevant that the Black Swan operated as a public house for almost 200 years, until its closure in 2012...'

Accordingly, although what constitutes the 'recent past' will depend on all the circumstances in a particular case, Judge Lane's conclusion that 'the expression is a relative concept' suggests that the length of time that the building had been used is relevant (in *Crostone* it was nearly two hundred years). Therefore, the implication seems to be that the longer the period of use furthering a community benefit the longer the period which will constitute the 'recent past.'

In this case, according to the nominating body, the nominated church building was erected as a place of worship in 1869 and operated continuously as a place of worship until its closure in March 2020. Therefore, prior to its closure, the church building was used continuously for over 150 years. In my view, having regard to the relative concept of 'recent past' as outlined by Judge Lane in *Crostone* (above), May 2020 would be viewed as the 'recent past' when viewed in the context of over 150 years' of continuous use prior to that date.

Before considering whether the non-ancillary use of the nominated church building furthered the social wellbeing or social interests of the local community, it is useful in this case to first consider the judgment of Judge Lane (Chamber President) in the General Regulatory Chamber of the First-Tier Tribunal's decision in *General Conference of the New Church v Bristol City Council (Localism Act 2011) (2015)*¹⁰. The relevant passages of the judgment state as follows:

1. *The Localism Act 2011 requires local authorities to keep a list of assets (meaning buildings or other land) which are of community value. The effect of listing is that, generally speaking, an owner intending to sell 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*

⁸ CR/2014/0005

⁹ CR/2014/0010

¹⁰ UKFTT CR_2014_0013 (GRC)

bidder. If it does so, the sale 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 sale 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.

2. *The property in question in the present proceedings is a building and small area of surrounding land. **The building comprises a church** of the Bristol Society of the New Church, **who used it for religious purposes from its construction in 1899 until its closure in November 2013**. The church is owned by the General Conference of the New Church, an incorporated body, formed for the Religion of the Receivers of the Doctrines of the New Church, as contained in the Theological Writings of the Honourable Emanuel Swedenborg. The church is on the corner of Claremont Road and Cranbrook Road. The adjoining land is approximately quarter of an acre and contains a number of large trees.*
3. *The church was nominated as an asset of community value by an unincorporated association entitled "Protect Redland and Bishopston from Over-Development" ("PROD"). Listing took place on 3 April 2014. The General Conference requested a review by the city council of that listing. The result of that review, on 3 July 2014, was to maintain listing. The General Conference appealed against that decision to the First-tier Tribunal, pursuant to regulation 11 of the Assets of Community Value (England) Regulations 2012 (SI 2012/2421).*
4. *[...]*
5. *At the hearing, the General Conference was represented by Peter Wadsley of Counsel, instructed by Harris and Harris Solicitors. Ms (Jennifer) Zoe Brooks, Trustee, Director and Company Secretary of the General Conference, gave evidence. Mrs Siusaïdh Hall, Secretary of PROD, also attended and spoke.*
6. *Ms Brooks explained that the General Conference was enrolled in chancery in 1822 and incorporated as a company in 1872. Although the General Conference owns the church, responsibility for maintaining and running it is in the hands of the Bristol Society. It was the Bristol Society that decided the church should close in October 2013. **By that time, the congregation consisted of only three regular members, only one of whom lived in the area served by the church. Four other members attended less regularly.** It was also used as a church by the Holy Celtic Church.*
7. ***A number of other activities also took place in the church.** Bristol City Council uses the church from time to time as **a polling station**. A group of **Brownies** used it weekly until February 2013, when they moved to other premises. **Dance classes** were held occasionally until May 2013. Two **meditation groups**, which used the church*

infrequently, ceased to do so in November 2011 and October 2012 respectively. Apart from the religious use of the church, the only group making use of it at the time of closure was "Music with Mummy and Jolly Babies", which used it twice-weekly. It appears that this group has, since closure, found an alternative venue.

8. *Ms Brooks also gave evidence regarding the costs of running and maintaining the church and of the income received from uses other than by the Bristol Society. In the period 2008-2013 inclusive, costs of **maintenance totalled £80,000; insurance £12,000; and gas and electricity £12-18,000.** The total income over those six years was only £3-4.5,000.*
9. *I find **these figures paint a stark picture of the difficulties facing the congregation, leading to the decision that the church had to be closed.***
10. *I accept Ms Brooks' evidence that no local or community bodies have ever shown any interest in the church as a place of worship and that, prior to the premises being put up to sale (with a guide price of £600,000) no individuals or groups ever offered any support for the church or for any of the non-religious activities carried on there.*
11. *PROD is concerned about what it sees as the threat of over-development in Redland and Bishopston. As can be seen from the written materials, and as Mrs Hall made plain in her remarks at the hearing, PROD is particularly concerned at the possibility of any purchaser building on all or part of the grounds. Mrs Hall told me that PROD's hope is that the ground could be retained in some form as a "green oasis", since people like looking at it. As well as bats roosting in the church structure, slow worms and a sparrow colony were to be found in the grounds and the trees (which were, she said, subject to Tree Preservation Orders).*
12. *Section 88(1) and (2) of the Localism Act 2011 read as follows:-*

"88 Land of community value

(1) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land 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 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.*

(2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—

(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 or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community."

13. Mr Wadsley submitted that the use of a building as a place of religion, such as a church, does not fall within the scope of the uses that further "the social wellbeing or interests of the local community". He pointed to section 88(6) of the 2011 Act, which provides that "social interests" include, in particular, each of the following –

"(a) cultural interests;

(b) recreational interests;

(c) sporting interests"

14. Mr Wadsley said that, had it been the legislature's intention to include religious interests within the scope of section 88, one would expect to find express reference to them in section 88(6). Although the definition of "social interests" in that subsection is not exhaustive, the absence of any reference to religious interests is significant. In this regard, Mr Wadsley drew my attention to the Equality Act 2010, where section 4 (protected characteristics) specifically includes "religion or belief", thereafter specifically defined in section 10 (religion or belief), thereby highlighting, in his view, the discrete nature of religion. Religious interests, Mr Wadsley said, could not be properly said to be "cultural interests" or "recreational interests". Further evidence of the particular nature and character of religion was to be found in Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

15. In its review, the city council's solicitor considered "that religious worship is for the social wellbeing and social interests of the community", although she conceded that she might be wrong about that. Given that the city council has not chosen to take any further part in these proceedings, their views on this issue have not been developed in argument. I am, therefore, cautious about making any definitive finding. On the basis of Mr Wadsley's submissions, I nevertheless consider that the expression

"social wellbeing and social interests of the community" in section 88 does not encompass religious observances in a church, mosque or synagogue etc, and that such a building will not in practice fall within section 88 unless there is some other non-ancillary use being made of it, which does further social wellbeing/social interests of the local community.

16. **The city council, in its review, considered that the other activities which had taken place in the church in recent years, namely "brownies, meditation, elections, dance, singing [and] mothers and babies meetings" were "non-ancillary" and furthered the social wellbeing or interests of the local community.**
17. **Mr Wadsley did not challenge the latter conclusion but he vigorously contended that those uses were, in fact, ancillary to the church's use as a place of religious worship.**
18. The expression "ancillary use", which occurs in several places in section 88, is undefined. I agree with Mr Wadsley that, in the circumstances, it may be helpful (to put it no higher) to look at how the concept of primary and ancillary uses is dealt with in planning law. In volume 2 of the Planning Encyclopaedia (Planning R.184: April 2014) one finds at P55.39 that:-

"In many cases it is possible to identify a single primary use for a site overall, such as "private dwelling", "retail shop", "hotel", or "farm". That description may in any given case describe the sum of a number of "incidental" or "ancillary" uses of quite different character.

19. At P55.42, we find:-

"Much analysis in this area relies upon subjective judgements as to the type and scale of activity which may ordinarily be regarded as ancillary to a particular primary use. It is a test of functional relationship rather than extent."

20. Mr Wadsley submitted that churches are places of assembly and, as such, can also be useful as a meeting place for others who may not share the religious purpose for which the church was created. In this way, meetings for the other groups that used part of the church (the evidence is that they were not allowed to use certain areas) were in the category of meetings or assemblies. There was, accordingly, a functional link between those meetings and the principal or main use.
21. In the alternative, **Mr Wadsley drew attention to paragraph 7.6 of the Explanatory Memorandum to the 2012 Regulations, which speaks of the "main purpose of the building or land". Mr Wadsley submitted that, on this approach, the answer one arrived at was the same: namely, that the main purpose of the**

church was as a church and the other uses were subsidiary to that.

22. As the Tribunal stated in *Dorset CC v Purbeck DC* (CR/2013/004), in determining for the purpose of section 88 whether a use is ancillary, "there is no certain guidance or touchstone". In some cases, the position "on the ground" may be such that a single primary use is such that other uses fall properly to be regarded as ancillary to that primary use, whether or not one uses the test of functional relationship. In other cases, there may be a number of discrete uses, where none is properly to be regarded as ancillary, even though one particular use may be more significant than the others (whether in terms of intensity or otherwise). Neither planning law nor explanatory memoranda provide definitive answers; the context is all.
23. **In the present case, the original and sole purpose was as a church. That remained the position, even when other non-religious groups were permitted to make use of the church.** On the facts, I find that the primary use was as a church. Again, on the facts, **I find that the evidence discloses that the other uses did not have a more than ancillary character.** They were disparate, largely ad hoc and even before closure had dwindled to the point where only one group was using the church on a regular basis. **In short, immediately before its closure, the reality was that (despite the decline in congregations) the church was still a church; not a community or social centre. The other uses were ancillary.**
24. **The result is that I find section 88(2)(a) is not satisfied. There has not been in the recent past (indeed, ever) "an actual use of the building or of the land that was not an ancillary use [which] furthered the social wellbeing or interests of the local community".**
25. **But even if I am wrong about that, I find as a fact on the evidence before me that the requirement of section 88(2)(b) is not satisfied. It is not "realistic" to think that there is a time in the next five years when there could be non-ancillary use of the building or of the land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community"... [my emphasis]**

The appeal succeeded and the premises were removed from the List of Assets of Community Value.

Decisions of the First-Tier Tribunal do not constitute judicial precedent and, as always, the issues are fact-specific. Nevertheless, the similarities between the facts in the *General Conference of the New Church* case and those in the current nomination are clear and it is appropriate to have regard to the findings of the First-Tier Tribunal, which is responsible for determining appeals in relation to the assets of community value regime.

Returning to the current nomination, given that the nominated premises are closed, the first thing to establish is what was the main use of the church building before it closed?

The nominating body itself states that:

'Prior to closure the designated main use of the building was as a place of worship.'¹¹

However, the nominating body then goes on to state that:

'...by long established custom and practice, the evidence shows that the building functioned mainly as a community centre...'¹²

Elsewhere, the nominating body states that:

'...the social centre function proved so successful that after WWII it evolved naturally into the primary use of the building...' (*Nominating body's paragraph (22)*)

'In contrast to the gradual decline in religious use since WWII, by 2020 the building had evolved a new primary use and functioned as a lively and vital community centre, as social activities flourished all year round alongside worship.' (*Nominating body's paragraph (59)*)

'...the main non-ancillary uses by numerous community groups exceeded, by an overwhelming margin, the hours that the building was used for worship...' (*Nominating body's paragraph (106)*)

'...there is a clear need to retain the building for its main use as a community centre...' (*Nominating body's paragraph (122)*)

It is even suggested at one point that:

'non-ancillary use was the main use of the building' (*Nominating body's paragraph (8)(b)*).

There seems to be some uncertainty about what was the main use/non-ancillary use(s) of the nominated church building before its closure. Notwithstanding its initial concession that '*prior to closure the designated main use of the building was as a place of worship,*' the nominating body seems to be suggesting that at some point from WWII onwards or, in any event, before its closure in 2020, the main use/non-ancillary use(s) of the church building changed from a place of worship to a 'community centre.'

The term 'not an ancillary use' (or 'non-ancillary use') is key and yet it seems to have caused some confusion. The term 'ancillary' means 'secondary,' 'supplementary,' 'subordinate' etc. to the main use, whereas 'non-ancillary' for the purposes of the asset of community value regime could perhaps be more

¹¹ See the nominating body's comment reproduced on page 4 (above).

¹² See again, the nominating body's comment reproduced on page 4 (above).

clearly described as *intrinsic to, essential to, part and parcel of* etc. the main use.

As such, for the purposes of this nomination, the nominating body needs to demonstrate that the main use of the church building was as a 'community centre' and that the various community activities described by the nominating body as 'non-ancillary' uses were *intrinsic to, essential to, part and parcel of* etc. the main use of the church building as a 'community centre.' Furthermore, those main/non-ancillary 'community centre' use(s) needed to have furthered the social wellbeing or social interests of the local community. In other words, the main use/non-ancillary use(s) needed to fall within the scope of section 88 of the Act.

The nominating body's primary reason for considering that the main use/non-ancillary use(s) of the church building changed from a place of worship to a 'community centre' seems to be that the number of outside secular/community events (and the number of attendees of those events) exceeded those of the religious events. For example, the nominating body states that:

'...from the service programmes published by [the Methodist South Kent Circuit] and other evidence, the main non-ancillary uses by numerous community groups exceeded, by an overwhelming margin, the hours that the building was used for worship. **For evaluation purposes based on available evidence, a ratio of 80:20 is a realistic usage estimate.**' [emphasis in original](*Nominating body's paragraph (106)*)

Setting aside whether the various outside secular/community uses/events were 'main non-ancillary uses,' the nominating body has provided examples of a number of uses/events that were held in the church building, such as:

- use by 300 troopers of the 3rd Hussars as a 'recreational facility' (Circa 1915) (*Nominating body's paragraph (14)*)
- use as a recreation centre during WWI (*Nominating body's paragraph (35)*)
- use as a recreation centre for Royal Flying Corps personnel stationed at the training airfield off Bramble Lane during WWI (*Nominating body's paragraph (36)*)
- use during the week as a canteen during WWII (*Nominating body's paragraph (43)*)
- use by Wye Guides and Brownies and for various handicraft classes (*Nominating body's paragraph (47)*)
- use as a foot clinic, a dancing class and for a time as a 'Pop In' session for lonely people (*Nominating body's paragraph (53)*)
- use for ballet, tap and modern dance classes (*Nominating body's paragraph (85)*)
- use for Pilates classes (*Nominating body's paragraphs (87) and (88)*)
- use by Kent Police to hold a local public engagement meeting (*Nominating body's paragraphs (90) and (91)*)
- use for a Yoga class (*Nominating body's Appendix (17)*)
- use for a Cycling Group (*Nominating body's Appendix (18)*)
- use for the Options Club and Open House informal social drop-ins (*Nominating body's paragraph (103)*)
- use for various meetings/events of the nominating body itself

Whilst some of these activities took place many years ago and had ceased long before the church building was closed it is nevertheless clear that a number of outside secular/community uses/events were taking place in the church building up until its closure in 2020.

Furthermore, I consider that the events listed above would be categorised as secular/community events often associated with the use of a building as a 'community centre.' They would not be events categorised as non-ancillary (i.e. *intrinsic to, essential to, part and parcel of* etc.) the main use of a building as a place of worship.

In my view, however, the frequency of religious events versus outside secular/community events and/or a head count of the number of attendees at those events alone, would be an inappropriate method to establish which of those uses constituted the primary use of the church building. This is because, by their nature, even vibrant and well-attended places of worship will often have a limited number of religious services (perhaps dictated by the liturgical calendar) which will often be outnumbered by other ancillary outside secular/community uses which may be permitted to take place on the premises. This would be a normal occurrence in most places of worship where ancillary uses of the premises are often allowed. However, this would not necessarily mean that the main use of the premises would change from a place of worship to a 'community centre' use where the religious purposes for which the building was originally erected/adapted would, in effect, be relegated to a secondary or an ancillary use.

There are, in my view, a number of other important factors to be considered:

First, the nominated building is a church.

Second, the nominated church building was erected as a place of worship in 1869 and operated continuously as a place of worship until its closure in March 2020. This is confirmed by the nominating body:

'As a place of worship, the building was in continuous use for over 150 years' (*Nominating body's paragraph (26)*)

Third, the owners of the church building are the Trustees for Methodist Church Purposes. The nominating body's paragraph (72) contains a short extract from an e-mail it received from Rev Helen Hollands¹³ dated 15 February 2021. However, the full text of the relevant sections of that e-mail¹⁴ explains the reasons for the closure of the church building:

'Of course the Methodist church has had a role in the village for many years and, in addition to worship, by providing a space available for lettings for various social and other groups. **However, the building has always been managed and maintained by the Methodist church**

¹³ Superintendent Methodist Minister in the South Kent Circuit and Assistant Chair Methodist South-East District

¹⁴ See the nominating body's Appendix (11).

and this has placed a particular burden on the local trustees in terms of maintenance requirements, health and safety and safeguarding. We have always taken these responsibilities very seriously. Over the years this burden has fallen on the shoulders of fewer people and as the membership of the church has decreased they have reached the time when this burden has become too great. They have prayerfully considered the future and concluded that to close the building is the best course of action and to meet alongside others elsewhere.

'We are sorry that this will be a loss to the village but it is simply unfair to expect a very small group of older people to manage the premises and sadly we do not have the capacity in the Methodist circuit to manage it ourselves.

'We are of course bound by charity law in the sale. This means that we are required to sell the premises to the highest bidder even if we would prefer for the premises to be retained for the community. This is a legal requirement and it has been widely tested elsewhere. We will be happy to have further conversation with the parish council about the future of the building but please be aware that we are bound by these requirements as we move forwards. I hope this helps to explain the situation more fully.'
[my emphasis]

In a letter to the nominating body dated 28 February 2022¹⁵, Rev Hollands offered some further clarification:

'We are sorry that the Methodist church building is closing in Wye and we also regret the loss of the facility to the community. **This decision was not made lightly but after careful thought by the church members, the local circuit and the Methodist district.** We understand that the building has been appreciated and used by the community for many years and it has been our privilege and pleasure to provide such a community space. However, **I am sure you will understand that the primary purpose of the building is as a church, not as a community facility.** I am saddened to note that your letter makes no reference to the loss of the church community, nor indeed the difference they have made to the village over many years. It is this loss which is felt most keenly by the local church members.

'It may be useful to explain the background of the decision to close the church building and how governance operates within the Methodist church. Each local church has a set of local managing trustees who, along with the minister in pastoral charge, look after the day to day running of the church, ensure the premises are well maintained and enable the worshipping life and other activities of the congregation. Methodist governance also requires a number of local officers who hold responsibility for safeguarding, property, finance etc. I am sure you will be pleased to know that these roles are taken seriously and cannot simply be

¹⁵ See again the nominating body's Appendix (11).

filled by others from outside the church however well-meaning those people may be. One illustration might be that the church was struggling to find a Safeguarding officer, who must be a church member. This is not a role that could have been filled by another person outside the Methodist church but of course it is vital.

'The building is not in public ownership and our letting fees (deliberately kept low) have always fallen short of maintenance and other church costs.

'Each local Methodist church functions within a Methodist circuit, in our case, the South Kent circuit and the circuit is another decision-making body with oversight over all the local churches. However, church buildings are not owned by local bodies or by circuits, they are owned by the national Methodist church. As a charity the church is bound by charity law and by our own internal governance rules, known as Standing Orders...'

Rev Hollands made broadly the same points again in a meeting with the nominating body on 13 April 2021¹⁶.

It would seem that the church's congregation throughout its 150 year history had always been modest. However, when the membership diminished to a point where the continued operation of the church became unsustainable, the church building was closed. This is recognised by the nominating body:

'Clearly, this low level of membership was unsustainable. Especially given the need for able volunteers to take day-to-day responsibility for the building maintenance and the safety of users. Understandably, it was a critical factor in the decision to close...' (*Nominating body's paragraph (31)*)

In the same paragraph, the nominating body states:

'The Parish Council understands that loss of letting income during the pandemic was a secondary consideration...'

Therefore, even the nominating body recognises that the diminishing congregation was the main reason the church closed.

Fourth, the church building was always managed and maintained by the Methodist Church. In fact, it would seem that the Methodist Church's governance dictated that certain roles could only be carried out by local officers and could not be filled by persons outside the church.

Fifth, the nominating body states that:

'...The Methodist Church's national standard lettings licence to occupy... imposes a strict condition on permitted use that differentiates the building from other community halls...' (*Nominating body's paragraph (139)*)

¹⁶ See again the nominating body's Appendix (11).

'Condition (3.g) of the lettings licence prohibits any consumption of alcohol or gambling on the premises. This stops users from holding raffles, 100 Club draws, wine and cheese parties, and simple fundraisers that community groups use, typically to raise petty cash... the condition inhibits social interaction and wellbeing...' (*Nominating body's paragraph (140)*)

This demonstrates that the religious principles the Methodist Church took precedence over the secular wishes of the community groups and had to be respected by those hiring the church building.

Sixth, the nominating body states that:

'Only on very rare occasions religious needs did take precedence over regular hall bookings. For example, in 19th September 2013 the Margaret Giles School of Dance notified parents that: '*unfortunately we are unable to have the hall on this day as it is being used for a Canterbury Diocese training event...*' (*Nominating body's paragraph (60)*)

This demonstrates that when a secular event clashed with a religious event it was the religious event that took precedence.

Seventh, while secular/community events organised by the outside community attracted a letting fee, events organised by church members were free¹⁷.

Again, this demonstrates that religious/church members' events took precedence over secular events.

Finally, there were a number of other activities described by the nominating body that would probably be considered non-ancillary to the religious use of the church building rather than as examples of outside secular/community uses: Sunday School (*nominating body's paragraph (47)*), Church Youth Club (*nominating body's paragraphs (47) and (51)*), as a venue for ecumenical activities (*nominating body's paragraph (53)*) etc.

These factors suggest that the dominant main use of the nominated church building was as a place of worship.

In my view, including the nominated premises in the Council's List of Assets of Community Value could set a precedent for many other places of worship in the Borough. This is because many such premises may also host outside ancillary secular/community events and yet the infrequent main use of the premises for religious purposes (which may be attended by a small congregation) could appear, when relying on numbers alone, as a secondary use when compared to the frequency of the various ancillary secular/community uses of the premises, especially if those ancillary uses were well attended.

In any event, for the reasons set out by the appellant in the *General Conference of the New Church* case and accepted by Judge Lane, I consider that Parliament did not intend for places of worship to fall within the scope of the uses that further the social wellbeing or social interests of the local community.

¹⁷ See, for example, the nominating body's paragraphs (103) and (141).

It follows, therefore, that for the reasons I have set out above, I consider that in this case the main use of the nominated church building for its entire history was as a place of worship. Accordingly, the nomination fails the test set down in section 88(2)(a) of the Act and the nominated premises should not be included in the Council's List of Assets of Community Value.

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/land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community

Given that the nomination fails the test set down in section 88(2)(a) of the Act, the second element of the test concerning the use of the nominated church building in the next five years (section 88(2)(b) of the Act) does not fall to be considered.

*

Conclusions

The main use of the nominated church building for its entire history was as a place of worship and so did not fall within the scope of the uses that further the social wellbeing or social interests of the local community. Accordingly, as the nomination fails the test set down in section 88(2)(a) of the Act, the nominated premises should not be included in the Council's List of Assets of Community Value.

Recommendation

That the Solicitor to the Council and Monitoring Officer decline the nomination for this building/land to be included in the Council's 'List of Assets of Community Value'.

That the Solicitor to the Council and Monitoring Officer consent to this building/land being placed instead on the Council's 'List of Assets Nominated Unsuccessfully by Community Nomination'.

AUTHORITY

In accordance with the functions delegated to me, and for the reasons set out above, I hereby decline the nomination for this land to be included in the Council's 'List of Assets of Community Value'. This land should instead be placed on the Council's 'List of Assets Nominated Unsuccessfully by Community Nomination'.



.....
Solicitor to the Council and Monitoring Officer
Date:17/01/2022.....

HM Land Registry
Official copy of
title plan

Title number **K962352**
Ordnance Survey map reference **TR0546NW**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Kent : Ashford**



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