

# **Planning Application – CB/22/02467/FULL 13 WING ROAD**

**This is a Retrospective application and there are Errors and Omissions by the Applicant in the Application for Planning Permission submission.**

## **Existing Use**

The site was the rear / garden area with an existing storage shed behind 13 Wing Road not as stated 'Restaurant with living accommodation above'.

## **Pedestrian and Vehicle Access, Roads and Rights of Way**

**Is a new or altered pedestrian access proposed to or from the public highway**

The applicant has responded 'No'. The original planning approval CB/21/03225/FULL was granted with access to the structure through the restaurant with a number of specific restrictions. The new application details access through a narrow communal passage between 11 & 13 Wing Road. Therefore the applicant should have answered 'Yes' to this question.

## **Employment**

**Are there any existing employees on the site or will the proposed development increase or decrease the number of employees**

**Existing employees** – The applicant has entered '0' to this question

**Proposed employees** – The applicant has failed to enter any information to this question but are now advertising for a 'Shisha Master' and bar staff.

## **Hazardous Substances**

**Does the proposal involve the use or storage of Hazardous Substances**

The applicant has answered 'No' to this question. Since they are proposing to use this structure as a 'Shisha' smoking area which uses volatiles their response have been 'Yes'

## **Site Visit**

**Can the site be seen from a public road, public footpath, bridleway or other public land**

The applicant has responded 'No'. However the structure as proposed, and currently built, in this retrospective application can be seen from the Grand Union canal towpath and the south-side footpath alongside Leighton Road in front of Lombard House . Therefore the answer should have been 'Yes'.

## **Pre-Application Advice**

**Has assistance or prior advice been sought from the local authority about this application**

The applicant has responded 'No'. However this retrospective application is as the result of failure by the applicant to build the structure in accordance with planning approval CB/21/03225/FULL and an Enforcement Notice with guidance issued by Central Bedfordshire Council.

## **Objections to Planning Application – CB/22/02467/FULL**

The applicant originally applied for planning permission – CB/20/04010/FULL – in 2020 which was rejected primarily on the ground of noise pollution.

The applicant undertook a Noise Pollution Survey which detailed noise suppression and other measures and on re-application they were granted planning permission CB/21/03225/FULL dated 7<sup>th</sup> September 2021 under strict conditions which they have blatantly disregarded building and enclosing a structure considerably larger than their approved plans resulting in this **retrospective** application.

### **This application should be refused for the following reasons:**

In the approved plans there should have been a Storage Shed, set at a lower level between the end boundary fence and the structure, the roofline of the storage shed would therefore have only just been visible above the 1.8m high fence line, with the end wall of the structure set back. However, with the structure built 3.79m longer than approved on ground that is built up it is now at least 1.5m above the fence line and a visible eyesore from the flats in Bluebell Court and Waterside View, the canal towpath and Leighton Road.

The roof of the structure has also been built pitched up back-to-front instead of front-to-back meaning the residents of the Bluebell Court flats can now see the unsightly top of the roof.

Perspex panels have been fitted totally enclosing the opening between the top of the acoustic fencing and the edge of the roof. This is not shown on any of the plans submitted with their application and is in contravention of legislation relating to smoking and 'Shisha' activity as confirmed by Central Bedfordshire Council, Pollution Officer, Guy Quint

The Noise Assessment and Noise Management Plan Rev A were based upon the applicant's original plans and therefore a revised Assessment and Plan should have been carried out to reflect the changes they propose.

The approved planning application included specific conditions, detailed within the Noise Management Plan Rev A, regarding access and egress to the structure which was through the restaurant. The conditions included – '3 Strikes' rule for unruly customers, signage reminding customers that there are residential properties nearby, door staff, supervisory patrols and CCTV cameras. Access and egress within the retrospective application is by a narrow communal corridor / passageway between 11 and 13 Wing Road with no direct access into the restaurant as originally planned. The conditions will be difficult to comply with using the communal passageway as access and egress.

The applicant's plans also show a gate in the fence at the rear / end of the structure accessing onto Waterside View which is a private estate and the applicant has no legal access to this land. This means that the only exit from the structure is through the narrow communal passageway.

The applicant has specified that the structure will be used as a Shisha smoking area. In the approved planning consent the plans detail a 'Shisha Prep' area and a Storage Shed which is

required under guidelines to store the shisha paraphernalia. The revised plans obviously do not have space for the storage shed and there are no details for a prep area.

In their revised Planning, Design & Access Statement – Design Para 1 & 2 the applicant advises that the posts/columns and roof line are set in by approx. 1.2m measured horizontally from the boundary with 11 Wing Road. Guidelines require that any shisha area should be at least 1.5m from adjoining boundaries and nowhere in their application do they confirm the distance of the structure from the boundary with 15 Wing Road and Waterside View which I believe the structure abuts without the required distance from the boundary.

In Para 3 of their Planning, Design & Access Statement the applicant states – ‘The visual impact of the structure in terms of height, scale, massing and relationship to its setting and surrounding context particularly the neighbouring properties will not be affected and doesn’t present any overlooking issues’. I contest that the additional 3.79m length, as well as the structure being on built up land means that it is higher by at least 1.5m at the mass end of the structure and overlooks Bluebell Court and Waterside View and clearly visible from the canal towpath and Leighton Road.

Additionally, the applicant states that ‘the shisha area is sited away from the residential flats and is in a screened off space....’. Guidelines recommend that Shisha smoking areas should not be in residential areas. I also contest that the end wall of the shisha area is less than 20m from the Waterside View residential development but more concerning, considering the noxious toxicity of shisha smoke, is less than 3m from the roadway through the development used by local residents and many pupils from Cedars Upper School and Linslade Middle School.

### **There are already precedents to support rejection of this application**

Guy Quint, Central Bedfordshire Council, Pollution Officer has on the 26<sup>th</sup> July 2022 written to Jade Moss stating:

‘I am afraid I must object to the application as presently submitted for the following reasons:

Non-Compliance with Smoke Free legislation

.....proposed structure will (not) meet the requirements of the current smoke free legislation .....as it appears that the structure has 3 enclosing walls and a roof, with only one façade open to the air. The regulations require .....must not be more than 50% enclosed.

Leighton-Linslade Town Council recently objected to a planning application for 15 Wing Road on the grounds ‘that the proposed development ..... would result in increased traffic movements in an already congested area and in close proximity to a pedestrian crossing’. The stretch of Wing Road and adjacent roads in the vicinity of this parade of shops, of which 4 of 7 are ‘take-away food’ outlets has become increasingly dangerous, particularly evening times, with drivers parking on pedestrian crossing restrictions, doing U-turns in Wing Road and driving into New Road the wrong way to park. The application contains no consideration for parking arrangements for their clients.

Finally, this area of Linslade, adjacent to the Conservation Area, is acknowledged by both local Councillors and Bedfordshire Police to already suffer from un-acceptable levels of anti-social behaviour. Shisha bars are renowned to add to this problem.

**In view of the evidence I have submitted I trust the Council will not only reject this retrospective application but issue enforcement on the applicant to either build the development to the approval as detailed in Planning Approval – CB/21/03225/FULL or demolish the illegal structure.**