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**Report of the Head of Planning and Development**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 17-Feb-2021**

**Subject: Planning Application 2020/91601 Change of use from agricultural land to A4 (Drinking Establishment) and erection of extensions and alterations Dunkirk Inn, 231, Barnsley Road, Lower Denby, Huddersfield, HD8 8TX**

**APPLICANT**

Mark Ronan, The Bagden  
Group

**DATE VALID**

10-Jun-2020

**TARGET DATE**

05-Aug-2020

**EXTENSION EXPIRY DATE**

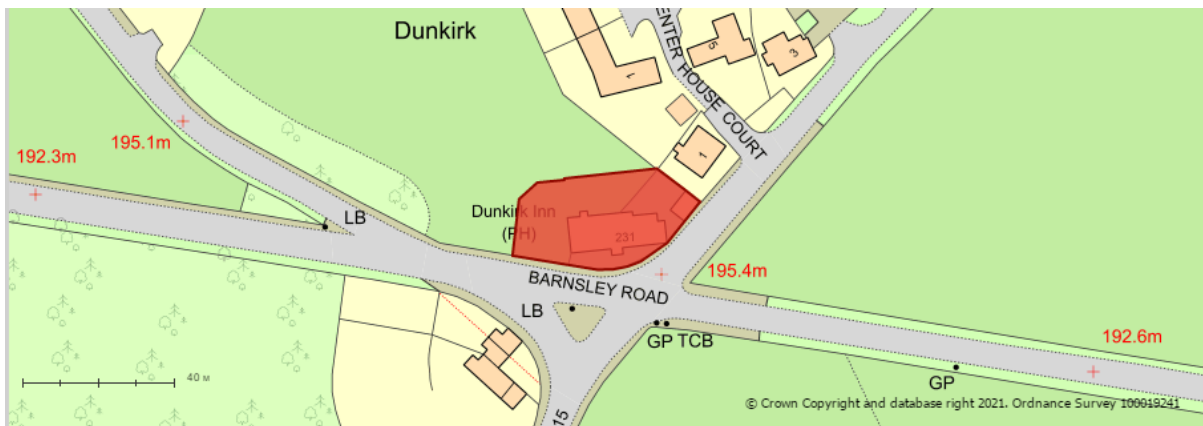
18-Dec-2020

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected:** Denby Dale

**Ward Councillors consulted:** No

**Public or private:** Public

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**RECOMMENDATION: Refusal**

1. The proposal extension to the existing public house by reason of its substantial scale and massing would result in harm to the openness of the green belt. This harm is further exacerbated by the fact that the curtilage of the existing building is insufficient in size to accommodate the proposed extension and requires encroachment into adjacent agricultural fields. The proposal would fail to accord with Policy LP57 of the Kirklees Local Plan and chapter 13 of the National Planning Policy Framework and constitutes inappropriate development in the green belt. It is considered the supporting information provided is not capable of constituting 'very special circumstances' which clearly outweigh the harm to the Green Belt.

2. The proposal to double the size of the building footprint towards the Grade II listed former barn at 1 Tenter House Court would cause less than substantial harm to the setting of the barn by developing within the green space between this building and the listed farm buildings. It is not considered this harm is outweighed by public benefits and the proposal would therefore fail to accord with Policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

3. The application fails to provide sufficient off-street parking to serve the expected increase in customers and peak vehicle numbers. The applicant's parking assessment confirms a need for 65 off-street parking spaces and the existing car park capacity is 37 spaces. The proposed use of a minibus service would not be so significant as to reduce peak vehicle numbers to 37 or fewer, and on-street parking cannot be considered as part of the available provision as it is not in the interests of highway safety to exacerbate existing on-street parking around the junction of the A635 Barnsley Road and Dry Hill Lane. The proposal would have a detrimental impact on highway safety contrary to Policies LP21 and LP22 of the Kirklees Local Plan.

**1.0 INTRODUCTION:**

1.1 The application is brought to Heavy Woollen Planning Sub-Committee at the request of Councillor Watson for the following reasons:

The Development Plan and The Various Policies

"I understand that this is proposed development in the green belt and therefore give the potential significance of the determination of the application on the viability of the business then this is an important local issue. There are likely to be issues relating to "Very Special Circumstances" vis a vis a high profile hospitality venue, local employment, the environment and so forth which lend themselves to a decision by politically accountable members.

## Effect of Public Amenity

"I can see that issues of public amenity in relation to a hospitality venue could be of significant importance to local residents and, therefore, it would seem to me to be the case that there should be an opportunity for such issues to be given a full and open airing in public and that ultimately the decision taken should be fully open to public scrutiny. The best forum for this so as to ensure that all interested parties are able to set out their opinions on the merits and to ensure the application is thoroughly and transparently scrutinised is the sub-committee in my respectful submission.

## The views of local people insofar as they are based on relevant planning issues

I have noted that there are a significant number of representations in response to the application and it seems, therefore, to have generated a substantial degree of local interest. With this in mind it would seem prudent to have these matters tested before, and ultimately determined by, the Heavy Woollen Sub-Committee.

- 1.2 The Chair of the Heavy Woollen Planning Sub-Committee has confirmed that Councillor Watson's reasons are valid having regard to the Committee Protocol.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises The Dunkirk public house, located approximately 1.3 kilometres outside of the town centre of Denby Dale at the junction of the A635 Barnsley Road with Dry Hill Lane. The whole of the site and the surrounding area is located within the Green Belt in the Kirklees Local Plan.
- 2.2 The existing public house is a simple vernacular building with extensions and alterations to the eastern end of the site. On the ground floor is a bar/restaurant area, and on the upper floor a multi-use room. Prior to 2016 the upper floor was laid out as residential accommodation with some office space. Planning permission was granted in 2016 (ref 2016/92134) for extensions and alterations, which included the creation of a small function room with a roof deck, whilst retaining some residential accommodation and office space. The 'existing' plans submitted as part of this application show the whole of the first floor identified as a multi-use room.
- 2.3 The property has a limited curtilage area with an area of outdoor seating immediately to the front of the building secured by a dry stone wall, and a further outdoor area in the north-eastern corner, together with a drinks store. The building backs onto agricultural fields to the north and east, and to the rear of residential properties off Tenter House Court to the north-east including the grade II listed former barn at 1 Tenter House Court.
- 2.4 The public house is served by an unmarked car park located off Dry Hill Lane, which is separate to the public house building, at a distance of approximately 70 metres.

2.5 In the interests of clarity, works have been undertaken to extend the curtilage of the public house into the adjacent agricultural fields, to erect a dry stone boundary wall and to install temporary kitchens. The works to extend the curtilage form part of those applied for in this planning application and do not benefit from planning permission.

### **3.0 PROPOSAL:**

3.1 The application seeks planning permission for a substantial extension to the side and rear of the existing public house building. To facilitate the extension the applicant requires to extend the curtilage of the public house into the agricultural fields to the rear of the building.

3.2 The proposed extension would be substantial in size and provide a new kitchen area and dining area, with the existing building retained as a bar. The upper floor would be a multi-use room, and a lift is proposed to provide accessible entry. The proposed new dining area would comprise of an oak frame glazed extension with a stone slate roof, and the kitchen extension would be reclaimed stone and artificial stone slate roofing tiles. A dormer is proposed on the rear elevation to house the lift.

3.3 To facilitate the extension, the existing curtilage area would be extended to the north and east into the adjacent agricultural fields. The new boundary would be secured by a retaining structure and a drystone wall. In the interests of clarity, the red line boundary has been reduced during the course of the application to omit a proposed kitchen garden area. On the plans as currently submitted, the proposed block plan still shows works (albeit outside of the amended red line boundary) to create a kitchen garden which would be accessed from the public house via a timber fence and gate.

3.4 The applicants intend to provide an accessible mini bus service to pick up and drop off staff and customers.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 89/02668 – Erection of illuminated signs – Consent Granted

91/04940 – Alterations to external wall – Conditional Full Permission

91/04941 – Outline application for erection of restaurant extension and change of use from bungalow to bedrooms (Hotel Annex) and part of flat into function room – Withdrawn

92/01243 – Outline application for erection of restaurant extension and change of use from bungalow to bedrooms (hotel annex) and part of flat into function room and extension to car park – Conditional Outline Permission

2003/95020 – Change of use of land and alterations to form car park and landscaping – Withdrawn

2004/93635 – Change of use of land to form car park, formation of new access and erection of single storey extension – Refused

2016/92134 – Erection of two storey infill extension to rear, formation of roof terrace over existing single storey, demolition of lean-to-store, erection of boundary wall with gate and erection of smoking shelter to the rear garden – Conditional Full Permission

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 Officers negotiated with the applicant to secure:

- A detailed explanation for the substantial scale of the extension, to include further evidence on the number of covers required to make the business viable and how this relates to the scale of extension required and evidence of consideration of smaller scale alternatives.
- Proposed staff numbers at peak times
- Capacity of the public house should the scheme be constructed
- Any proposed improvements to the pedestrian link between the car park and the public house
- Details of any 'Very Special Circumstances' the applicant wishes the Local Planning Authority to consider.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

Kirklees Local Plan (2019):

6.2 **LP1** – Presumption in favour of sustainable development

**LP2** – Place Shaping

**LP10** – Supporting the rural economy

**LP16** – Food and drink uses and the evening economy

**LP21** – Highways and access

**LP22** – Parking

**LP24** – Design

**LP33** – Trees

**LP35** – Historic Environment

**LP48** – Community Facilities and services

**LP53** – Contaminated and unstable land

**LP57** – The extension, alteration or replacement of existing buildings

National Planning Guidance:

6.4 **Chapter 2** – Achieving Sustainable Development

**Chapter 6** – Building a strong, competitive economy

**Chapter 9** – Promoting sustainable transport

**Chapter 12** – Achieving well-designed places

**Chapter 13** – Protecting Green Belt land

**Chapter 15** – Conserving and Enhancing the natural environment

**Chapter 16** – Conserving and enhancing the historic environment

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised as a minor application affecting the setting of a listed building. The final publicity expired 22.12.20. As a result of this publicity twenty representations have been received, including 12 letters of support, 4 objections and 4 other comments. A summary of the comments raised are as follows:

### **Comments in Support**

- Vital this is approved so the diversity and amenity of the local area is maintained.
- The proposals are well designed and considered, and will significantly improve the offer this critical part of the local community has to offer.
- The special circumstances required have been demonstrated
- The livelihoods of many people depend on this
- A good enhancement to a fine establishment in the area.
- Wish to support to a local business that supports the local community
- Dunkirk is a lovely pub in a beautiful rural location. It will really benefit from an extended seating at the back.
- Considering the current plight of the industry, it is a credit to the owners to invest. A fantastic committee and enhancement to the community, they should be applauded not restricted.
- Support the application for the reasons stated in the access statement.
- At a time when villages have lost their local pub it is good to see that local people are trying to further develop their business providing jobs and revenue within our community.
- The plans will enhance the exceptional restoration of the building.
- Good to have local facilities with separate dining, on the north elevation acoustic/visual tree planting would assist blending in.
- The application will better serve the local community due to improving access for disabled and those with walking difficulties and will help make the establishment a sustainable business.
- The plans will be consideration and beneficial to the area.
- The facilities for disabled people are excellent and the changes they want to make will improve them even more, especially the access to the first floor and the changes to the toilet facilities there.
- The room at the first floor will be a godsend for the locals. A function room of this size and quality is very rare in this area, and the new lift will mean that everyone can get to it.
- Granting permission will further enhance community opportunities, the extension will also add to the local economy.

### **Objections/Comments**

#### **Principle of Development**

- The development is in the Green Belt
- The release of green belt unless for special circumstances is a major policy of the adopted local plan, so approval would be a departure from the policy's contained within the local plan, and the case for special circumstances has not been made
- The removal of land from the green belt to provide extra facilities for the pub does not demonstrate special circumstances.

- The justification for the size of the extension to comply with 2m social distancing rules are absurd.
- The extension would give the business an unfair advantage over existing businesses that can't expand.

### **Highway Safety**

- The crossroads are an accident 'blackspot' with recent fatalities, and extra traffic will exacerbate this
- There are regularly parked cars running up to the junction with Barnsley Road. It is critical existing car parking spaces are not compromised and that the car park does not have a change of use to reduce capacity.
- There have been fatalities at the junction and more recently the dairy facility on Miller Hill has had large milk truck traffic, causing a bottleneck when turning in from the main Barnsley road to Miller Hill.
- Suggest an area of double yellow lines is extended past existing housing at the bottom of Miller Hill and that residents only parking bays for number 1 Miller Hill in particular are the only cars allowed in this area.
- Works have been going on since May and trade vehicles have regularly been parking at the junction between Barnsley Road and Dry Hill Lane.
- A new site entrance has been created on Barnsley Road near the junction with Miller Hill. The development would cause more distractions at an already dangerous junction.
- The Dunkirk has a large car park about 100 metres away along Dry Hill Lane. Despite this cars park on the roadside. This causes visibility issues for residents at Tenter House Court. Cars also park close to the junction of Dry Hill Lane and Barnsley Road which cause visibility issues. Wish to see double yellow lines up to the car park entrance and signage improved.
- Seek further encouragement for customers to use the car park.

### **Residential Amenity**

- The kitchen garden could be a move to obtain permission to convert the land to commercial use, which could become a beer garden. This would cause issues of noise and privacy for 1 Tenter House Court. Request a covenant to stop it becoming a beer garden.
- It is not clear what the demarcation is for the area defined as a public outdoor space and which area is defined as the kitchen garden. This should be clearly marked with specific provision that prohibits the general public from areas not currently used as outdoor public spaces. Any additional access would cause noise pollution and privacy issues for neighbouring properties, particularly given the agricultural nature of the boundary walls, being a dry stone wall.
- It is unclear how the "naturally landscaped areas" & "Kitchen Garden" will not become an enlarged beer garden. This will impact on surrounding properties through noise pollution, the privacy of neighbours, being overlooked, and the impact on visual amenity.
- No clear plans (other than a Louvre location) have been provided with regard to kitchen extract and in particular odour control.
- The application makes reference to new lighting, however no detail has been given. Concern this will cause unnecessary light pollution.
- Concern that there is sufficient extraction and filtering of air from the kitchen to ensure cooking smells are non-invasive.

- Extraction fans should be carefully placed to direct the smell of food preparation away from properties at Tenter House Court.
- There are 3 bottle bank deposit stations in the car park which create noise issues for residents at Tenter House Court and Dry Hill Lane. Query if they could be locked overnight or removed.

### **Other Comments**

- Works have already started. Query if Building Control has been consulted.
- It appears a large mature tree has been removed.
- The foul drainage system from Tenter House Court runs across the land of the proposed extension. Require care to not damage the system and requires a possible improvement to cope with additional capacity.
- Concern about demand on the existing sewer system and concern future maintenance will be restricted.
- Drainage must be adequate for increased usage from additional customers. In the case of failure the relevant water authorities and residents of Tenter House Court should have adequate access.
- Foundations have started to be laid for a cold storage unit in the garden area. This new outhouse is closely proximate to the boundary of properties on Miller Hill and Tenter House Court. This is not on the plans and it is important and should be in keeping with the construction of the pub as well as the neighbouring properties, one of which is a listed building.
- The main drainage for the properties at Tenter House Court runs through the area marked for the small garden and may run underneath the kitchen extension in part.
- Part 7 of the application form states that slates are to be stone to match existing but existing stone slates have been removed and replaced with artificial slates.

**Denby Dale Parish council** – No objections

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**The Coal Authority** – No objection. No mine workings are present beneath the application site and the risk is negligible.

**Highway Services** – Object; DM would wish to see an increase in off-street parking provision or a reduction in the number of covers (and therefore parked cars) for the proposals to be acceptable from a highway safety perspective.

### **8.2 Non-statutory:**

**Conservation and Design** – No objection

**Environmental Services** – No objections subject to conditions

**Kirklees Council Arboricultural Officer** – No objections

**West Yorkshire Police Architectural liaison Officer** – No objections



## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in planning decisions.
- 10.2 The application site is located within the green belt. Paragraph 143 of the NPPF states inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Paragraph 144 states when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 10.3 Paragraph 145 of the NPPF states a local planning authority should regard the construction of new buildings as inappropriate in the green belt. Exceptions to this include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
- 10.4 Policy LP57 of the Kirklees Local Plan is also relevant. It states proposals for the extension, alteration or replacement of buildings in the Green Belt will normally be acceptable provided that:
- a. in the case of extensions the original building remains the dominant element both in terms of size and overall appearance. The cumulative impact of previous extensions and of other associated buildings will be taken into account. Proposals to extend buildings which have already been extended should have regard to the scale and character of the original part of the building.

- b. in the case of replacement buildings, the new building must be in the same use as and not be materially larger than the building it is replacing.
- c. the proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access; and
- d. the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

- 10.5 The proposal to extend the building forms one of the exceptions set out in the NPPF, subject to the extension not resulting in disproportionate additions over and above the size of the original building. This is reflected in Policy LP57 of the Kirklees Local Plan which stipulates the original building must remain the dominant element. The existing public house is a simple vernacular building with extensions and alterations to eastern end of the site. The proposal extension has such a substantial footprint that even as a single storey extension the existing building would fail to be retained as the dominant element. By reason of its scale and massing it would result in harm to the openness of the green belt, notwithstanding the topography of the adjacent agricultural fields which slope upwards to the north. This is exacerbated by the fact that the curtilage of the existing building is insufficient in size to accommodate the extension and requires encroachment into the adjacent agricultural fields; excavation of existing agricultural land and the construction of boundary walls and retaining structures. This is contrary to the fundamental aim of Green Belt policy as stated in Paragraph 133 of the NPPF which is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence. The proposal would fail to accord with Policy LP57 of the Kirklees Local Plan and the NPPF. In these circumstances therefore, for the application to be acceptable very special circumstances would have to be demonstrated which clearly outweigh the harm.
- 10.6 The applicant's opinion that an extension smaller than that proposed is financially unsustainable. They have provided the following confidential documents for consideration:
- Economic Case
  - Report of the Directors and Unaudited Financial Statements for the Year Ended 31 March 2020.
  - Extension Size Justification Report
  - Alternative General Arrangements With Non Covid-19 Seating Plan
  - Alternative General Arrangements With Covid-19 Seating Plan
- 10.7 The applicant states that they have considered seven alternative layouts (including both Non-Covid and Covid seating plans) with a 1.8m reduction of the depth of the extension, removal of a bay of the oak frame and reorientation of the kitchen and back of house areas. Three are discounted by the applicants because the kitchen is not suitable for a full service and function, two are discounted because the change in covers is unacceptable in respect of profit and loss, and one is discounted because of unfavourable cover ratios and disruption of bar layout. Of the two options remaining, one is the proposed layout and the other relates to an even larger extension where the oak frame, dining and kitchen area increased by 2 metres.

The applicants conclude as follows “Following the interrogation, it has been shown that all of the Options provided, only Option 1 passes all the reasonable tests we have applied. These include operational performance, profit and loss calculations and the consideration of a worsening market”. They go on to say “Therefore, we confirm that the extension proposed is as needed in order to create a sustainable businesses.

10.8 The applicant has also provided the following information to be considered:

1. **The ‘Very Special Circumstances’**

- *The Dunkirk is the heartbeat and meeting place for many local groups and the community would be a much poorer place if this pub were lost.*
- *For many staff who work at the Dunkirk it is their livelihood and the very means by which they support their families.*
- *Given the topography of the land, the proposed extension height is lower than the existing boundary wall height and the extension is to the rear of the existing building. We believe this reduces the impact on the greenbelt.*
- *The Dunkirk is the ONLY facility of its kind in our area to have extensive facilities for wheelchair users. We have been thanked by numerous people with accessibility issues for the work we have done.*
- *The Dunkirk closed in 2016 because it was not economically viable with the loss of numerous jobs.*
- *A group of locals purchased the pub in 2016 and carried out a refurbishment to see if the pub could be turned around. Unfortunately, after a further 3 years of trading it was still a loss making business (despite paying zero rent).*
- *Two of the four people involved could not continue to lose money and left the business in 2019.*
- *The two remaining owners have put together a plan which requires substantial investment, and this includes the requirement for a building extension to the rear of the property to make the business viable (see detailed economic assessment).*
- *If the planning permission is granted this will secure 40 full and part time jobs.*
- *If planning permission is granted the business will continue to support numerous local suppliers who currently supply the business.*
- *If the planning permission is granted, the business will continue to contribute substantial amounts to the local economy.*
- *If the planning permission is granted, the staff facilities will be greatly improved.*
- *If permission is not granted the pub will be another statistic on the closure list of which we understand there have been circa 14,000 closures since the turn of the millennium.*
- *If permission is not granted the 40 jobs would be lost and local suppliers would suffer as a result.*

## **2. List of groups and people who use the Dunkirk:**

- *We have a number of regular, vulnerable and elderly patrons, for whom the Dunkirk is their only social contact. We can provide a list of these people, but we would need to seek their permission to disclose their details.*
- *The Greenworks Group (a team of people with special needs).*
- *Various cycling groups.*
- *Denby Dale Badminton Club.*
- *Denby Dale Tennis Club.*
- *Upper Denby Cricket Club.*
- *Scissett Football Club.*
- *The Vasculitis Charity.*
- *Kirkwood Hospice.*
- *Denby Dale Library.*
- *Forget-me Not Trust.*
- *The Denby Dale Lions Charity.*
- *Numerous local businesses.*
- *Various family celebrations.*
- *Funeral gatherings.*
- *Farming community.*

### **Eight Supporting Documents from Community Groups (summarised below)**

- Local Book Club Hosted by the Dunkirk
- Scissett Football Club The Dunkirk has offered their venue for fundraising and sponsor the playing strip for a Junior Team. Concern that if the Dunkirk closed, the future of Scissett FC would be in peril. Concern this would jeopardise the personal development of local people.
- Lions Club International - The Dunkirk has supported their fundraising for events
- Denby Dale Tennis Club Hosted Annual Dinner and Presentation Evenings at the Dunkirk
- Volunteers of the Kirkwood Hospice community café use the Dunkirk for regular get togethers
- Denby Dale Pie Hall Badminton Club use the Dunkirk after practice and matches, for meetings and functions. Consider if the pub ceased they would struggle to retain membership and could risk the loss of a community sports organisation.
- Greenworks Plus Supported employment provision who work with people with learning disabilities who work within the grounds of the Dunkirk. Will continue working there in the allotment and on other projects. The Dunkirk Inn have gifted a summerhouse.
- Ace Laundry Services, Scissett –Employment of local people and using small business and organisations.

10.9 The circumstances put forward are material considerations, but they would only overcome the presumption against inappropriate development if they were considered to constitute 'Very Special Circumstances'. The proposed development is inappropriate development in the Green Belt which may only be made acceptable by the existence of Very Special Circumstances which clearly outweigh the harm caused to the Green Belt by inappropriateness and any other harm. Policy LP10 of the Kirklees Local Plan seeks to improve the economic performance of the rural economy and the applicants note the proposal will allow staff levels to increase to 40. Policy LP10 makes clear however, that in all cases where development is proposed in the green belt regard must be had to the relevant policies in the local plan and relevant national planning guidance. The key consideration here is the substantial scale of the extension and the required encroachment/excavation of agricultural fields. It is noted the applicant has now reduced the red line boundary to omit a proposed kitchen garden/outdoor area, although the creation of this outdoor space remains on the current block plan with no clear demarcation/boundary treatment relating to the reduced red line boundary. The applicants have provided evidence that the public house is used socially and for meetings for individuals and local community organisations, with some expressing concerns that the closure of the public house would put their organisations at risk. Officers have not seen evidence for these claims however it is clear the public house is used frequently by local community groups. At the heart of the NPPF is a presumption in favour of sustainable development. The public house is not in a local centre and the desirability of retaining an existing business and associated jobs must be weighed against the impact to the openness of the green belt. It is considered the information provided are not considered capable of constituting 'very special circumstances' to justify and clearly outweigh the harm caused to the Green Belt by the construction of what is, by definition, inappropriate development and its impact upon the openness of the Green Belt.

#### Highway Safety Matters

10.10 Policy LP21 of the Kirklees Local Plan states new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe. A number of concerns have been raised in the representations received which include that the crossroads are an accident 'blackspot' with recent fatalities, and that extra traffic will exacerbate this. There is also concern about existing on-street parking and visibility issues.

10.11 The Design and Access Statement supplied by the applicant explains that the development will increase kitchen space, the size of the dining area, and improve toilet facilities and staff quarters. This will allow staff levels to increase to 40, along with an increase in customer capacity. Additional information has been provided by the applicant with regard to parking provision. Highways Development Management (HMD) note the details provided suggest that there will be space for 37 vehicles in the existing car park, plus a further 8 spaces on-street that have been traditionally used by customers. HMD would not wish to encourage or exacerbate the on-street parking around this junction, so the on-street parking cannot be considered as part of the available provision. Furthermore, the submitted car park layout does not take into account existing storage units or the community bottle bank.

- 10.12 The parking assessment submitted by the applicant suggests up to 65 off-street parking spaces would be required at peak times to accommodate all vehicles associated with the drinking establishment. Although this may be slightly lowered by the proposed use of a minibus to taxi customers to and from the venue, it would seem unlikely that this could be so significant as to reduce peak vehicle numbers to 37 or fewer. Given the above, Highways DM would wish to see an increase in off-street parking provision or a reduction in the number of covers (and therefore parked cars) for the proposals to be acceptable from a highway safety perspective. HDM cannot therefore support the proposals in their current form which would be detrimental to highway safety and contrary to Policies LP21 and LP22.

#### Visual Amenity and Heritage Matters

- 10.13 The Dunkirk public house occupies a prominent position at the junction of Barnsley Road with Dry Hill Road and is located in proximity to the Grade II listed former barn at 1 Tenter House Court. Policy LP35 of the Kirklees Local Plan states development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. Furthermore, policy LP24 of the Kirklees Local Plan states proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.
- 10.14 Conservation and Design consider that doubling the size of the building footprint towards the Grade II listed former barn at 1 Tenter House Court would cause less than substantial harm to the setting of the barn by developing within the green space between this building and the listed farm buildings. They consider the harm is mitigated to some extent by setting the extension into the hillside with a dry-stone boundary wall to the north, and with natural stone external masonry and artificial stone slates which reflect the local vernacular and maintain local distinctiveness as required by Local Plan Policy LP35. In line with NPPF paragraph 196, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Conservation and Design note that the Dunkirk Inn has been a public house since at least 1891 and therefore it has some historic value, particularly communal value, and has recently been restored to a high standard. Although the listed farm buildings already have viable uses, the applicant states that this proposal is required to ensure that the Dunkirk Inn itself retains a viable use. Conservation and Design therefore consider that if an assessment of the viability appraisal finds an extension of this size to be essential for the future viability of the public house, they would consider this to outweigh the less than substantial harm. In line with the above resolution of the principle of development, it is not considered this test is met and therefore the proposal would fail to accord with Policy LP35 of the Kirklees Local Plan.

## **Impact on Residential Amenity**

- 10.15 Policy LP24 of the Kirklees Local Plan states proposals should provide a high standard of amenity for future and neighbouring occupiers. The nearest neighbouring residential properties which have the potential to be affected by the development are located off Dry Hill Lane and Tenter House Court to the north-east of the application site. Concerns regarding the impact on residential amenity have been raised in the representations received including concerns that the proposed kitchen garden could be a move to obtain permission to convert the land from agricultural use to a beer garden, and that any additional access for the public in outdoor spaces would cause noise pollution and privacy issues for neighbouring properties. There are also concerns there are no clear details for kitchen extraction or lighting.
- 10.16 In respect of the impact on No.1 Dry Hill Lane this is a bungalow property located to the north-east whose garden abuts the application site. The proposed development would bring the footprint of the building closer to this property, however the proposed kitchen extension would be single storey with a lean to roof and it is considered due to the intervening existing area of outside space, there would not be a detrimental overbearing impact on this neighbouring property. It is not considered there would be any detrimental loss of privacy to this neighbouring property.
- 10.17 In respect of the impact on No.1 Tenter House Court, this is the Grade II listed former barn. It is considered due to the extension being single storey there would be no detrimental overbearing impact. The proposed windows in the dining area are at a sufficient distance to avoid any detrimental overlooking impact. The use of a proposed kitchen garden is not clear, however the amended red line boundary now excludes this from consideration.
- 10.18. Environmental Services note the kitchen will require mechanical extraction plant and any noise from this operation will need to be controlled along with any other mechanical plant serving the premises i.e. chillers, condensers etc. A noise assessment condition would therefore be necessary. Cooking odours will also need to be controlled to ensure they do not cause a nuisance to neighbouring properties, and this matter can also be controlled by condition. Further conditions are also recommended to ensure the applicant prevents the discharge of fats, oils and grease from food service kitchens into the wastewater stream and to control construction noise to protect the amenity of neighbouring properties during the construction phase. Subject to conditions these matters would be addressed.
- 10.19. In conclusion it is considered there would be no detrimental impact on residential amenity in accordance with policy LP24 of the Kirklees Local Plan.

## **Climate Change**

- 10.20 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-

dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. The proposal to erect a substantial extension would generate significant carbon emissions, however this is an existing public house building and on balance it is not considered the proposal would have a detrimental impact on the Climate Change agenda.

### **Other Matters**

- 10.21 The application falls within The Coal Authority's defined Development Area and is supported by a Coal Mining Risk Assessment. The Coal Authority note the report conclusively states that no mine workings are present beneath the application site and assesses the risk to be negligible. The Coal Authority raise no objections to the application.
- 10.22 Environmental Services note the submitted Coal Mining Risk Assessment indicates the land is in a shallow coal mining area and ground gas may be present. Environmental Services therefore request a contaminated land assessment be provided, and this matter can be addressed by Condition.
- 10.23 The West Yorkshire Police Designing Out Crime Officer raises no objections.

### **Representations**

- 10.24 A total of twenty representations have been received, including 12 letters of support, 4 objections and 4 other comments. The comments in support are noted.
- 10.25 In so far as the comments raised have not been addressed above:

Works have already started. Query if Building Control has been consulted.

**Response:** These comments are noted however the works undertaken which require planning permission are at the risk of the applicant and could be subject to enforcement.

It appears a large mature tree has been removed.

**Response:** The arboricultural officer raises no objections to the proposal

The foul drainage system from Tenter House Court runs across the land of the proposed extension. Require care to not damage the system and requires a possible improvement to cope with additional capacity / Concern about demand on the existing sewer system and concern future maintenance will be restricted / Drainage must be adequate for increased usage. In the case of failure the relevant authorities and residents of Tenter House Court should have adequate access. The main drainage for properties at Tenter House Court runs through the area marked for the garden and may run underneath the kitchen extension.

**Response:** No drainage details have been submitted for the proposed extension but this matter would be considered as part of an application for Building Regulations.



Foundations have started to be laid for a cold storage unit in the garden area. This outhouse is close to the boundary of properties on Miller Hill and Tenter House Court. This is not on the plans and should be in keeping with the construction of the pub and neighbouring properties.

**Response:** This comment is noted however the erection of an outbuilding has not been presented for consideration as part of this planning application.

Part 7 of the application form states that slates are to be stone to match existing but existing stone slates have been removed and replaced with artificial slates.

**Response:** This comment is noted.

## **11.0 CONCLUSION**

- 11.1 The proposal extension to the existing public house by reason of its substantial scale and massing would result in harm to the openness of the green belt. This harm is further exacerbated by the fact that the curtilage of the existing building is insufficient in size to accommodate the proposed extension and requires encroachment into adjacent agricultural fields. The proposal would fail to accord with Policy LP57 of the Kirklees Local Plan and chapter 13 of the National Planning Policy Framework and constitutes inappropriate development in the green belt. It is considered the supporting information provided is not capable of constituting 'very special circumstances' which clearly outweigh the harm to the Green Belt.
- 11.2 The proposal to double the size of the building footprint towards the Grade II listed former barn at 1 Tenter House Court would cause less than substantial harm to the setting of the barn by developing within the green space between this building and the listed farm buildings. It is not considered this harm is outweighed by public benefits and the proposal would therefore fail to accord with Policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework. Furthermore, the proposal provides insufficient of-street parking to serve the expected increase in customers and peak vehicle numbers, and would have a detrimental impact on highway safety contrary to Policies LP21 and LP22 of the Kirklees Local Plan. Recommendation is for refusal.

### **Background Papers:**

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91601>

Certificate of Ownership –Certificate A signed: