

Dear [REDACTED]

**Re: Application No: 21/00479/FUL**

**Planning Permission Approved 07/05/2021**

**The Bakehouse, Abbey Yard, Derby DE22 1DS**

[REDACTED]

I am writing to you to ask for the current situation to be fully investigated, as in [REDACTED] opinion, [REDACTED] believe that the situation that has evolved is a clear breach of the existing planning permission.

The permission was given for the change of use from a Beauty Parlour within the existing Bakehouse for ice cream production together with ancillary ice cream sales'. We believe and have evidence to support that it has become a 'Café' in the Car Park and delivery, collection, service area.

[REDACTED] remind you that there are residential properties in Abbey Yard, who seeing a notice about use of the Bakehouse to manufacture ice cream would welcome that, but would have reservations about another café.

There have been 2 independent letters, we have learnt of, to the planning dept. but in our considered opinion the situation has changed substantially since the application, the granting of planning permission and the investigation of these two letters.

[REDACTED] say this for the following reasons:

1. Planning Permission Management Condition 4 states:  
"The on-site sales of ice cream shall remain ancillary to the primary production use, hereby approved. Any ancillary sales shall only be of goods manufactured on the site and there shall be no sale of goods imported or manufactured elsewhere."

The planning permission and application letter and website all talk about manufacturing tubs of ice cream (5L). Seeing a notice asking for a change of use from a beauty parlour to Ice Cream production together with ancillary sales would have suggested to most people, that the ability to buy a tub of ice cream is not an outdoor café in the car park/delivery /collection service area.

[REDACTED] draw your attention to the planning permission, 3: Reason for decision, where it specifies 'ancillary ice cream sales.'

The Just Ice website promotes their click and collect service for 5L tubs of ice cream, (during lockdown there was a delivery service, no longer the case and the application supporting letter includes that they may get an electric vehicle.)

The application supporting letter says

[REDACTED]

Just Ice:

- i) is open and advertise the following opening times:  
Tuesday, Wednesday, Thursday & Friday 11:30 – 17:00,  
Saturday and Sunday 11:30-17:00.  
(Do they manufacture at weekends?)
- ii) have converted a window into a sales hatch, referred to in promotion as 'The Hatch'. Attached to the wall next to the hatch is a Large Menu Board, including a hot drinks section and Just Ice told [REDACTED] the Terrace Café that they were intending to sell soup and crepes in the winter. (They even said when they get those doors open to the terrace-although that is a separate matter! [REDACTED] DCC Landscape Architect has been alerted to this.)  
There is not a list of 5L tub prices.
- iii) They place out seating-benches in the car park, delivery, collection, service area.
- iv) At the meeting\* referred to in vi), Just Ice said they had closed their Milford café so thought they might as well move to here.
- v) The original application was for use of their Function Horse Box to sell ice cream, which is not used to sell ice cream.
- vi) There have been issues about the parking of the Horse Box.  
"When not being used we would like to park her in one of the black outlined allocated bays." This has not been the case.

The horsebox has been parked in a non-parking space, blocking Trade Waste Bin access. The application also identified that they had three parking places. They included the Disabled parking for Abbey Yard, this is not theirs to use exclusively and was incorrect on the application.

[REDACTED] organised a meeting at the village hall to try to resolve some of these issues.\* *See below for attendees of meeting.* Some of these issues, such as where the Horse Box is parked have been resolved by Steele Properties, as a result of meeting. DCC Estates officers said that the planning issues would need to be referred to the Planning Authority. The Horse Box has been moved to the two Just Ice parking places and moved decorative planters into the non parking space and said they intend to erect outdoor café style screening for queuing. This space is supposed to be a parking/service area only.

[REDACTED] refer back to:

**Planning Permission Management condition 4 states:**

**"The on-site sales of ice cream shall remain ancillary to the primary production use, hereby approved. Any ancillary sales shall only be of goods manufactured on the site and there shall be no sale of goods imported or manufactured elsewhere."**

And on the DCC Application, re.details of the pre-application advice received:

"[REDACTED] explained that [REDACTED] would need to see the application (highways, Heritage, Conservation) and talked [REDACTED] through what concerns there may be and how to correctly address them. The original concern was how much of the proposal would involve a retail element. [REDACTED] was happy that [REDACTED] proposal was predominantly for an ice cream manufacturing base and any sales would be of an ancillary nature."

It is [REDACTED] considered opinion that Just Ice have been disingenuous in their 'interpretation' of the planning permission granted and have opened a retail outlet/café in the car park/delivery/collection/service area.

\*Attendees at the meeting on Wednesday 12<sup>th</sup> July 2023:

[REDACTED]  
[REDACTED]  
[REDACTED] Just Ice  
[REDACTED]  
[REDACTED] local residents/users [REDACTED]  
[REDACTED]

I suggested that the meeting be a confidential one at the community hall, rather than inside the Terrace café, originally suggested by the DCC Estates Department.

2. The whole of Abbey Yard has always thrown up difficulties, but with everyone working together and being sensible it works. But this has not been the case since Just Ice have started using Abbey Yard Car Park, Delivery/Collection/Service area as an outside café.

There are serious Health & Safety issues here.

For example, the two big Tradewaste collection vehicles (one is DCC, one is another commercial company) collect their Tradewaste bins by driving up and then reversing or reversing into the top part of yard.

Delivery vans usually reverse into that area. The Luke Evans delivery driver has already recorded a near miss with a child.

Streetpride, The Arboricultural team, Derby Homes and DCC contractors have to come into the yard regularly to work.

And there are other businesses, with their parked vehicles there, and the restricted space means a lot of manoeuvring needs to take place on a regular basis.

The utilisation of the Car Park/Delivery/Collection Area by Just Ice .....and we must remember this is a public access area between areas of Darley Park, disabled parking and access to the village hall, public conveniences, has led to children playing around, riding scooters, playing football. People standing and sitting around in groups in the area with noise and rubbish left. This is an accident waiting to happen. This is a Car Park, Delivery/Collection/Service area not a congregation/social area.

We have timed, dated photographic evidence of all of this.

We also have photographic evidence of the Just Ice benches over by the exit from the kitchen. Blocking the only exit from the Terrace Café kitchen, another serious Health & Safety issue.

Previously I have mentioned the issue of rubbish/litter. I want to raise the issue that people buying ice cream, milk shakes, tea, coffee, hot chocolate etc. from Just Ice have increasingly left their litter (clearly identifiable as coming from Just Ice, and plastic) and most of the time, walk with it to the Terrace, where it is frequently dumped on the tables for the Terrace Café to

dispose of, or even brought into the café itself. We have noticed an increase in litter in the park itself.

The moveable tables and chairs on The Terrace are purchased, provided and cleaned etc. by the Café and there are clear signs to this effect. However the staff in the café have been frequently abused by Just Ice customers when asked to move, to make way for legitimate Terrace Café customers.

As part of the established DCC Terrace Café lease agreement, the café purchase the relevant products and pay for the cleaner cleaning the toilets. While the café's ice cream sales (also locally produced high quality ice cream) have already halved, the equivalent cost of toilet rolls and cleaning products has doubled. Other businesses in the Abbey Yard development have their own private toilets for customers together with waste management facilities.

3. I refer you to the DCC Planning Application Consultation from [REDACTED] on behalf of DCC Urban Design and Conservation Team: "Recommendation: No objection to principle of the change of the use of this building but the extent of changes is currently unknown and a listed building application covering alterations proposed should be submitted." [REDACTED] is also referred to in planning application and in my point 1.

[REDACTED] understand the bulk of this will be to do with changing use from a Beauty Parlour to ice cream manufacturing. Is the modification of a window to sales hatch in a listed building, looking into a Car Park, in the Derwent Valley Mills World Heritage Site and the Strutts Park Conservation Area, which is an area of architectural and historic interest acceptable?

[REDACTED] know of the strict regulations re. building works and advertising in such heritage areas, which even affected us when the Darley Abbey Community raised the money to install 5 24/7 Defibrillators onto heritage/listed buildings, and this was life saving equipment! Thankfully it was the Planning Department that showed common sense and resolved the placement of these cabinets.

The businesses in Abbey Yard are not allowed signs, other than very tasteful, small parking designation signs. However Just Ice have their Horsebox, but display large banners, that actually display above the gates and therefore can be viewed from Darley Park. There have also been A Boards placed around. DCC has strong guidelines and policies about advertising by businesses and if approved, this has to be paid for, unless a community event. Being a charity (as DACA is), does not give exemption. The Horse Box is advertising, and rather 'in your face', other businesses in this area have no advertising, rightly so in a heritage area. [REDACTED] might even query whether the storage of the Horse Box is appropriate in the parking place, the supporting application letter showed a photo of it at Shardlow, not within Abbey Yard. Just Ice say that currently only one of their members of staff drive to work. [REDACTED] have noticed a car parked at the hall regularly, in the public car park outside the hall. [REDACTED] know this is a public access car park, but it does mean some of the vulnerable users of the village hall and the facilities here, including the disabled parking bays may be excluded as this place is taken for a long time.

The other issue re. the Horsebox is that Just Ice are insisting that the doors from Darley Park, by the toilets are both opened so that their horsebox can be seen. i.e. advertising, whereas only one side has always been opened by the

locked bollarded public access, this gives plenty of room for wheelchair and pedestrian access. [REDACTED] has been alerted to this issue.

[REDACTED] Only two notices about change of use to ice cream manufacture were identified, one was on the telegraph pole at the village hall, and the other was at the Mills complex across the river, and the way written would not appear a threat but what is turning into an alternative café in the car park, certainly is. The erroneous article in the Telegraph didn't help by saying it was in the Mills!

While Just Ice has an honourable vision for their business, which we would all support, how they are using the site, without consideration for all adjacent users in the full Abbey Yard community, does not evidence the values they purport to.

To recap:

1. The Planning Permission, Part 3: Reason for decision states: "The proposed change of use comprises a relatively small commercial development within an existing building and ancillary ice cream sales. Which raise no planning policy objections to the principle of the proposal. The proposal involves no external physical alterations and would have no adverse impact on any heritage assets or the visual amenities of the surrounding area."
2. The Planning Permission Management Conditions state:  
At 3. "the premises shall only be used for the production of ice cream, as specified in the application and for no other purpose."
3. The Planning Permission Management Conditions state:  
At 4. "The on-site sales of ice cream shall remain ancillary to the primary production use, hereby approved. Any ancillary sales shall only be of goods manufactured on the site and there shall be no sale of goods imported or manufactured elsewhere."

Nowhere is permission given to open a Café in the Car Park/Service Area of Abbey Yard and the issues that brings.

[REDACTED] urgently request that this matter be investigated as it causing great anxiety to a lot of people. [REDACTED] not yet approached the Derby Telegraph, in the hope that decent common sense will prevail.

Yours sincerely

[REDACTED]