

Application No: [W 14 / 0915](#)

Town/Parish Council: Leamington Spa
Case Officer: Emma Spandley

Registration Date: 17/06/14

Expiry Date: 12/08/14

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Hybrid Arts Riverside Adelaide Road, Leamington Spa, CV32 5AH

Change of use to Sui Generis (Arts Education & Community use). Delivery of formal alternative education to disadvantaged youths through school contracts during weekday term times, between 9.00 am and 4.00 pm, and some additional funded arts education project work that may take place at weekends or early weekday evenings, until 9.00 pm. Hire of sound-proofed rehearsal room to musicians until 9.00 pm. Hire of main hall to community user groups such as theatre groups, yoga classes etc. until 9.00 pm. Use of darkroom to community user groups (supervised). Use of screen printing facilities to community user groups (supervised). FOR Hybrid Arts

This application is being reported back to Planning Committee as the application was deferred from the 19th August 2014 Planning Committee meeting due to Members requesting the Chair of Planning Committee and officers to meet with the Residents of Portland Place and the applicant to negotiate suitably worded conditions that could be imposed on a grant of planning permission if Committee were minded to do so. However, as a result of these discussions the contentious element of the proposal which centred around the music venue has been removed from the application. The application now proposes the change of use of the building to an Education, Arts & Community Centre. All of the parties who commented on the previous application has been notified of this change.

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission.

DETAILS OF THE DEVELOPMENT

The application proposes to change the use of the former sea cadets building to a mixed use comprising of education, arts and community uses. A list of activities has been included with the amended application.

Hybrid two was established in 2013 due to the expansion of Hybrid Arts music and film making departments. They deliver high quality learning opportunities for young people mainly centred around disadvantage young people.

The main education is in the form of alternative education through the use of Music and the Arts to disadvantaged youths through school contracts during weekday term times, between 9.00 am and 4.00 pm. The applicant also teaches

arts projects including Film Making and imagery, these projects take place at weekends or early weekday evenings, until 9.00 pm.

The building benefits from a sound proofed booth which will be hired out as a rehearsal room to musicians until 9.00 pm. The main hall will also be hired out to community groups such as theatre groups, yoga classes etc. until 9.00 pm. There will be no amplified music until adequate sound proofing measures have been put in place and tested. There is also a darkroom and printing facilities which will be hired out to community groups.

Since the Planning Committee decision to defer the application officers have met with the residents of Portland Place together with the applicant, Cllr Gifford and the Chair of Planning Committee on several occasions following the concerns expressed. The wording of the potential conditions to help mitigate the harm arising from noise and disturbance in relation to the music element were considered to be too difficult to enforce against. This has now resulted in an amendment to the application which concentrates on the educational function.

THE SITE AND ITS LOCATION

The application site is the former Sea Cadets Club House and Boat House located adjacent to the River Leam opposite the St Patrick's Club. To the north of the site is a gym, to the east are a number of other clubs including the Naval Club, to the north west is the Adelaide Road public car park and beyond the car park are the properties located in Portland Place West. The site is situated within Flood Zone 3 and within the Royal Leamington Spa Conservation Area.

PLANNING HISTORY

The relevant planning history has been explained above, with regards to the current application.

RELEVANT POLICIES

National Planning Policy Framework

The Current Local Plan

- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- SC8 - Protecting Community Facilities (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)

The Emerging Local Plan

- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

- FW1 - Development in Areas at Risk of Flooding (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HS8 - Protecting Community Facilities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Vehicle Parking Standards (Supplementary Planning Document)

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council: Objection. The change of use is not considered appropriate due to the building being unfit for purpose. The building requires substantive noise insulation and air conditioning works to counter the need to open windows and doors. The Council supports the work of Hybrid Arts but consider that the location of this venue is inappropriate. However, Royal Leamington Spa Town Council have provided a further response to the amended application which raises an objection for the following reasons: 1. The Council supports the aims of Hybrid Arts in developing a variety of activities for both educational purposes and community use but considers the location only appropriate for educational activities (Class D1) and not for a variety of mixed activities (Sui Generis) of a general nature. 2. All activities should cease at 9pm to reduce the impact of noise and disturbance to local residents. 3. No amplified music to be allowed until appropriate soundproofing is installed and is proven to be effective. 4. Noise levels should be regularly monitored to ensure that they meet an agreed level acceptable to local residents.

Environmental Health: No objection, subject to conditions relating to an acoustic scheme and noise levels.

Environment Agency: Initially submitted a holding objection, the objection has subsequently been lifted. Therefore the Environment Agency has no objections.

Warwickshire Police: No objections.

Public Response: 33 Objections & 98 letters of support were received on the previous application which sought to change the use to education and a music venue. All persons who had commented on the previous application were re notified of the change to the application. The change was to the nature of the use which removed the music venue element and concentrated on Education, Arts and Community uses.

On the basis of the revised application no formal objections have been received to date, however, a meeting has taken place with the local residents to discuss their concerns. The residents main concern is regarding noise and disturbance from the proposed activities. An activity sheet has been submitted in support of the application.

ASSESSMENT

Principle of change of use

Policy SC8 of the Warwick District Local Plan 1996 - 2011 and Policy HS8 of the Draft Local Plan 2011 - 2029 seeks to retain existing community uses. The previous use of the building was for the Sea Cadets. The use as an education, arts & community centre is considered to be a Community Facility and therefore the change of use is considered to accord with Policy SC8 of the Warwick District Local Plan 1996-2011 as the community use of the building is retained.

Impact on neighbouring properties:

a) Noise

Policy DP9 of the Warwick District Local Plan 1996 - 2011 states that development will only be permitted which does not give rise to noise pollution where the levels could cause harm to sensitive receptors. A large number of objections were received relating to the noise impacts of the previous use which involved live music performances. Since May 2013, Environmental Health have regularly monitored the Leamington Live Art and Music Project (LAMP) and have worked with the venue to minimise disturbance to local residents

As part of the previous planning application, the applicant provided a noise survey and Environmental Health have confirmed that they are satisfied with the efficacy of the report and recommended that a condition requiring the submission of an acoustic scheme be imposed on any planning permission granted.

In light of further evidence and representations from the Environmental Health Team and the residents of Portland Place it was considered that the noise arising from inside the building, even with the acoustic treatment would still lead to noise and disturbance to the surrounding residents if the music venue element of the previous application was granted. Similarly, conditions were explored to restrict the operating hours of the venue and the type of events on certain days, however, as explained above, the wording of the conditions were unenforceable and complicated.

In light of the above, the application was amended, the applicant voluntarily surrender their drinks and music licence and seek to concentrate on the education side. A list of activities has been submitted with the amended application along with an amended finish time for the activities being 9pm.

However, it is considered reasonable to have the opening time of the building half hour before the activities can start and half hour after the activity has finished to allow the rooms to be set up / cleared away. Therefore the hours the building can be opened and have members of the public inside will be between the hours of 0830 and 2130; the activities will not be able to commence until 9am and will be required to be finished by 2100.

There are a list of activities which are not considered to generate a noise nuisance, however, at the bottom of the list there are several activities which could generate a noise nuisance. These activities will not commence until an acoustic scheme has been submitted and approved by the Environmental Health Team and thereafter installed.

b) Anti-Social Behaviour

Policy DP2 of the Warwick District Local Plan 1996 - 2011 and Policy BE3 of the Draft Local Plan 2011-2029 state that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents. 'Amenity' is defined as the extent to which people are able to enjoy public places and their own dwellings without undue disturbance or intrusion from nearby uses. A number of the objections received on previous details raised concerns about noise related anti-social behaviour which have taken place around the application site and Councillor Bill Gifford has objected to the planning application on these grounds. These objections centred again around the music venue element of the application.

As the applicants have surrendered voluntarily their music and alcohol licence it is considered that the amended application, which concentrates on education, arts, and community will not generate anti social behaviour which will adversely affect the living conditions of the neighbouring properties to warrant refusal of the application. Furthermore, the police have raised no objections to the current application.

Flooding

The applicant has correctly identified the level of risk and the Environment Agency raise no objections.

External Alterations

The additional external doors are considered to be acceptable.

Other matters

As a result of the meetings with the residents, a list of conditions was put forward by the residents. The conditions are to restrict LAMP / Hybrid Arts from obtaining a Alcohol license with no alcohol being sold, supplied or distributed on the premises. Unfortunately, we cannot attach a condition banning the premises from obtaining an alcohol license under planning legislation as it is unreasonable. This element however, can be controlled under the landlord function and be a restriction under their tenancy at will and / or lease.

Another condition was suggested requiring no discernible noise from the premises and any noisy activity to not last more than 3 hours, however, this to is too contrived, however, a noise condition can be added to control noise levels.

SUMMARY/CONCLUSION

The scheme which now only focus on alterative educational practices to disadvantage young people is considered acceptable by officers, and officers understand that this is the element that Committee and residents generally support. Therefore, subject to the suitably worded conditions listed, the application is considered acceptable.

CONDITIONS

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing showing the proposed floor plans titled H2 plan; titled new fire door & new fire door detail submitted on 17th July 2014 and the activity list document submitted on 16th December 2014 .
REASON : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 2 Notwithstanding condition No.1 above, before the activities highlighted brown in the schedule of activities submitted on 16th December 2014 commence, the building shall be insulated in strict accordance with a scheme of works which have been submitted to and approved in writing by the local planning authority and thereafter such works shall not be removed or altered in any way without the prior written approval of the local planning authority. **REASON:** To ensure that the level of noise emanating from the building is confined to levels which would not cause unacceptable disturbance to the detriment of the amenities of the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
- 3 Noise arising from activities at the premises, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB(A) (measured as LAeq(5 minutes)) [if the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
- 4 No members of the public shall be permitted to be on the premises other than between the hours of 0830 and 2130 and no activities shall take place on the premises other than between the hours of 0900 and 2100 on any weekday, Sunday or Bank / Public Holiday..
REASON: The premises are closely adjoined by residential properties and the local planning authority considers it necessary to strictly control the nature and intensity of use of the premises in the interests of the amenities of the area in accordance with Policies DP2 & DP9 of the

