

## Assets of Community Value

14/07/2016

**Application Number:** 16/004

**Nominated Asset:** Temple Cowley United Reform Church

**Site Address:** Oxford Road, Cowley, Oxford, OX4 2ES

**Ward:** Cowley Marsh

**Applicant:** The Elders of Temple Cowley United Reform Church

**Recommendation:** The Head of Planning and Regulatory Services is recommended to:

1. Agree that the Nominated Asset should be confirmed as an Asset of Community Value
2. Agree to include the asset on the City Council's Register of Local Assets of Community Value Register and place the asset on the Local Land Charge Register.

### Background to Report.

1. The Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 set out the opportunities and procedures to follow for communities wishing to identify assets of community value and have them listed.
2. The City Council is required to list an asset if it is land of community value. Land is land of community value if, in the opinion of the Council;
  - an actual current use (not an ancillary use) of the building or other land is one that 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 that will further the social wellbeing or social interests of the local community (whether or not in the same way as the current use).  
**OR**
  - there was a time in the recent past when an actual use (not an ancillary use) of the building or other land is one that furthered the social wellbeing or interests of the local community; AND
  - it is realistic to think that there is a time in the next 5 years when there could be non-ancillary use of the building or other land that would further the social wellbeing or social interests of the local community (whether or not in the same way as before).

3. These definitions have been taken from section 88 of the Localism Act.
4. Land can be entered into the List only as a result of a community nomination. The nomination by a body meeting statutory requirements must provide a description of the land (including boundaries); the information that the nominator has as to ownership and occupation; and the nominator's reasons for believing that the Land is land of community value. If the owner objects to their property being placed on the List, they have a right in the first instance to an internal review by the City Council of this decision. If still dissatisfied an appeal may be made to the First Tier Tribunal.

## Nomination

5. The Elders of the Temple Cowley United Reform Church wrote to Oxford City Council on 11<sup>th</sup> March to nominate the Temple Cowley United Reform Church as an Asset of Community Value. However, the application was incomplete and certain elements required clarification. Once these aspects were clarified, the completed application was deemed to have been received on 14<sup>th</sup> April 2016.
6. The nominators suggest that the Temple Cowley United Reform Church – a charity - has a strong local connection with the asset, since its predecessors raised the funds to build the building. The nominators suggest that since the Temple Cowley United Reform Church is a charity it is eligible to make a nomination for an Asset of Community Value under the legislation. The nomination states that the Temple Cowley United Reform Church is a charity by virtue of being a fully constituted church of the United Reform Church (which is a registered charity, No. 1133373), but as such it does not have its own separate registered charity number (as is normal practice for such denominational churches).
7. The Elders of the Temple Cowley United Reform Church argue that the Temple Cowley United Reform Church is a 'Tier 3 Community Centre'. Besides regular church activities (both religious and social) the building is regularly used by community organisations. The nomination provides a list of community groups who use the space (as well as the host church's Sunday Morning worship. In total around 500 people use the space per week:
  - Rainbows/ Brownies (one weekly session)
  - 'Go Active' Table Tennis (three sessions weekly)
  - King School Table Tennis one weekly session)
  - Kumon School (two sessions weekly)
  - MoreLife (two sessions weekly)
  - Jubilee Brass Band (two sessions weekly)
  - Temple Cowley Residents' Association (regular meetings)
  - Cowley History Society (one session monthly)
  - Retirees Lunch (one session monthly)
  - Asian Elim Church (one session weekly)
  - Community Choir (one session weekly)
  - Oxfordshire Play Association for training (occasionally)

8. The nominators argue that the Temple Cowley United Reform Church is an Asset of Community Value because "all of the activity that takes place in the building, whether of a religious nature or not... is to further the social wellbeing or social interests of the community. They note that "activities at the centre cater for the very young, through children, young adults, students, adults and the frail elderly".
9. The Elders of the Temple Cowley United Reform Church argue that "it is entirely realistic to think that there can continue to be a non-ancillary use of the building that will further the social wellbeing or social interests of the community, despite the fact that the present congregation believes it cannot continue as a church beyond December 2017.
10. The nominators make a case that a non-ancillary use of the building that furthers the social wellbeing or social interests of the community could be maintained if the building was sold to the local Corps of the Salvation Army. This is because the aims of the Salvation Army are similar to the present use of the building.

### **Response to consultation**

11. The United Reform Church (Wessex) Trust Ltd (hereafter the "owners" were contacted on 14<sup>th</sup> April 2016 and provided a response on May 6<sup>th</sup> 2016. Following on from this response, the Elders of the Temple Cowley United Reform Church (hereafter the 'nominators') provided supplementary material on 15<sup>th</sup> May 2016. The most recent response was received from the owners on 24<sup>th</sup> May 2016. This section documents the responses received as a result of the consultation.

### **United Reform Church (Wessex) Trust Ltd response May 6<sup>th</sup> 2016**

12. The owners' response sets out how the use of the property is governed by legislation. The response argues that the use of the any church property in the United Reform Church is for Christian worship, Christian education and also in promotion of other charitable activities that are not inconsistent with the principles and usage of the URC. The relevant legislation is the United Reform Church Acts 1972, 1981 and 2000 ("the URC Acts").
13. In relation to the use of the building, the owners argue that the various organisations that lease time/ space in the premises are ancillary to the purpose and intended use of the premises. The owners note that the URC Acts specifically refer to such use for 'ancillary purposes'.
14. The owners' set out their position in terms of the current finances of the building as a church and set out why they are looking to dispose of it. This relates to low congregation numbers and the fact that the congregation will be leaving the church in 2017.
15. The owners' set out how they wish to test the market in order to ensure that the best price is obtained from the sale of the church. The owners consider

that in this instance listing the building as an Asset of Community Value would increase the length of time that the building was empty and derelict.

16. The owners' argue that each local URC is an unincorporated non-charitable association whose governance is in accordance with resolutions passed at a 'church meeting'. The owners question the charity that the nominators used to nominate the church has a local connection since its objectives as a church of the URC are "to advance Christian religion for the benefit of the public in accordance with the doctrines, principles and usages, and the Scheme of Union of the United Reform Church".
17. The owners' consider that the use of the Church is that as defined in the URC Acts. The Acts, according to the owners', make it clear that church premises are for Christian Worship, Christian education and other activities primarily conducted by the members of the church. The owners consider that all other activities are ancillary to the purposes of the church. The owners consider that all the activities listed in the nomination are in fact ancillary to the main purpose of the church (as set out in the URC Acts).
18. The owners argue that they do not regard the aims of the URC as specifically to address the "social wellbeing of the local community". The owners note that 'social interests' are defined as including cultural, recreational or sporting interests – the owners consider that these are different to the interests that the URC promote.
19. The remainder of the response from the owners provides information in relation to the potential sale of the building.

#### **Response from the Minister (14 May 2016)**

20. The response from the Minister dated 14 May 2016 provides some additional evidence in relation to their nomination and the response made by the owners. The nominators provide additional evidence in relation to the information submitted in their original nomination in relation to the fact that they are a *bona fide* local group. The additional information on this point relates to the fact that their congregation was established in 1873. The local group is also listed in the URC's yearbook.
21. In terms of footfall, the nominator considers that over 600 people use the building each week.
22. The rest of this response is concerned with the potential closure and sale of the building.

#### **Response from the owners (24 May 2016)**

23. This response alleged that this application was null and void and should be dismissed without further consideration. This response considered that the property itself did not meet the criteria to be eligible for inclusion in the List of Assets of Community Value.

24. The reasoning is as follows: Section 88(1) of the Localism Act states that a property can be listed as an Asset of Community Value if, in the opinion of the Local Authority, that the actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interest of the local community and it is reasonable to think that there can continue to be non-ancillary use of the of the building or other land which will further the social wellbeing or social interest of the local community. Therefore, the owners argue, for the Property to be listed as an asset of community value its primary use must further the social wellbeing or interest of the local community. The owners state that the property is held on charitable trusts under which its primary purpose/ use is as a place of public worship of God according to the principles and usages for the time being of the United Reform Church and to be used primarily by Temple Cowley United Reform Church.
25. As the primary use of the building is as a place of worship the owners cite a tribunal case of the New Church vs Bristol City Council (Localism Act 2011) 2015. In that case the Tribunal accepted that religious worship did not fall within the definition of social interests in Section 88(6) of the Localism Act 2011. The tribunal in that case supported submissions that had Parliament intended to include religious interests in the definition it would have specifically referred to them as it has done in the past in other pieces of legislation.
26. The owners argue that as the primary use of the property is as a place of worship they consider that the property does not qualify under Section 88(1) for listing as an asset of community value. The owners consider that any community or third party use is ancillary to its primary purpose as a place of worship and, under the trusts on which the property is held, is only permitted to take place on a temporary, intermittent or occasional basis when the Church itself does not require any part of its Property for its own religious purposes and other Church related activities.

## **Assessment**

27. It is confirmed that the nominating organisation is a charity for the purposes of the Regulations.
28. The Council has notified various persons including landowners, as required by the Regulations.
29. The first part of the definition is that the nominated asset is a non-ancillary use that furthers the social wellbeing or social interests of the local community.
30. The owners argue that, according to the Bristol Tribunal, as the property is a place of worship, it does not qualify under Section 88(1) for listing as an Asset of Community Value. The Judge in the Bristol Tribunal Decision expressed cautiousness about reaching any definitive finding as he heard no argument from Bristol City Council. The Judge, in that tribunal stated "I nevertheless consider that the expression "social wellbeing and social interests of the community... does not encompass religious observances... and that such a

building will not in practice fall within section 88 unless there is some other non-ancillary use...". In this particular case, the church in question, was considered not to further the social wellbeing and social interests of the community as the Judge in this case, accepted the appellant's arguments that the absence of a specific reference to religious interests in the non-exhaustive definition in the statute was significant, having had his attention drawn to the Equalities Act 2010 where "religion or belief" is specifically addressed.

31. What can be considered to be an Asset of Community Value has a wide application. When the Asset of Community Value regime was proceeding through Parliament. The promoting Minister acknowledged it's width, noted that this (the width of application) could be restricted by regulations.
32. The City Council, having considered the arguments in support of the Bristol Tribunal, does not agree the same rationale and arguments apply in this case. The nominator lists a range of activities, all of which happen in the Church.
33. The Elders of the Temple Cowley United Reform Church argue that the Temple Cowley United Reform Church is a 'Tier 3 Community Centre'. The Elders note that, besides regular church activities (both religious and social) the building is regularly used by community organisations. The nomination provides a list of community groups who use the space (as well as the host church's Sunday Morning worship. In total around 600 people use the space per week:
  - Rainbows/ Brownies (one weekly session)
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  - Community Choir (one session weekly)
  - Oxfordshire Play Association for training (occasionally)
34. The first thing to consider is whether the use that furthers the social interests and wellbeing of the community is a non-ancillary use. The owners have argued that the primary purpose of the church is that set out in under the URC Acts and that all the other uses are therefore ancillary. However, purpose and use, are not the same thing. The purpose of the church is clearly as set out in the URC Acts - Christian Worship, Christian education and other activities primarily conducted by the members of the church.
35. However the main use of the building is one by the community. The owners' response notes that the church congregation is less than 20. The nominators report that over 600 individuals use the building to further the social wellbeing and interests of the community. It is the opinion of Oxford City Council, in this

particular case, that while the purpose of the building may be for Christian Worship, Christian education and other activities conducted by members of the church, its main use however, furthers the social interests and wellbeing of the community as set out in the nomination.

36. Finally, in order for an Asset of Community Value to listed, it must be realistic to think that there can continue to be, or there is a time in the next five years when there could 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 community.
37. The Temple Cowley United Reform church is currently open. Both the nominators and the owners agree that the church is not likely to close at the end of 2017. Whilst closure of the church is certain, what is not certain is to whom the church will be sold. Given this uncertainty, it is realistic to think that another charitable institution could realistically put in an offer to buy the building and continues non-ancillary uses that further the social interests and wellbeing of the community.
38. Given the above, the City Council considers that the Temple Cowley United Reform Church should be listed as an Asset of Community Value.

## Decision

I confirm that:

**Nominated Asset: Temple Cowley United Reform Church**

**Site Address:** Oxford Road, Cowley, Oxford, OX4 2ES

**Should** be an Asset of Community Value and included on the City Council's Register of Local Assets of Community Value Register and placed on the Local Land Charge Register.

**Name:** *Patry Don*

**Title:** *Head of Planning and Regulatory Services*

**Signature:** *P. Don*

**Date:** *14/7/2016*

**Background Papers:** Nomination application

**Contact Officer:** Richard Wyatt

**Extension:** 2704

**Date:** 14/072016



## Appendix 1: Map of Temple Cowley United Reform Church

