KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

DELEGATED DECISION TO DETERMINE APPLICATIONS FOR CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION

Reference No:	**2022/44/91782/E**
Site Address:	Dunkirk Inn, 231, Barnsley Road, Lower Denby, Huddersfield, HD8 8TX
Description:	Discharge conditions 3 (Materials), 4 (Boundary Treatments), 11 (Ventilation) on previous permission 2020/91601 for change of use from agricultural land to Sui generis Drinking Establishment (previously A4) and erection of extensions and alterations
Recommending Officer:	Callum Harrison

DECISION – APPROVE DISCHARGE OF CONDITIONS

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Sarah Longbottom

AUTHORISED OFFICER

Date: 10-Jul-2023

Officer Report

Application: 2022/91782 - Dunkirk Inn, 231, Barnsley Road, Lower Denby, Huddersfield, HD8 8TX

Proposal: Discharge conditions 3 (Materials), 4 (Boundary Treatments), 11 (Ventilation) on previous permission 2020/91601 for change of use from agricultural land to Sui generis Drinking Establishment (previously A4) and erection of extensions and alterations.

Assessment

Condition 3 – Materials

'3. Details and specifications of all roofing and walling materials including the green roof/s shall be submitted to and approved in writing by the Local Planning Authority before works commence to construct the superstructure of the extension. Thereafter the development shall be constructed in accordance with the approved details.
Reason: In the interests of visual amenity and to protect the setting of the adjacent listed building and to accord with Policies LP24 and LP35 of the Kirklees Local Plan.'

The agent has submitted:

- 20206291601E - Condition 3 – Materials

The materials proposed are through coloured off white render and natural stone for the walls, stone slate for the roof and timber sliding sash and painted timber doors. All of these materials are to match existing.

With regard to the green roof, it would be a s SkyGarden Sedum Living Roof System. Specifically, it would be of the Sedum Blanket SGS02 type. This type of green roof consists of a 10-12 species blanket that has been produced regionally.

These materials are considered to protect the setting of the adjacent listed building and to represent a high quality design and finish. These materials therefore accord with Policies LP24 and LP35 of the Kirklees Local Plan. As such, an approval can be issued pursuant to condition 3 for the purposes of the pre-commencement requirement of the condition, however works must be carried out in accordance with the approved materials and details.

Condition 4 – Boundary Treatments

'4. Details of all boundary treatments including retaining walls shall be submitted to and approved in writing by the Local Planning Authority before the extension is first brought into use. Thereafter the boundary treatments shall be provided in accordance with the approved details before the extension is first brought into use and retained.

Reason: In the interests of visual amenity and to protect the setting of the adjacent listed building and to accord with Policies LP24 and LP35 of the Kirklees Local Plan.'

The agent has not submitted any information. The agent has stated in the application form that the submitted details are 'Retaining boundary wall'. Whilst this in unclear what was specifically meant, the boundary wall is not a 'retaining' structure. As such, officers interpret this as meaning there are no new boundary treatments proposed, with the existing boundary treatments to be retained. As such, an approval can be issued pursuant to condition 4 for the purposes of the pre-commencement requirement of the condition, however if any new boundary treatments are to be erected, the details will have to be approved under condition 4.

Condition 11 – Ventilation

'11. Before any works to the extract system commence details of a kitchen extract system shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide the following information:
• A risk assessment for odour which considers amount and type of food that will be cooked together with the proposed dispersion of odours and proximity of receptors likely to be affected by any cooking odours.
• Based on the risk assessment, details of the proposed methods of odour control and dispersion of any extracted odours.
• Details showing the proposed location of all the major components of the extract system. • The noise mitigation measures that will be incorporated in the extract system and details of the likely resulting noise levels that will be caused by operation of the extract system, in particular how loud it will be at nearby noise sensitive locations.
• The proposed ongoing maintenance schedule that will carried out to ensure that the extract system continues to effectively control odours and not cause excessive noise.
Before food cooking commences the approved extract system shall be installed and thereafter retained and maintained in accordance with the approved details.
Reason: To ensure the proposed development does not cause harmful odour pollution at neighbouring premises in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.'

The agent has submitted:

- RONA-6-A-E (received on 13/04/2023)
- 7 3 23 PR32 Roof Plan (received on 13/04/2023)
- NIA-10833-23-10965-v1 (received on 13/04/2023)
- P6211-R1-V2 - Odour Assessment(received on 13/04/2023)

KC Environmental Health have been consulted on the application. The previous information was considered unacceptable. However, the extract system has since been revised in information submitted on 13/04/2023. The submitted Odour Impact Assessment authored by Noiseair dated 11 April

2023 Ref P6211-R1-V2. Para 1.2.3 details the operational use of the kitchen and figure 2 shows the layout and the equipment to be used for cooking. Using the Risk Assessment undertaken in accordance with the guidance document 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' prepared by EMAQ+, the odour risk from the proposed kitchen facility was scored as 35 and therefore classified as high.

Paragraph 4.2 states the extraction system has been designed to mitigate for a high level of odour risk, listing the components within the system. Paragraph 4.2.5 provides timings for the relevant maintenance schedule for each of the components and it is imperative that this schedule is adhered to and maintained in order to prevent a loss of amenity or result in a statutory nuisance being caused. The findings of the report are accepted.

As such, an approval can be issued pursuant to condition 11 for the purposes of the pre-commencement requirement of the condition, however the condition has a compliance element and cannot be fully discharged. The measures set out within the submitted Odour Impact Assessment authored by Noiseair dated 11 April 2023 Ref P6211-R1-V2 must be implemented and retained thereafter in order to accord with condition 11.

Officers are aware that despite being a pre-commencement condition, the kitchen is already in use. Officers have been in constant correspondence with the agent who have informed the Council that the system, that is hereby approved, is to be fitted by Friday 7th July. The applicant is hereby made aware failure to comply with details hereby approved result in enforcement action being taken.

Decision Notice:

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