

Planning Committee: 14 October 2014

Item Number: 15

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 of the former Sea Cadets Club House and former Boat House to mixed use (Sui Generis) comprising Education (Use Class D1) and Assembly & Leisure (Use Class D2) and installation of additional external doors (Retrospective Application). 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 as Members instructed 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 there has been a change to the officer's recommendation, which is explained further in the report.

RECOMMENDATION

The Planning Committee is recommended to REFUSE planning permission, for the reason set out at the end of this report.

DETAILS OF THE DEVELOPMENT

The application proposes to change the use of the former sea cadets building to a mixed use comprising of education (Use Class D1) and a music venue (Use Class D2).

Since the Planning Committee's decision to defer the application officers have met with the residents of Portland Place and the applicant with Cllr Gifford and the Chair of Planning Committee on several occasions. The wording of the potential conditions to help mitigate the harm arising from noise and disturbance were considered to be too onerous and unreasonable which would be very difficult to enforce against, resulting in a change to the recommendation.

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

There is no relevant planning history relating to the site.

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.

Environmental Health: No objection, subject to condition 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.

Public Response: 33 Objections have been received with regards to noise from inside the venue and outside within the smoking area and noise issues with regards to people leaving the premises late at night. 98 letters of support have been received. The letters of support centre around the benefit of having the facility within the area and how invaluable the venue is for musicians / artists.

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 facility and music venue 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 have been received relating to the noise impacts of the use. 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 by recommending an earlier finish time of 11pm for music performances. The applicant has also been asked to monitor noise levels to ensure they are at an acceptable level.

Environmental Health raised no objection to the initial application, subject to a condition requiring that noise arising from activities at the venue, when measured one metre from the facade of any noise sensitive premises, does not exceed the background level by more than 3dB(A) and 5dB(A) if sounds from the venue contain whines, screeches, hisses or hums, bangs, clicks, clatters or thumps.

As part of the planning application, the applicant provided a noise survey detailing whether the venue is likely to comply with the recommended condition. Environmental Health have confirmed that they are satisfied with the efficacy of the report as two officers from their team attended the premises on the evening of the assessment to ensure that it was representative of a typical live event at the premises. However, the survey has identified that the premises are unlikely to currently comply with the above criteria and has identified the need for further treatment to the venue. As such, Environmental Health 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 is 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. 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 was becoming too onerous that they would not have passed the reasonable test. Furthermore, the wording of the condition became too complicated that it would make enforcing the conditions difficult.

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 have 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.

Environmental Health have only raised concerns about noise from within the building itself and not as a result of individuals leaving the premises or congregating outside and the Council's Community Safety Team have not raised objection on grounds of anti-social behaviour. The objections relating to anti-social behaviour outside the building and in the public car park, cannot be controlled reasonably by planning legislation added to which discussions regarding conditions demonstrated that different arrangements were necessary almost each evening which is not enforceable.

Flooding

The Environment Agency have issued a holding objection due to the data supplied with the Flood Risk Assessment being out of date. An updated Flood Risk Assessment has been submitted and the Environment Agency's comments on this will be presented as part of the additional observations prior to the Committee Meeting.

External Alterations

The additional external doors are considered to be acceptable.

SUMMARY/CONCLUSION

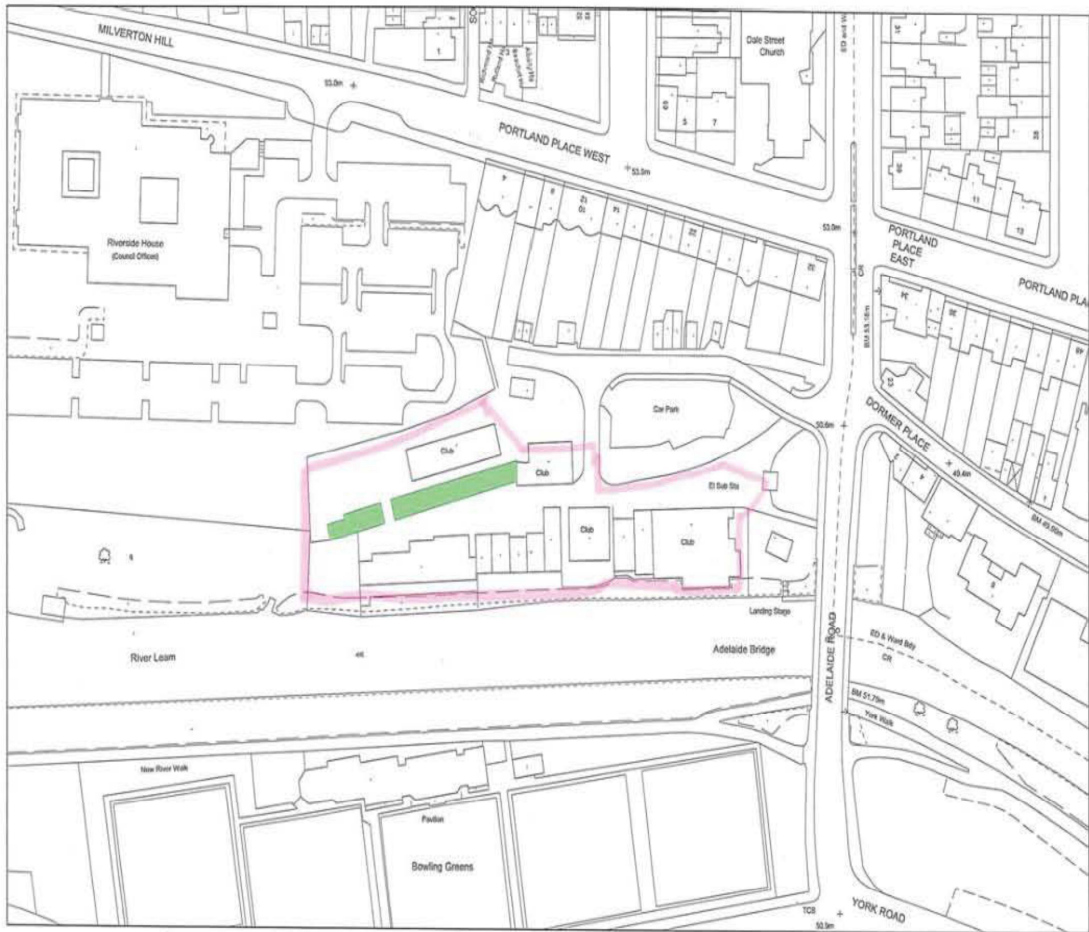
It is regretful that a suitable way forward has not been achieved as part of the scheme providing community / educational facilities that the council wish to support and this was also confirmed at the last Planning Committee meeting. However it is considered that, in light of new evidence there are no reasonable conditions that could be imposed on any grant of planning permission for the current use, which could restrict hours of operation, events, timings of events, live music to the satisfaction of the Council. On this basis, it is considered that the D2 use is not suitable in this location due to the increase noise and disturbance to nearby residents. If however, the applicant submitted a revised scheme for purely educational use, there may be scope to agree suitable conditions.

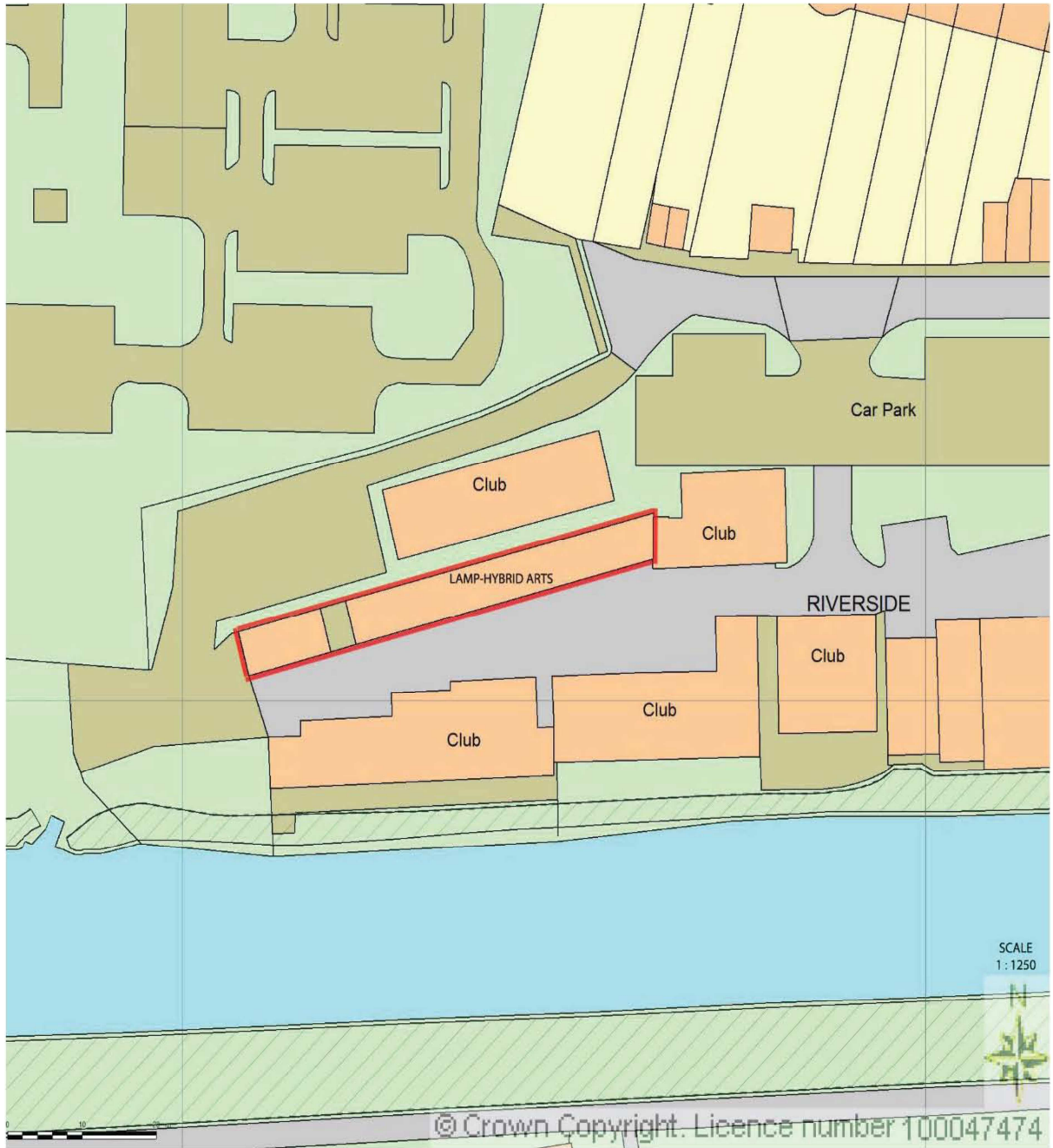
REFUSAL REASONS

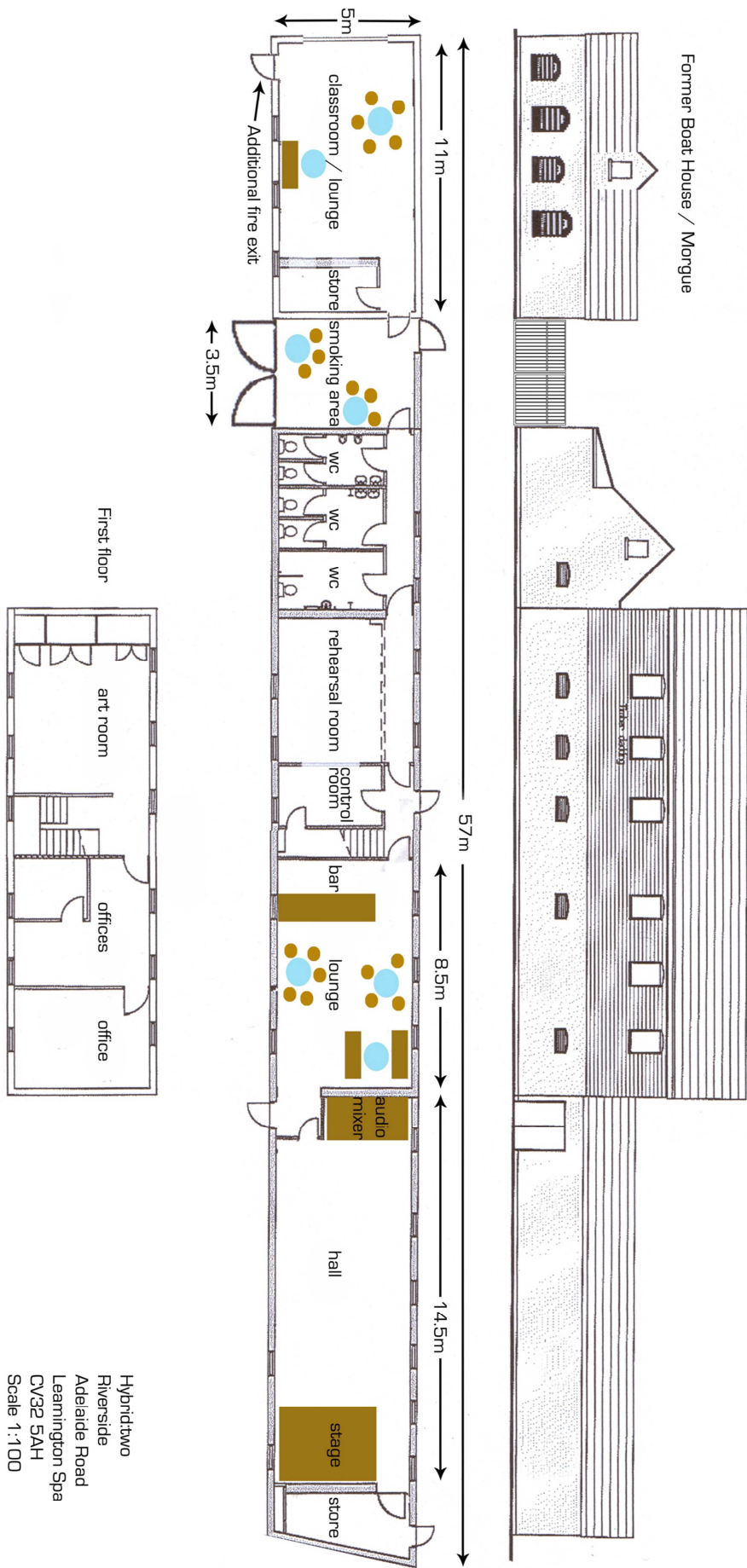
- 1 Policy DP2 of the Warwick District Local Plan 1996 - 2011 & Policy BE3 of the Draft Local Plan 2011 - 2029 states development or changes of uses will not be permitted if the use has an adverse impact on the amenity of nearby residents. Policy DP9 of the Warwick District Local Plan 1996 - 2011 states development and change of uses will only be permitted which does not give rise to noise pollution.

The application proposes the change of use of to a D2 Use Class, for a Music Hall. Due to the topography of the area, the close proximity to residential properties and other existing drinking establishments, it is considered that the proposed change of use would cause demonstrable harm to the amenity of the residential properties through increased noise and disturbance. Therefore, the use conflicts with Policy DP2 & DP9 of the Warwick District Local Plan 1996 - 2011 and Policy BE3 of the Draft Local Plan 2011 - 2029.

FRA Riverside, Adelaide Road, CV32 5AH
Appendix A: Site Location for change of use







Hybridtwo
 Riverside
 Adelaide Road
 Leamington Spa
 CV32 5AH
 Scale 1:100