

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	05/05/2022
Planning Development Manager authorisation:	JJ	05/05/2022
Admin checks / despatch completed	DB	05.05.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	05.05.2022

Application: 21/02018/FUL **Town / Parish:** Alresford Parish Council

Applicant: Mr Joshua Abbott - Peace Productions Ltd

Address: 19 Orchard Business Park Cockaynes Lane Alresford

Development: Proposed change of use from originally approved Class B2 (General Industry) to Sui Generis (Music studio) (including minor internal, sound proofing alterations - part retrospective). Change of use from Class B2 to Class E (Music studio) (including minor internal, sound proofing alterations - part retrospective).

1. Town / Parish Council

Alresford Parish Council
19.01.2022

Alresford Parish Council Planning committee met on 17th of January 2022. The councillors present discussed the application, commented that they were unanimously in favour of the change of use, and that encouraging new and creative businesses to the area was a local priority.

2. Consultation Responses

ECC Highways Dept
04.03.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2009.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority.

Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

3. Planning History

98/01154/FUL	Change of use of redundant farm office/Environmental Technology Unit to office use with ancillary workshop and storage areas within	Approved	30.09.1998
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	the existing building		
01/02031/FUL	Change of use of land and buildings to B2 industrial assembly, production and storage of furniture with associated office use and staff car parking (Land and buildings at Cockaynes Orchard)	Approved	10.05.2002
02/01033/FUL	First floor office accommodation	Approved	19.07.2002
02/01390/FUL	Variation of condition 10 imposed upon planning permission 01/02031/FUL relating to hours of use.	Approved	14.10.2002
02/01547/FUL	Removal of condition 2 imposed upon planning permission 02/01033/FUL relating to hours of operation	Approved	14.10.2002
02/01972/FUL	Alteration to new paint store	Approved	10.12.2002
03/00813/FUL	Single storey extension to form showroom and records store.	Approved	24.06.2003
03/02454/FUL	Demolition of existing building and erection of replacement building for storage	Approved	25.06.2004
06/01878/FUL	Variation of Condition 10 of planning permission 01/02031/FUL to allow office operating hours to be extended to 07:00 to 18:30 on weekdays and on Saturdays 08:00 to 17:00 and on Sundays 09:00 to 13:00.	Withdrawn	01.12.2006
07/02007/FUL	Construction of 2 no. storage buildings (including mezzanine floors) and proposed extension to showroom. Variation to the approved hours for the return of vehicles to the site and working hours allowed by planning permission 07/00561/FUL.	Withdrawn	22.08.2008
08/01135/FUL	Construction of 2 no. storage buildings (including mezzanine floors) and proposed extension to showroom. Re-submission of 07/02007/FUL.	Approved	17.10.2008

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021

National Planning Practice Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

- SP1 Presumption in Favour of Sustainable Development
- SP3 Spatial Strategy for North Essex
- SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- PP6 Employment Sites
- PP13 The Rural Economy
- CP1 Sustainable Transport and Accessibility

Supplementary Planning Guidance

Essex Design Guide

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to Unit 19 at Orchards Business Park, an industrial complex set back from Cockaynes Lane on the edge of the defined Settlement Development Boundary of Alresford. The unit is one of many, mixed commercial and light industrial businesses. The access from Cockaynes Lane essentially splits leading to a car park to the western side of the site and an access to the rear units running along the eastern side of the site. Unit 19 is located to the eastern side of the business park fronting the rear access route.

Although the site is away from the main residential part and centre of Alresford, there are a few residential dwellings close to the site access and application unit, including Stable House and Ivy Cottage.

The industrial site incorporates a large parking area and several warehouse/factory style buildings and offices. These are not readily visible from the highway.

Description of Proposal

The application was submitted seeking a change of use from Class B2 to Class E (Music studio). Following research in to the proposed use and similar applications the description of the application has been amended to Proposed change of use from originally approved Class B2 (General Industry) to Sui Generis (Music studio) (including minor internal, sound proofing alterations - part retrospective) and re-consultation undertaken.

The physical alterations already undertaken include minor internal, sound proofing measures. The Noise Report Assessment provides detailed information on the internal works already carried out but the use itself is yet to commence. A Noise Management Plan has also been provided to mitigate any harm to neighbouring amenities from noise and disturbance resulting from the proposed use.

Additional information has been provided by the applicant in support of the application, in response to requests by the case officer and in response to concerns raised by objectors. These are summarised below:

Received on 14th January in relation to business operations, staffing and opening hours:

- Open between 9am and 11pm weekdays and 9am to 7pm weekends to allow staff only access for loading / unloading equipment out for hire at venues across the country. Due to offering this service, operating hours will need to be advertised as such online etc.
- Initially applicant only running the business (to be reassessed after 6 months of trading in relation to demand and staff requirements).
- Customer numbers will be between 1 and 15 at a time. These will be comprised of bands between 4-6 members and they will usually share cars. This will be by booking/appointment only with a maximum number of 3 bands in the studio at any time (controlled by booking system).

Received on 14th February in response to the objections:

- Details of insulation, construction techniques and materials for sound proofing measures.
- Hours of Operation - access required will be up until 11pm on some occasions for loading / unloading only.
- Parking - there is extensive and ample customer parking on the opposite side of the building away from the boundary where Stable House is located. One space by the entrance of the unit used by business owner only.
- Number of existing businesses located at Orchard Business Units with comings and goings of staff, deliveries and clients. Not unreasonable to allow clients of this business to be able to do the same.

Received on 21st February 2021 outlining the business potentials and employment information as follows:

- Employment of a minimum of 3 people directly to carry out day to day studio activities such as rehearsal supervisor, recording engineer and live sound engineering.
- An apprentice audio engineer (arranged with Colchester Institute Music Tech course leader).
- Work experience, vocational education sessions and large discounts on rehearsals and recordings to students studying music at Colchester Institute.
- 4 people will be employed for the studio build to ensure that it is built in accordance with the Noise Impact Assessment specification.

Noise Assessment Report dated 3rd March 2022 received on 4th March 2022:

- Closest residential property was Stable House, which I measured to be 9.83 meters from Peace Productions at the closest points.
- Access to Stable House to establish baseline for noise measurement not possible.
- Reference test level in all the studios was 90db.
- The outer shell of the building is a metal clad over brick construction, there is a layer of Rockwool insulation applied to the cladding and then a sub frame, with air gap which is then further insulated with Rockwool and then a layer of plasterboard affixed to the frame on the inside to form an inner leaf.
- The studio rooms within which noise will be generated are built in a way that they do not touch the walls and ceiling, avoiding the problem of "transmitted" noise.

- The studio rooms are built with the best and recommended available materials Rockwool insulation Soundbloc “blue” plaster board, in a board/frame, insulation/ board leaf, each room has 2 doors an inner and outer door within the same frame, opening in opposite hand, all doors are 1 hour fire rated for both thermal and acoustic performance.
- Inside the outer wall within the wall that faces on to Stable House is a 90cm wide void area that runs the width of the studio and that has been used in the past for storage. It is recommended that a 1 hour fire door be placed in a frame and that the void inner wall receive a layer of Rockwool insulation, this void runs the whole width of the unit and is acting as a bass/noise trap offering further noise reduction to the outside and directly to the area facing Stable House, to improve it by adding a door and Rockwool would enhance and provide even greater noise reduction to the outside.
- Further recommendations include: Increase door architraves to 1 inch and line them with soft Neoprene foam to form a noise tight seal around every door; fill with Caulk every gap and joint in door frames, ceiling plaster board joints, timber joints, any structural joints visible; and install physical limiters on the volume controls on amplifiers within the studios to maintain the 84db limit.

A covering letter was received on 9th March detailing the credentials and qualifications of the author of the submitted noise report.

A letter dated 5th April 2022 has been provided confirming the revised opening hours of 9am to 9pm, 7 days a week with supporting arguments for the acceptability of these hours including a block plan with annotations (in green) to note the location of where the findings/recordings have been taken in relation to the concerned properties.

Finally, a Noise Management Plan has been provided by the applicant received on 27th April 2022 (at the request of the Council’s Environmental Protection Officers) detailing:

- The mitigation already in place in the form of sound insulation.
- Steps to be taken during opening hours, i.e. all doors and windows to be closed, boundary monitoring 3 times per week by the applicant, 6 monthly wear and tear checks to ensure insulation remains effective.

Assessment

The main considerations in this instance are:

- Principle of Development;
- Environmental Protection and Compatibility of Uses; and,
- Representations.

Principle of Development

Section 1 Policy SP3 of the adopted Tendring District Local Plan recognises the valuable role of locally important existing employment areas and establishes the need to protect them from loss to alternative uses. Within Section 2 of the Local Plan, Delivering Economic Prosperity is addressed at Paragraph 6.5. Tendring District has a diverse economy with local employment across a range of activities with many of our residents being self-employed or working in small businesses. Tendring District’s economy is closely linked to the maritime industry, although it has a diverse economy with local employment across a range of activities.

Creating new jobs for existing and future generations of residents is, and will continue to be, one of the Council’s top priorities. A key requirement of this Local Plan is to provide for appropriate sustainable employment opportunities for residents in Tendring and to support the growth of local businesses and attract investment in the District. It gives priority to the enhancement of existing employment sites; supports initiatives which promote skills and training and enhances cultural assets of the District.

Whilst the site is outside of the defined development boundary it is an established business park originally permitted as an acceptable rural diversification scheme. Paragraph 84 of the NPPF seeks to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. Decisions should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings.

Having regard to the national and local plan policy aims sets out above, the development is considered to be sustainable and help support a local business, employment opportunities and

Environmental Protection and Compatibility of Uses

Policy SPL3 of the adopted Local Plan addresses; Part A: Sustainable Design, Part B: Practical Requirements and Part C: Impacts and Compatibility. It states, amongst other things, that all new development (including changes of use) should make a positive contribution to the quality of the local environment and protect or enhance local character and access to the site is practicable and will be able to safely accommodate associated with the development. Furthermore, the development must safeguard the amenities of occupiers of nearby properties and must not result in unacceptable levels of noise nuisance.

The unit forms part of a wider, well established business park with an array of commercial, office and light industrial uses. The site is served by appropriate access, turning and parking provision. The proposed use will not generate a significant amount of traffic with limited numbers of clientele on an appointment only basis.

Following consultation with the Council's Environmental Protection Team, a noise impact assessment and noise management plan has been provided by the applicant. Following an assessment of the noise report and management plan (including confirmation of opening hours between 9am and 9pm) the Council's Environmental Protection Team raise no objection to the proposed use subject to conditions ensuring the recommendations and management plan are adhered to at all times. Any recommended and agreed works shall be fully implemented prior to the commencement of the proposed use and shall be maintained in the approved form for the duration of the use being operational.

In general terms, it is not uncommon for smaller scale music studios (such as the one under consideration here) to exist in relative close proximity to residential land uses. With appropriate insulation, soundproofing and adherence to statutory noise constraints under environmental protection legislation, the compatibility of uses is likely to be considered acceptable (subject to all other material considerations and planning merits). The submitted noise report satisfactorily demonstrates that the use will not result in any material noise nuisance to neighbouring properties and the Council's Environmental Protection Team raise no objection (subject to mitigation). The noise management plan will further mitigate any impact upon neighbouring amenities. In the immediate context of the site, an established busy business park with a hive of activity and traffic movements, the proposed use would not result in any noise disturbance over and above that already occurring from the existing operations on the site.

For these reasons, through the imposition of appropriately worded planning conditions restricting opening hours and sound proofing measures, the proposal is considered acceptable and policy compliant. As the use constitutes a 'sui generis' use, it is not necessary to impose a condition restricting the use to a music studio only as any change of use will require a planning application.

Representations

Alresford Parish Council are in favour of the change of use stating that encouraging new and creative businesses to the area is a local priority.

4 letters of objection have been received (from Lawson Planning Partnership on behalf of their client, the owner of Stable House). The concerns raised can be summarised as follows (officer response in italics):

Objection dated 10th February 2022

- The application contains inaccurate information concerning the description and location of the proposed development.
- Use should be described as 'Sui Generis', not Class E.
- Insufficient information in relation to noise impacts.

Upon receipt of the additional information summarised above, the validation requirements and application details have now been satisfied. The description was subsequently revised and re-consultation undertaken.

- Unacceptable adverse impact on the amenity of occupiers of Stable House.
- Excessive opening hours and number of clients at any one time.
- No acoustic survey or mitigation provided.

Sufficient noise mitigation and management has been provided to ensure an acceptable relationship with residential properties.

- Would result in a statutory nuisance.

Any noise disturbance of a statutory noise nuisance would be controlled by relevant environmental protection legislation, not planning.

- Current lawful use of the building not clear.

Planning records show that the site comprises B2 units approved under application 01/02031/FUL. There are no planning records to suggest that the unit has been subject of a subsequent change of use application.

- Insufficient parking for 15 users resulting in harm to highway safety.

ECC Highway Authority raise no objection to the development. The site allows for ample parking for all units and the proposed use will operate on an appointment basis with groups / bands traveling together. On this basis, there can be no justifiable reason on highway grounds.

Objection dated 16th February 2022

- Red line and location of unit remains incorrect.
- Description remains incorrect – use should be described as 'Sui Generis', not Class E.
- Comments provided by the applicant are not supported by an Acoustic Survey or Noise Assessment.
- A condition would need to be imposed to control the use of the premises for music recording purposes to protect residential amenity. Previous planning applications relating to other units within Orchard Business Park have also been the subject of stringent operating hours, due to the close proximity of residential accommodation at Stable House in particular.
- Parking provision remains a concern.

See corresponding officer comments above.

Objection dated 16th March 2022

This objection letter is accompanied by 'Technical note' by Sharps Redmore Acoustic Consultants.

- Evidence that the assessment has been carried out by a “relevantly qualified competent person” should be provided.

A covering letter was received on 9th March detailing the credentials and qualifications of the author of the submitted noise report. In the absence of any objections from the Council’s Environmental Protection Team, a refusal based on noise nuisance is unlikely to be upheld at appeal.

- Report prepared for the Applicant has significant shortcomings and does not provide assurance that noise from the proposed music studio can be controlled to a level that does not cause adverse impact to existing residents.
- Further information should be provided to assess the potential impact of noise against recognised criteria, based on appropriate noise guidance and precedents.
- The LPA may wish to seek its own independent acoustic advice.

This is not considered necessary in this instance due to the mitigation and noise management plan to be adhered to. As stated above, in the absence of any objections from the Council’s Environmental Protection Team, a refusal based on noise nuisance is unlikely to be upheld at appeal.

- The red lined site plan remains incorrect.

See corresponding officer comments above.

Objection dated 26th April 2022

This objection letter is accompanied by ‘Technical note 2’ by Sharps Redmore Acoustic Consultants.

- The red lined site plan remains incorrect.

See corresponding officer comments above.

- Significant concerns over the adequacy of the material provided remains.
- The potential acoustic impacts have not been properly assessed.
- Unsuitable opening hours not in keeping with remainder of the units on site.

As stated above, in the absence of any objections from the Council’s Environmental Protection Team, a refusal based on noise nuisance is unlikely to be upheld at appeal.

Whilst it is recognised that Lawson Planning have requested to be re-consulted on any new information provided by the applicant, this is not considered necessary in this instance. Officers are satisfied sufficient information that is proportionate to the nature and scale of the proposal, has been provided and appropriate conditions can be imposed to ensure no material harm to residential amenities will result from the proposed use.

4 letters of support have been received and can be summarised as follows:

- Well located.
- Demand for music studios in the area (closures have resulted from the pandemic).
- The method of containing sound using the room within a room method is an industry standard that is incredibly affective.
- The previous business of a photography studio would have also likely had similar working hours having to fit work around clients.
- Supports the cultural sector and the entertainment industry.

- Local economic growth.
- Unit 19 sound insulated, tested and verified back in 2000 to take noisy wood working machinery.
- Parking for Unit 19 has been allocated away from Stable House.
- To refuse this application would be a great loss to the community.
- Will offer training to local college and school students.

Conclusion

The proposed use is supported by the aims of the Local Plan in relation to employment and local business growth. The application satisfactorily demonstrates that the proposed use, subject to conditions, can be accommodated without resulting in any material harm to residential amenities or highway safety and is therefore recommended for approval.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason – To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Prior to commencement of the use hereby approved all requirements and recommendations detailed within the accompanying Noise Assessment Report by Steven Cutajar dated 3rd March 2022 and associated noise reading block plan received 11th April 2022 shall be undertaken, adhered to and maintained for the lifetime of the use as a music studio.

Reason – In the interests of residential amenities.

- 3 The use hereby approved shall operate in strict accordance with the Noise Management Plan by Peace Productions Music Studio dated 25th April 2022 for the lifetime of the use as a music studio.

Reason – In the interests of residential amenities.

- 4 The use of the premises as the music studio hereby approved shall only take place between the hours of 9.00am and 9.00pm daily, unless otherwise agreed in writing by the Local Planning Authority.

Reason –To ensure the development is satisfactory in relation to the surroundings and to protect the amenities of nearby residents and to allow further consideration of the impact on neighbouring amenities in the event that extended hours are requested.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Are there any letters to be sent to applicant / agent with the decision?	NO
Are there any third parties to be informed of the decision?	NO