

<b>Key Decision Required:</b>	<b>No</b>	<b>In the Forward Plan:</b>	<b>No</b>
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## CABINET

20 JANUARY 2017

### REPORT OF LEISURE, WELL-BEING AND PARTNERSHIPS PORTFOLIO HOLDER

**A.5 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: ST MARYS CHURCH HALL NEW ROAD MISTLEY MANNINGTREE ESSEX C011 1ER**

(Report prepared by Andy White and Gill Burden)

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

To determine whether St Marys Church Hall Mistley meets the criteria set out in the Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) following its nomination as an Asset of Community Value by Mistley Thorn Residents Association. No other criteria are pertinent.

##### **EXECUTIVE SUMMARY**

A valid nomination to register an asset of community value has been received from Mistley Thorn Residents Association (MITHRAS) as shown identified in the plan included within Appendix A.

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 and The Assets of Community Value Regulations 2012.

The Government’s non statutory guidance defines an asset of community value as: “Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so and is likely to do so in the future”. The Report provides an assessment of the nomination.

The Cabinet should consider the content of the nomination against the statutory criteria (and no other factors) and determine whether the asset should be included within the Council’s List of Assets of Community Value.

Taking the evidence provided into account it is recommended that the building nominated does meet the criteria set out Section 88 of the Localism Act 2011. Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

##### **RECOMMENDATION(S)**

**That Cabinet determines that St Marys Church Hall New Road Mistley meets the definition of an Asset of Community Value as set out in Section 88 of the Localism Act 2011 and that the asset be added to the Council’s list of Assets of Community Value.**

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of Council priorities.

### FINANCE, OTHER RESOURCES AND RISK

#### Finance and other resources

There are circumstances where the Council may be required to pay compensation. It is hard to quantify this risk and it is therefore not proposed to make a specific allocation. The Advice Note issued by Department of Communities and Local Government (“DCLG”) states that if compensation exceeds £20,000 in any one financial year support can be requested through their burdens funding scheme.

#### Risk

The hall provides community activities for the village currently although there is always some risk that the decision in relation to the nomination will be controversial whether it is listed or not.

### LEGAL

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011:

- (1) 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.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

Under Schedule 2 of the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, the determination of an appeal against any decision made by or on behalf of the authority can be made by the Executive or another Committee. It is considered that as Cabinet will be the decision maker of the outcome of the nomination, any review received should be considered and referred to the Community Leadership and Partnerships Overview and Scrutiny Committee, which already includes within its terms of reference review of Cabinet decisions.

The Assets of Community Value (England) Regulations 2012 (“the Regulations”) provide procedural detail to give effect to the assets of community value scheme. An earlier report on this subject set out a proposed procedure for dealing with the nomination of Assets of Community Value in accordance with the Regulations and Officers have adhered to the procedure and it is now proposed that Cabinet considers the nomination in accordance with the procedure.

## **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

### **Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.**

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of implications. The Act and Regulations are intended to increase public engagement.

#### **Area or Ward Affected**

Manningtree, Mistley, Little Bentley and Tendring.

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

The Act and Regulations, also collectively known and described as Community Right to Bid place a duty on local authorities in England and Wales to maintain a list of land in their areas that is land of community value as nominated by the local community.

The local authority must consider only if the nominated asset meets the criteria set out in Section 88 Localism Act 2011 in that it is satisfied:

- (a) the actual use, not an ancillary one, that furthers social wellbeing or social interest of the local community; and
- (b) that there can continue to be a non-ancillary use, which will further the social well-being or social interests of the local community.

The Council must maintain:

- A list of assets that are held to be of community value; and
- A list of assets identified in unsuccessful nominations.

If land or buildings are placed on the list of assets of community value:

- They remain on the list for five years;
- They are subject to a local land charge;
- If the owner wishes to sell (some exemptions apply) the asset they must notify the Council;
- The Council must notify the nominator and publicise the potential sale;
- All community groups have a six week window to register their intent to bid for the asset;
- If no registration of intent is received the owner may then sell the asset as they see fit (subject to any normal legal processes);
- If intent is registered community groups are then allowed a further 20 weeks (strictly 6 months from the date of the owner's notice) to raise money, reach agreement or otherwise bid for the asset;
- The owner may sell to a community group at any time but is never obliged to do so;
- If no community bid is made or accepted within the six months the owner may then sell the asset as they see fit;
- No further bid or moratorium can be made for a period of 18 months from the owner's notice; and
- If the owner suffers financial loss as a result of the imposition of either moratorium the Council must compensate the owner.

The provisions of the community right to bid does not:

- Restrict who the owner of a listed asset can sell their property to, nor at what price;
- Confer a right of first refusal to community interest groups,
- Enable a community group to trigger disposal of a site;
- Place any restriction on what an owner can do with their property, once listed, if it remains in their ownership.

Only the owner of the land has the right to seek a review of the decision to include any land on the list in accordance with Section 92 of the Localism Act 2011. This must be done in writing within 8 weeks of the written notice of inclusion of the land in the list.

The table below, based on guidance produced by the Public Law Partnership sets out an overview of what the Act and Regulations intend to constitute as an Asset of Community Value”.

The Act intends to apply to Land and Buildings Where:

1. The main use of the land or building **furtheres the social wellbeing or social interests of the local community** at the present time AND it is realistic to think that this can continue into the near future (even if the type of social use or benefit might change), or;
2. The main use of the land or building **furthered the social wellbeing or social interests of the local community** in the recent past AND it is realistic to think that this could again happen **in the next five years** (even if the type of social use or benefit might change).

The Act does not intend to apply to land where:

1. The main use of the land or **building furthered the social wellbeing or social interest of the local community some years ago** but is not presently in use for a social purpose, or;
2. The land or building has **not recently been, and is not currently, in use for a primarily social purpose**, or;
3. The land or building has been **empty or derelict** for many years and remains so today.

In their Guidance Public Law Partnership provide some helpful interpretation of these terms:

“This could apply to a broader set of activities and not just cultural, recreational and sport interests as provided by the Act. Working with local communities it could include: any land or building where the main purpose is for the provision of public services for education, health and wellbeing or community safety e.g. nurseries, schools, children’s centres, health centres, surgeries, hospitals, day care centres, and residential care homes. Sport, recreation & culture e.g. parks and open green spaces, sports and leisure centres, libraries, theatres, museums and heritage sites, cinemas, swimming pools. Community services e.g. community centres, youth centres, and public toilets. Any economic use which also provides important local social benefits e.g. village shops, pubs, markets.

“What does it mean “realistic to think that this can continue into the near future”? For the use which is **currently ongoing**, the working assumption should be that the present use can continue into the future, unless the local authority is able to identify evidence that is unlikely to be the case. In other words where the asset is presently in social use there should be a **presumption of continued viability**, unless clear evidence suggests otherwise. For a **social use which has lapsed** and needs to be re-established the local authority will need to take a view on the realism of re-establishing this. A new approach can help to re-establish services that were previously not viable.

## **CURRENT POSITION**

The Nomination Form has been submitted by Mistle Thorn Residents Association (MITHRAS) (attached at Appendix A), and contains at B4 and B5 and Appendix B reasons why the nominators consider that the building is of community value and how the land could be acquired and used in the future. A plan of the area nominated is also included and the area is marked.

The nomination states the building was built to be used by the local community and has done so for over the last 100 years. The building provides a venue for a youth club, children's parties, quiz nights and toddler groups. It is also used for Art Exhibitions and cultural activities. In addition to the activities listed in the Nomination there is at Appendix B further information of on-going activities for the coming months which was sought as the Nomination form was not clear as to the tense it was listing the activities in and Officers asked for clarification.

In accordance with the Regulations the landowner has been notified and no representation has been received. It is recommended that the building does meet the criteria as the Council is required to consider only whether the asset meets the criteria set out in Section 88 of the Act.

The listing is sought with the stated intention of continuing the main use which furthers the social wellbeing or interests of the local community.

Taking the above into account it is recommended that the building nominated does meet the criteria set out in Section 88 of the Localism Act 2011, specifically:

*The main use of the land or building furthers the social wellbeing or social interests of the local community at the present time and it is realistic to think that this can continue into the near future.*

Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

## **BACKGROUND PAPERS FOR THE DECISION**

**Non-statutory advice note for local authorities produced by DCLG Community Right to Bid – October 2012**

## **APPENDICES**

**Appendix A – Nomination Form (Redacted)**

**Appendix B – Additional information in respect of B4 on Nomination form**



## LOCALISM ACT 2011

### THE COMMUNITY RIGHT TO BID

#### NOMINATION FORM

#### **A:** You and your organisation

Your Name	[REDACTED]
Your Organisation (full official name)	Mistley Thorn Residents' Association (MITHRAS)
Your position in the organisation	[REDACTED]
Organisation address (including postcode)	[REDACTED]
Daytime telephone no.	[REDACTED]
Email address	[REDACTED]
How and when can we contact you?*	[REDACTED]

\*other correspondence address or preferred way or time for us to contact you

#### Type of organisation

Description	Put a cross X against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		[REDACTED]
Parish Council		[REDACTED]
Charity		[REDACTED]
Community interest company		[REDACTED]
Unincorporated body	X	[REDACTED]
Company limited by guarantee		[REDACTED]
Industrial and provident society		[REDACTED]

RESIDENTS' ASSOCIATION

**Unincorporated bodies only:**

In the case of an unincorporated body, at least 21 of its members must be registered to vote in the Tendring District or an adjoining authority. If relevant, please confirm the number of such members. If they are registered to vote in the area of a neighbouring local authority, rather than in Tendring, please confirm which area that is.

+ / - 30 members

**Local connection**

Your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of Tendring District Council or a neighbouring local authority. Please explain what your organisation's local connection is.

The activities of MITHRAS are wholly within the Tendring District and revolve around the area of Mistley centred on The Green and The Swan Basin

**A6 Distribution of surplus funds (certain types of organisation only)**

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (ie. within the administrative area of Tendring or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

Surplus funds are NEVER distributed to members but are used entirely for the benefit of the local community.

This includes both social and environmental improvements. The latter, for example, includes rebuilding the wall on The Green and maintaining the Mistley Towers.

**A7 More about your organisation**

**What are the main aims and activities of your organisation?**

To work for the protection of the character of the local environment and to enhance the sense of community of all the residents of our area:

"The objects of MITHRAS shall be to take whatever positive and co-operative action is required to protect and improve the environment and amenities of the Mistley Thorn area for the primary benefit of its residents."

(see enclosed constitution)

**A8 Your organisation's rules**

<b>Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is</b>	<b>X</b>
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	<b>X</b>



**Part B: About the land or building(s) you are nominating**

**B1 Description and address**

What it is (eg. pub, local shop)
Church Hall
Name of premises (eg. Royal Oak / Littletown stores)
St Mary's Church Hall [ The Institute ]
Address including postcode (if known)
New Road, Mistley, MANNINGTREE CO11 1ER

**B2 Sketch plan**

Please include (here or on a separate sheet) a sketch plan of the land. This should show:-

- The boundaries of the land that you are nominating
- The approximate size and position of any building(s) on the land.
- Any roads bordering the site.

Please see attached photograph and sketch

**B3 Owners and others with an interest in the building or land**

You should supply the following information, if possible. If any information is not known to you, please say so.

	<b>Name(s)</b>	<b>Address(es)</b>
Names of all current occupants of the land	The PCC St Mary's Church Mistley	c/o The Rectory 21 Malthouse Road MANNINGTREE CO11 1BY
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)	As above	
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)		

**B4 Why you think the building or land is of community value**

*Note that the following are not able to be assets of community value:-*

- *A building wholly used as a residence, together with land "connected with" that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.*
- *A caravan site.*
- *Operational land. This is generally land belonging to the former utilities and other statutory operators.*

Does it currently further the social wellbeing or social interests\* of the local community, or has it done so in the recent past? If so, how?

This building was built to be used by the local community.

It has served the community well over the last 100 years, being used for all manner of church-related activities, including wedding receptions, harvest suppers and wakes.

Additionally the building has been used by the community for:

- youth clubs,
- brass band rehearsals & concerts,
- hosting children & adult birthday parties,
- light entertainment shows, film shows and
- quiz nights.
- toddler groups
- local business pop-ups

The hall has also been used extensively as a venue-for-hire by various community-related groups and activities.

Art exhibitions and cultural activities are also held in the hall.

Mistley is well known in this region for its exceptional social/community spirit and cohesion. The Hall has played a key role in maintaining this cohesion.

Could it in future further the social wellbeing or social interests\* of the local community? If so, how? (This could be different from its current or past use.)

Yes, all the above activities could continue to take place in the hall and in doing so would further the wellbeing, interests and ongoing social & cultural activities of the local community.

It is a focal point of community activity for ALL age groups.

*\*These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.*

**B5 How could the building or land be acquired and used in future?**

*If it is listed as an asset of community value, community interest groups (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.*

Should it become available to purchase, the hall could be acquired by careful use of the following:

- Funds currently in hand
- Funds already promised
- Funds raised by the local community
- Funds raised from grants
- Funding from local commercial parties

Once acquired, the hall would be run for the benefit of the local community, with the welcome co-operation of The Friends of the Parish Church of St Mary & St Michael (The Friends), under the umbrella of MITHRAS.

The full range of activities listed at B4 (above) would continue to take place, along with any other community based activities as required.

Members of the local community are already willing and able to carry out the full range of such day-to-day activities as key holding, arranging bookings, cleaning and petty maintenance.

## **Section C: Submitting this nomination**

### **C1 What to include**

- The rules of your organisation (question A8).
- Your sketch plan (question B2).

### **C2 Signature**

*By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.*

Signature

A black rectangular box containing a redacted signature, which has been completely obscured by a thick black marker.

### **C3 Where to send this form**

You can submit this nomination:-

- **By post to:** Gill Burden Tendring District Council Thorpe Road Weeley Clacton on Sea Essex CO16 9AJ
- **By email to:** gburden@tendringdc.gov.uk

Bookmarks Tools Help

File Edit View History

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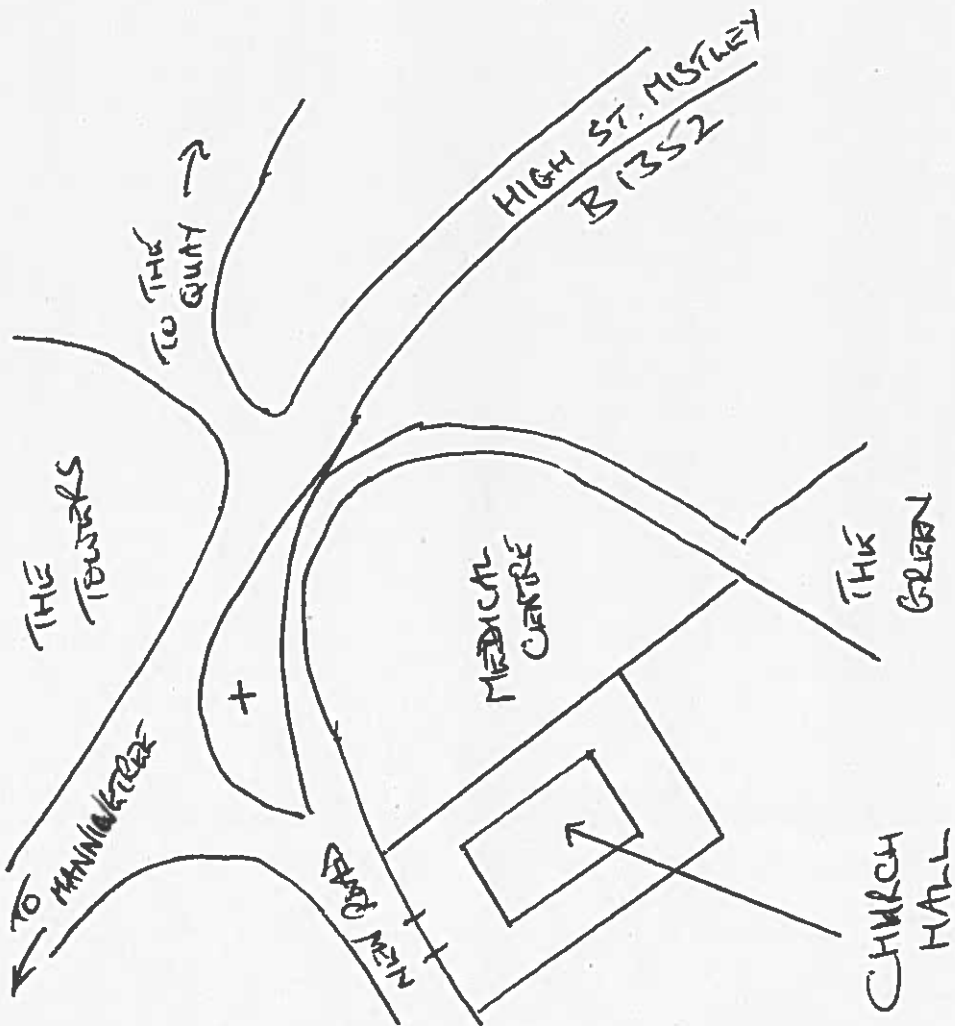
https://www.google.co.uk/maps/@51.904611,-1.084611,15z



APPROX. LAND DIMENSIONS:

LENGTH: 42 yards

WIDTH: 31 yards



CHURCH HALL

NEW ROAD

MISTLEY

COLLIER

=

APPROX. DIMENSIONS OF BUILDING:

LENGTH: 25 yards

WIDTH: 14 yards

HEIGHT: 25 feet

# MITHRAS

( Mistle Thorn Residents' Association)

## CONSTITUTION

### 1 TITLE

The organisation shall be called the Mistle Thorn Residents Association, hereinafter referred to as MITHRAS.

### 2 OBJECTS

The objects of MITHRAS shall be to take whatever positive and co-operative action is required to protect and improve the environment and amenities of the Mistle Thorn area for the primary benefit of its residents.

### 3 ELIGIBILITY FOR MEMBERSHIP

All residents of the Mistle Thorn area are members of MITHRAS.  
The Mistle Thorn area extends from Station House to Portishead House including The Green and Environmental Centre.

### 4 ADMINISTRATIVE AND FINANCIAL YEAR

The administrative and financial year shall be the period commencing on April 1st and ending on March 31st the following year.

### 5 COMMITTEE

- i) A Committee shall be elected from the membership of MITHRAS at the Annual General Meeting and comprise an Honorary Chairman, an Honorary Secretary, an Honorary Treasurer, and not exceeding a further seven Committee Members.
- ii) A Committee quorum shall consist of not less than five Committee Members.
- iii) The Committee shall have powers to co-opt further Members as necessary.
- iv) Nominations for membership of the Committee shall be submitted to the Honorary Secretary in advance of the Annual General Meeting or shall be made verbally at the Annual General Meeting.



6 ANNUAL GENERAL MEETING

- i) The Annual General Meeting shall be held as soon after 31st March each year as practical and fourteen days notice shall be given to Members.
- ii) The Annual General Meeting shall be chaired by the Honorary Chairman or if unavailable, by the Honorary Secretary.
- iii) The Annual General Meeting shall receive a report by the Honorary Chairman, an Annual Statement of Accounts from the Honorary Treasurer and any other reports deemed necessary by the Committee or the membership.

7 OTHER MEETINGS

- i) The Committee shall have powers to arrange General or Special Meetings as necessary.
- ii) A Special Meeting shall be held on receipt of a proposal by the Honorary Secretary signed by not less than ten Members and at least 24 hours notice shall be given to all Members.

8 AUDITOR

An Honorary Auditor shall be appointed at the Annual General Meeting to audit the Annual Statement of Accounts referred to in 6 iii) above.

9 TRANSFER OF ASSETS ON DISSOLUTION

- i) In the event of the proposed dissolution of MITHRAS, the Committee shall convene a Special Meeting for that purpose. A majority vote of Members present shall be sufficient to dissolve MITHRAS.
- ii) Any assets remaining on dissolution of the finances after satisfying outstanding debts and liabilities shall be given or transferred to a local charity or worthy cause as determined by Members attending such a Special Meeting.

10 ALTERATION TO THE CONSTITUTION

The Constitution shall not be altered or rescinded except with the consent of a majority of Members attending an Annual General Meeting or a General or Special Meeting.

Date of Adoption: September 1988

**Additional information B4**

Forgot to mention the MacMillan cancer coffee morning last week. There must be lots more activities but I think these give a good flavour of their range and type

Thanks for this. I have lived in Mistley for over 20 years and for all of that time the hall has served as a venue for community activities.

In terms of recent and ongoing activities in the past twelve months and the next few months here are some examples ( there must be many more)

- There are regular weekly Zumba classes in the hall which locals attend - ongoing
- plus regular weekly brass band rehearsals - ongoing
- A resident runs children's workshops in the Hall - ongoing
- a christening party for local resident's child held there a couple of weeks ago
- there are talks and presentations and performances eg the Caroe society will be holding another talk for us on 12 November, following their Christmas Carol performance last Christmas
- We will be holding an open community meeting in the hall on 26<sup>th</sup> of this month (October) and a community Christmas Party for all ages on 10 December
- the Maltings residents (High Street Mistley) will be holding their AGM in the hall on 12 November and other Maltings residents meetings are planned
- We held quiz nights last December and February and will be holding another on 2 December
- Community (Beatnik) party in March this year with plans for a follow up
- The Mistley Secret Gardens uses the Hall as the hub each year – was 26 June this year
- Local consultations between developers and residents are held in the Hall – which offers good space for showing big size drawings, or projecting photographic slides etc and has enough chairs for big ad-hoc gatherings - most recent were EDME and the Animal welfare centre plans for development
- 18<sup>th</sup> birthday party - last December
- gathering to celebrate a much loved local resident who died at the age of 102 (can't remember the exact date but in the last 12 months)
- the Caboose Club holds live music performances in the hall - not sure when the next one is planned for
- a local resident who runs a clothing business (Crumpet) has end of stock sales in the hall each year- sometimes twice a year - which are very popular with locals