 Executive – December 2012		Agenda Item No. 14E
Title	The Old Art Gallery	
For further information about this report please contact	Joseph Baconnet, Economic Development & Regeneration Manager	
Wards of the District directly affected	Brunswick Ward	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Executive December 2011 June 2012	
Background Papers		
Contrary to the policy framework:	No	
Contrary to the budgetary framework:	No	
Key Decision?	No	
Included within the Forward Plan? (If yes include reference number)	Yes	
Equality & Sustainability Impact Assessment Undertaken	No	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	26-11-12	Bill Hunt
Head of Service	26-11-12	Tracy Darke
CMT	26-11-12	CMT
Section 151 Officer	26-11-12	Mike Snow
Monitoring Officer	26-11-12	Andrew Jones
Finance	26-11-12	Jenny Clayton
Portfolio Holder(s)	26-11-12	Cllr John Hammon
Consultation & Community Engagement		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1 Summary

This report notes the use of Chief Executive's emergency powers to deal with a community asset listing request for the Old Art Gallery and with the outstanding sale of the Old Art Gallery.

2 Recommendation

That Executive notes:

- 2.1 That the Chief Executive in conjunction with Group Leaders used the powers of Section 4 (4) CE (4) of the Council's constitution to:
 - 2.1.1 Make a decision on the listing request for the Old Art Gallery by the Leamington Studio Artists and in this case to refuse the request.
 - 2.1.2 Conclude the sale of the Old Art Gallery to TAG Properties.

3. Reason for Recommendation

- 3.1 The Council agreed the sale of the Old Art Gallery to TAG Properties in December 2011 and then amended the basis for the sale via the use of the Chief Executive's Emergency powers under Section 4 (4) CE (4) of the Council's constitution (and as subsequently reported to the Executive) in June 2012. Owing to a delay for a variety of reasons that sale was not concluded and during that time a valid request (see attachment) was made for the property to be listed as a community asset by the Leamington Studio Artists which had to be determined by the end of November 2012. The prospective owners (TAG Properties) have now secured planning permission for the redevelopment of the adjacent property (the former library) and were seeking a completion of the sale at the earliest opportunity in order to commence works on site.
- 3.2 It had been the intention in accordance with the provisions of the Localism Act that a policy would be put in place that would then be used to determine requests for listing properties as community assets. The policy, although agreed by the Executive on 14th November, however could not be adopted as formal policy now by the Council until early December which is after the 8 week period for listing expires.
- 3.3 The Council was therefore faced with the need to determine a listing request and to conclude the sale, both in the same short period of time. Legal advised that the listing issue needed to be resolved first and then the sale as this will reduce any risk of subsequent challenge and damage to organisational reputation.
- 3.4 Given the shortness of timescales the only option was the use of the emergency powers granted under the Council's constitution to the Chief Executive in consultation with group leaders under Section 4 94) CE (4) and in respect of the listing issue to use the policy agreed by the Executive as if it had already been agreed by Full Council.

Recommendation 2.1.1

- 3.5 The Community Right to Bid Legislation requires decisions on any listing request /nomination to be made within 8 weeks. A request was made for the listing of the Old Art Gallery on 1st October 2012 and this is deemed to

be valid by officers. The deadline for a response on this request was therefore the 25th November 2012.

- 3.6 The Executive on 14th November adopted the procedures and recommended the use of delegated powers to determine listings. However, subsequent to the report being prepared, advice received meant that the report is not a Part Two as originally advised, but a Part One requiring Full Council approval (this will take place on 5th December). This means that the Council could not meet the timescale set out within the legislation to determine the application for listing within eight weeks unless it used the Chief Executive’s emergency powers.
- 3.7 In accordance with the policy agreed by the Executive, the decision on whether or not to list the Asset shall be made by the Council, after considering the following:

Question	Answer
i) Whether the nomination has been made by an eligible body;	Yes
ii) Whether or not the Asset is excluded by the Act (e.g. buildings wholly used as residences & connected land, caravan sites, operational land such as that owned by Railway operators or Utility Companies);	Not Ex-cluded
iii) Whether or not the information demonstrates the Asset is of community value by meeting one of the following requirements:	
a) The actual current use of the Asset (that is not an ancillary use) furthers the social wellbeing or social interest (cultural, recreational and/or sporting) of the local community, and it is realistic to think that there can continue to be non-ancillary use of the Asset which will further (whether or not in the same way) the social wellbeing or social interests of the local community.	No
b) In the recent past, the Asset had a use (that is not an ancillary use) which furthers that social wellbeing or social interest cultural, recreational and/or sporting) and it is realistic to think that there is a time in the next five years when it could again have a non-ancillary use of the Asset which will further (whether or not in the same way as before) the social wellbeing or social interest of the community).	No

- 3.8 **Points (i) and (ii)** - Officers are of the opinion the request was made by an eligible body and that the property is not one excluded from the provisions of the Localism Act.
- 3.9 **Point (iia)** - However, whilst the nomination passed the test related to “uses of the building that have furthered a social wellbeing”, it did not on the test of whether it is realistic that there can continue to be use which will further (whether or not in the same way) the social wellbeing or social interests of the local community. In officer’s opinions, this was primarily related to the significant costs attached to the building’s condition.
- 3.10 It is considered that the current occupant of the gallery, One Nation Studios are a commercial operation, and not a not for profit company.

Although part of their work relates to fulfilling a contract for recording and training sessions for disadvantaged and vulnerable groups, officers consider their social work to be ancillary to their main business as a commercial organisation. They are currently deemed to be a "tenant at will" by the District Council.

3.11 **Point (iiib)** - the past use of the gallery by Community Arts Workshop (CAW) and the proposed use of the gallery as an arts space met the first part of the test. However, given the past experience of organisations working from that space, officers believe that the second part of the test, that it is "realistic" – would not be met. There were a number of reasons for this:-

a) From 2003, the Gallery was occupied by Community Arts Workshop, with their occupation being recognised as a short term 'fix' before the building was disposed of or redeveloped. It was occupied on a series of 3 year leases, the last ending in 2012, when CAW ended their occupation (and their existence) being almost £7,000 in rent arrears.

b) BPCV took on a temporary lease of the property from June 23rd to September 14th 2012 on a peppercorn, as the means of continuing some of CAW's work. WDC and Warwickshire College have previously worked with a number of the community organisations to assist them in buying the Old Library and associated buildings and despite the allocation of £70,000 by COIN Street to conduct feasibility studies to purchase the buildings this has come to nothing.

c) CAW's occupation of the Gallery and their winding up with debt has shown that the community uses have been unable to sustain their occupation of the building, even at smaller rents.

d) The costs of bringing the Old Art Gallery up to a good sustainable standard (i.e.: a basic shell that is fit for purpose – for instance, there are no mechanical & electrical services within the building), is estimated at approximately £250,000. This would encompass dealing with the roof issues, damp and dry/wet rot issues and also basic decoration to a standard deemed appropriate by the conservation architects. The District Council has also spent over £6,000 in the past three years carrying out reactive maintenance on issues requiring immediate attention.

3.12 It was felt that to tackle the scale of financial investment needed to bring the property into good order was a significant demand to be placed on community based organisation given the past records of non achievement, which alongside the clear difficulties shown by previous organisations of simply running an operation, would be likely to end in failure.

3.13 In conclusion it was therefore felt that the request to list the property as a community asset should be refused.

Recommendation 2.1.2

3.14 The Old Art Gallery has, in conjunction with The Old Library, been marked for disposal since at least 2004. A deal was agreed in 2006, following a joint marketing exercise which fell through in 2008 when market conditions worsened. It should be noted that a resolution to agree a redevelopment was agreed by the Planning Committee and there were no objections to the sale of either The Old Art Gallery or The Old Library in

2006, when Bath Place Community Venture were in occupation of their home on Bath Place. As part of this deal, Community Arts Workshop who were in occupation of the Old Art Gallery from 2003, were content to move. The Chief Executive in conjunction with Group Leaders enacted the sale to TAG Properties as agreed at the December 2011 Executive and amended at June 2012 Executive.

- 3.15 TAG Properties will take the Old Art Gallery with One Nation Studios (ONSs) in occupation as a "tenant at will" but have asked for an indemnity relating to ONS's occupation. The indemnity agreed is 10% of the sale price (£150,000) which is £15,000 should the worst happen.

4. POLICY FRAMEWORK

- 4.1 The proposals needs to be considered in the context of both the provisions of the Localism Act which are set out above and also in the context of the Council's approach to the use of its own assets. To be clear the latter is not relevant for the purposes of determining the listing of a property as a community asset or not.

- 4.2 The Council's Principles of Strategic Asset Management:

The Council will consider disposal of property when a property or land:

- § does not deliver the strategic objectives of the Council;
- § is surplus or under-utilised;
- § would enable regeneration of an area of future positive development;
- § is underperforming commercially;
- § is inefficient (economically, ecologically, state of repair, energy, etc);
- § to enable wider regeneration or redevelopment;
- § to realise a profit on investment.

5. BUDGETARY FRAMEWORK

- 5.1 The sale of the Old Art Gallery will reduce the revenue costs associated with the maintenance of the building.
- 5.2 The sale will realise a capital receipt of £150,000 (minus any indemnity risks as outlined in paragraph 3.15 above).

6. ALTERNATIVE OPTION(S) CONSIDERED

- 6.1 To list the property and not proceed with the sale: this would impact on Warwickshire College's ability to sell the old Library and have a significant impact on their investment programme for the Leamington site. It would also leave the property empty or under used for a significant period of time without their being a clear outcome in sight.

Attachments: LSA nomination email

From: Gerry Smith []

Sent: 01 October 2012 15:28

To: Chris Makasis

Subject: The Old Gallery and the new Localism Act 2012

Hi Chris

I would ask that you put The Old Library and Art Gallery on the Warwick District Council's list of community assets as per the new Localism Act 2012

LSA Proposed use of the Old Art Gallery

About LSA

Leamington Studio Artists (LSA) is registered Charity and a pro-active volunteer organisation promoting the Visual Arts in Royal Leamington Spa and the surrounding areas. Its aim is to foster and improve public interest in, awareness and appreciation of the Visual Arts. LSA sets professional standards and seeks to support any Visual Art of quality and merit. Our membership consists of over 400 members, including both artists and supporters of the Visual Arts. www.lsa-artists.co.uk

Highlights

- LSA publishes **ArtSpace** magazine quarterly since March 1998; it is full of features and news about the visual arts and reviews both local and regional. **ArtSpace** encourages artists to write for artists and art lovers. It is sponsored by Warwickshire College School of Art and TW Printers. **ArtSpace** has an editorial team of volunteers.
- Each year LSA holds an annual Summer Show at Warwickshire Arts School, and this year at Gallery150 with approximately 150 exhibits and over 2,500 visitors.
- LSA Committee members make major contributions to Warwickshire Open Studios as organizers and promoters, whilst LSA itself provides key resources. Since 2008, LSA has played an important role in smoothing the transition of Artsweek from Warwickshire County Council run to an artist-led and run event.
- LSA supports the Leamington Museum and Art Gallery's Open Exhibition by sponsoring half of the £500 prize.
- LSA has worked with Chiltern Railways on a highly successful poster project (LSA designed a poster for display at Chiltern Stations –this can be seen at Leamington Spa and elsewhere on the Marylebone line).
- LSA run's Gallery150 @ Regent Court Shopping Centre, 9 Livery Street, Royal Leamington Spa, CV32 4NP With 45 linear meters by 2.4 meters high hanging wall

space with 150 square meters of floor Exhibition Space. 15 back to back exhibitions throughout the year for local artists plus 4 community based art exhibitions. With 64 solo and mixed exhibition under our belt since we started in January 2010 in the Old Library and over 64,000 visitors in less the 2 years at Regent Court. We hold events like Artist in Residence Free Workshop days and meet the exhibiting Artist Forum.

- LSA Monthly Newsletter to all members with all exhibitions and Private Views in and around Warwickshire, Commission and Funding Opportunities, Specialist Art Training and Art Jobs information.

LSA Objectives

LSA has been supporting local artist and running arts events in the Leamington and Warwick area for over 12 years. The objectives of the organisation are:

- (1) To represent and promote the Visual Arts in Leamington Spa and the surrounding area.
- (2) To foster and improve public education, interest, and appreciation in all forms of the Visual Arts.
- (3) To provide and encourage access to the Visual Arts for the general public.
- (4) To assist and facilitate necessitous artists of promise in the continuance of their work.

Since January 2010, with the location of LSA's first Gallery150 at the Old Library, and now in Regent Court, we have created an exciting and vibrant space for the visual arts and has been developed and run for the community by over forty LSA volunteers. Currently the LSA, through Gallery150, has had a full programme of exhibitions and events that are open to the public whether LSA member or not. This has helped to put Leamington on the arts map and complements the towns Pump Room Gallery. A website has been established for Gallery150 www.gallery150.co.uk.

LSA occupied North Hall, Spencer Yard for eight years providing studios for twenty or so artists at a nominal rent, aided by Warwick District Council who let it on a peppercorn rent with discretionary rates. LSA put in adequate plumbing and electricity for the building to function well. However, this arrangement terminated due to Spencer Yard being redeveloped as the hub for Warwick District Council's cultural quarter and subsequent rents being too expensive for artists. LSA continues to look for other suitable property.

The Old Library and Art Gallery is been the focus of LSA's vision for providing studios and gallery space to its members and education through art classes to the local community,

although Regent Court is a great space it, it is not permanent and the Old Gallery would be most appropriate considering it was built with public subscription. The Old Library built as an Art School, the first floor is ideal as artist studios that could be let to young artists who graduate from college and need to find somewhere to work. In addition the Old Art Gallery, which was purpose designed would allow for, say, 20 individual and group exhibitions a year.

The LSA has always wished to provide Exhibition and studio space at the Old Library for emerging artists and to have space for the development of other visual arts. It was the original intention that the use of the Old Library would facilitate this development however; with Bath Place Community Venture and their expanding role and the forthcoming sale of the building by Warwickshire College, it makes better sense to facilitate all this activity in the Old Art Gallery and incorporate an Art Materials Shop and Artist Print Shop.

Proposed use of the Old Art Gallery

LSA wish to take out a very long lease on the Old Art Gallery or raise the funds to purchase it in order to facilitate the development of activities and services that can support both the artistic community and bring pleasure and learning to all members of the local community.

Lease of the building to the LSA would deliver the following key objectives

- a venue for mutual support
- centre for education – both formal and informal
- a focus for peer support
- venue for training
- and bringing into use the purpose built exhibition space

This would be done by provision of;

- 6 small studios available to use for a maximum period of 2 years for any one artist. Part of the criteria is that each artist will have to give at least eight free art classes/education event per year open to the local community.
- The purpose built exhibition space to complement the current space at Gallery150 with specific access being made available to emerging artists, community driven art events as well as hire by established artists for exhibitions of paintings, photographs and especially sculpture which we have no current provision for at Gallery150.
- Regular 'free meet the artist' events
- Regular facilitated discussions/learning events for community groups who may not normally take the opportunity to view artworks.
- Workshop days for community groups
- Development of an artist resource shop and reproductions specialist print shop.

How would the proposal complement the County's Arts Strategy?

With the Gallery150 providing an exhibition space for large scale works 24 times a year, plus, having the provision at the Old Gallery of small studios, sculpture & Painting exhibition space, shop and LSA office, the diversity and range of cultural and creative opportunities will be enhanced for the residents of Leamington and Warwick as a whole.

Our proposal will;

- Extend the cultural quarter out from Spencer Yard with creative energy from up and coming Artists.
- Give sustainable employment for individuals to run the Gallery, Shop and Artist print service.
- Help further raise the profile of arts within the district
- Engage with harder to reach groups by ensuring that special art events are held
- Engender a culture of creativity
- Encourage take up of arts activities and understanding of the arts for young people, the third age and multi ethnic groups
- Increase opportunities to participate in the production of art

We will set a schedule of works including

- Testing the suitability of the electrical system and equipment for future use in accordance with current BS7671 IEEE Wiring Regulations and replacing where needed.
- New Heating System.
- Full redecoration internal and external.
- A general cleanup of the area around the building.
- Repairs to the roof and stonework
- Upgrading of toilets & kitchen.
- Fitting of Alarm and Fire alarm system
- As a registered Charity, Grants and funds are more readily available than before.

Please put the Art Gallery on the Warwick District Council's list of community assets as per the new Localism Act 2012 so that it is made available to community groups.

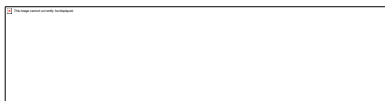
Kind Regards

Gerry Smith

LSA Chair

Volunteer & Non-Profit Organisation

Tel: 07400 258 555



www.lsa-artists.co.uk



www.gallery150.co.uk