

Record of Decisions

The Edge, Brixham - Nomination to list as an Asset of Community Value

Decision Taker

Cabinet on 16 December 2025.

Decision

That the outcome of the officer assessment be noted and it be confirmed that the nomination to list The Edge, Brixham as an Asset of Community Value does not meet the statutory criteria under the Localism Act 2011 and is therefore refused.

Reason for the Decision

To ensure compliance with the Council's Asset of Community Value Policy and uphold transparency in line with the Localism Act 2011 and Asset of Community Value (England) Regulations 2012.

Implementation

This decision will come into force and may be implemented on 31 December 2025 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The nomination, to list The Edge, Brixham was submitted by The Edge, Brixham Community Interest Company (CIC).

The Edge occupies a Grade II listed former United Reformed Church building, previously operated by and owned by Brixham Youth Enquiry Service (Brixham YES). The building currently hosts a wide range of community services, including; independent food bank and community fridge, community kitchen, yoga, arts and crafts, and board game groups, IT support sessions, neurodiverse coffee mornings, music and wellbeing activities, and children's holiday clubs.

These activities clearly demonstrate that the building furthers the social wellbeing and interests of the local community, as envisaged under Section 88 of the Localism Act 2011.

Although the nominator is a newly formed CIC, it was established following the Administration of Brixham YES, with the intention of continuing the services previously provided. Evidence suggests these services have been delivered from the building for over five years prior to the nomination.

The nominator has advised that, despite entering into a three-year arrangement with the administrators of Brixham YES and receiving assurances regarding continued use, they have recently discovered that the building is now being marketed for sale.

Under Section 88 of the Localism Act 2011, a building or land may be listed as an Asset of Community Value (ACV) if:

- Present and Future Test (s.88(1)):

The current non-ancillary use furthers the social wellbeing or interests of the local community, and it is *realistic* to think that such use will continue.

- Past and Future Test (s.88(2)):

There was a time in the recent past when the non-ancillary use furthered the social wellbeing or interests of the local community, and it is realistic to think that such use could resume within the next five years.

The Edge clearly satisfies the current use requirement under s.88(1), as it hosted multiple community services. The key issue was whether it was realistic to think such use would continue, given:

- the property is subject to insolvency proceedings and is being marketed for sale;
- Administrators are legally obliged under the Insolvency Act 1986 to secure the best price, which may result in disposal to a private purchaser.
- There is no guarantee that the community use can continue.

After reviewing the nomination against the statutory criteria in Section 88 of the Localism Act 2011, officers concluded that the asset did not meet the requirements for listing as an Asset of Community Value (ACV).

While the building was currently used for community activities, Section 88(1) requires that it is *realistic to think* such use will continue. The property's involvement in insolvency proceedings and its active marketing for sale create significant uncertainty regarding future occupation by the nominating CIC. The nominator holds no security of tenure, and there is no restrictive covenant on the property's title; therefore, any future owner may lawfully use the property for any purpose permitted under planning legislation.

In the absence of evidence demonstrating that the asset could be secured for ongoing community use, officers considered that the statutory requirement of realistic future use was not satisfied.

At the meeting Councillor Jackie Thomas proposed and Councillor Bye seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

The options were:

Refuse the Nomination:

Although the property currently serves a community function, Section 88 of the Localism Act 2011 requires it to be realistic that such use will continue.

The evidence did not demonstrate this. Insolvency proceedings, active marketing, and lack of security of tenure created significant uncertainty, with no legal mechanism to secure ongoing community benefit.

Given these factors, the statutory criteria were not met, and officers advise that the statutory test under Section 88 of the Localism Act 2011 was not met, and therefore the property could not be listed as an Asset of Community Value.

Accept the Nomination:

This option was not recommended, as the nomination fails to meet the statutory criteria.

Furthermore, listing would impose restrictions on disposal and register a local land charge. However, insolvency-related sales are exempt from the moratorium, limiting any practical benefit. Listing could also deter buyers and expose the Council to compensation claims.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

19 December 2025

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet