
Report of the Head of Development Management

STRATEGIC PLANNING COMMITTEE

Date: 01-Dec-2016

Subject: Planning Application 2016/92029 Erection of extension to existing Kingsgate Shopping Centre to form new Leisure Development including new cinema and restaurants, and demolition of existing buildings on the site including 20-22 Cross Church Street (partly within a Conservation Area) Proposed development site comprising, 20-22, Cross Church Street, Fleece Yard, Sun Inn Yard and White Lion Yard, Huddersfield, HD1 2TP

APPLICANT

Peter Everest, WD
Kingsgate Ltd

DATE VALID

20-Jun-2016

TARGET DATE

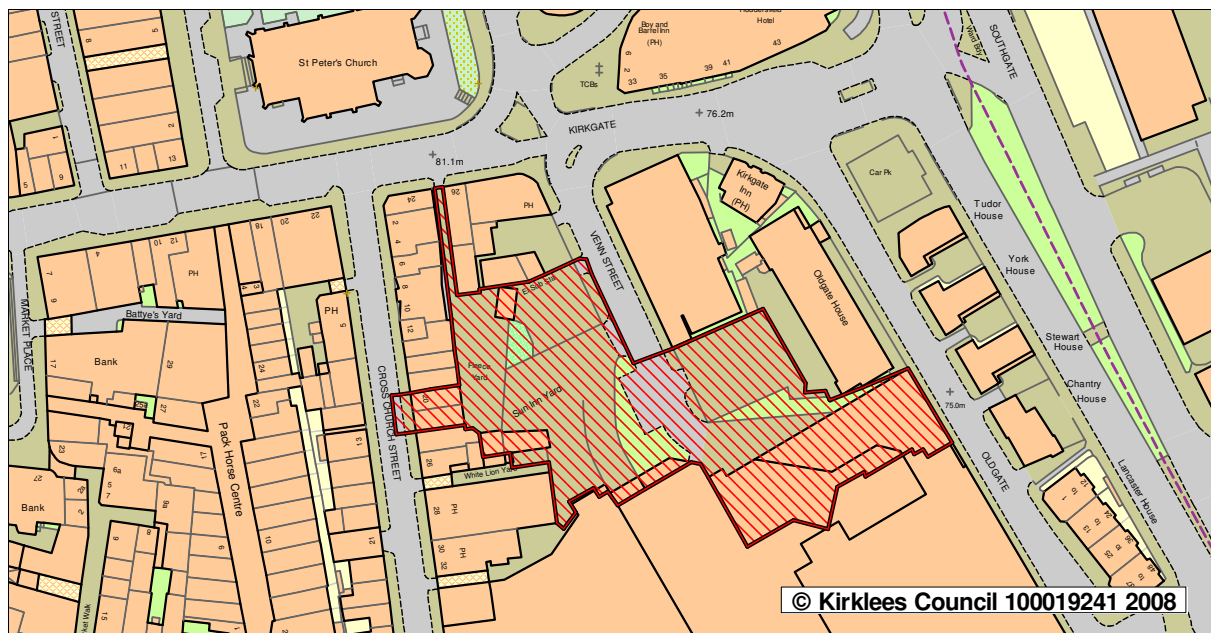
19-Sep-2016

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Newsome

Yes

Ward Members consulted

RECOMMENDATION:

Grant conditional full planning permission subject to the delegation of authority to the Head of Development Management in order to complete the list of conditions contained within this report (and any added by the Committee) and to secure a S106 agreement to cover the following matters:

1. To secure £185,000 towards highway improvement works on Cross Church Street.
2. To secure £30,000 towards a public art work on Cross Church Street and £10,000 towards appropriate preparation of the area.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development Management shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.0 The principle of a mixed use leisure and retail development within this highly sustainable central town centre location is welcomed. The proposal would cause less than substantial harm to the affected heritage assets which would be outweighed by the economic and regeneration benefits. Members will recall visiting the site and then discussing the application and listed building consent at November Strategic Planning Committee as part of the Position Statement report. Members responded to the questions within the November Position Statement report as follows:
- 1.2 Members supported the principle of the development of a mixed use leisure and retail development in this town centre heritage location.
- 1.3 Members were comfortable with the extent of alteration and demolition proposed to the listed buildings and were also comfortable with the overall scale and massing of the cinema/retail building.
- 1.4 Members requested improvements to the relationship between the development and the Palace theatre student accommodation.
- 1.5 Members also requested the use of natural stone to the side elevations of the cinema building.
- 1.6 Members were supportive of a canopy to the front elevation but requested further design details and to improve the canopy's appearance.
- 1.7 Members were also supportive of the idea of improving the pedestrian feel to Cross Church Street and to seek improvements to the shop fronts and signage generally along Cross Church Street.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises land and buildings adjacent to the existing Kingsgate Shopping Centre within Huddersfield Town Centre. The site includes No's 20-26 Cross Church Street together with Fleece Yard, Sun Inn Yard and White Lion Yard. The site is located within the Huddersfield Town Centre insert map and located within the Huddersfield Town Centre Conservation Area.

3.0 PROPOSAL:

- 3.1 The application seeks planning permission for an extension to the Kingsgate Centre to form a new leisure destination. This would include a cinema complex and restaurant space, and for an extension to the existing Next retail unit to provide an additional 1,949 sq m of retail floor space.
- 3.2 The extension would be large in scale, and have a functional appearance, which would extend from the rear of properties off Cross Church Street, across the existing yard areas to Venn Street, including land to the west of Oldgate House. Six restaurant units are proposed at mall level with a total

floor space of 2,911 sqm. The cinema entrance would be located at first floor with direct access from the mall via an escalator. The cinema multi-screen complex is located at second floor and comprises an area of 2,303 sqm. The proposed materials include reconstituted stone, metal cladding systems, render, curtain walling and metal feature beam. It is proposed that the highest level of wall cladding forming the envelope of the cinema level is to have a reflective, low maintenance, gloss finish.

- 3.3 The proposal would involve the partial demolition of two listed buildings: No's 20-22 Cross Church Street. The extent of demolition involves removal of the internal a ground floor wall which divides the two properties to in order to create an enlarged a pedestrian entrance to the cinema. The rear ground floor wall would also be removed to allow a new glazed link to connect to the rear of the listed buildings to the new cinema/restaurant element of the development. Following historic England's consultation response the canopy which was proposed extending out into the pavement above the ground floor of both 20 and 22 Cross Church Street has been omitted from the scheme. The scheme still proposes hanging sign and a proposal for public art on Cross Church Street to act as a way marker. The link to the interior of the Kingsgate Mall is via the existing location of the mid escape corridor which will be glazed top lit.
- 3.4 The existing service access point will remain off Venn Street, with an undercroft parking area of 8 spaces and the provision of a new ramp. The intention is to utilise the existing multi-storey parking to serve the proposed leisure development.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 88/06698 – Outline application for retail development, refurbishment of Queen Street Mission and King St yards with ancillary parking & highway works – conditional outline permission
- 4.2 89/06911 – Outline for retail & ancillary development including refurbishment of the yards properties, environmental improvements and associated change of use – Conditional Outline permission
- 4.3 91/02220 – Reserved Matters for new shopping centre and associated development including car parking – Approval of reserved matters
- 4.4 96/92049 – Erection of covered shopping centre with car parking including use classes A1, A2, A3 (shops, financial & professional services, food & drink) and ancillary uses (amended proposals) – conditional full permission
- 4.5 96/93118 – Variation of condition 1a relating to the time limit for submission of reserved matters being extended to eight years on previous approval 89/06911 for outline application for retail and ancillary development including refurbishment of the yards – Conditional Full Permission

- 4.6 2001/90493 – Erection of centre-wide shop signage – Advertisement consent granted
- 4.7 2007/92060 – Outline application for extension to existing shopping centre to provide additional floor space (Class A1 and A3), basement car parking, servicing and associated development (partly within a conservation area) – Mind to refuse. Appeal upheld
- 4.8 2008/90016 – Outline application for extension to existing shopping centre to provide additional floor space (class A1 and A3), basement car parking, servicing and associated development (party within a conservation area) – Refused.
- 4.9 2011/91613 – Extension to time limit for implementing existing permission number 2007/60/92060/W1 for outline application for extension to existing shopping centre to provide additional floor space (class A1 and A3), basement car parking, servicing and associated development – Granted

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Officers have undertaken negotiations with the applicant to secure:
- A reduction in the height of the building of approximately 4metres.
 - Revised elevational details to secure corners to the highest cinema level to soften the building profile.
 - A revision to the roof profile of the ‘Next’ extension to widen the gap between the proposed building and neighbouring residential properties.
 - The introduction of Natural Yorkshire stone
 - Greater reflectivity introduced to the top level cladding
 - A reduction in the extent of demolition proposed to 20-22 Cross Church Street
 - It is the developers’ intention to remove the proposed entrance feature (canopy) and details of amended plans will be reported to Members in the update.
 - A contribution towards improving Cross Church Street and making it more pedestrian friendly for shoppers and visitors.

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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007).
- 6.2 The Council’s Local Plan will be published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy

Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (adopted 1999) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.3 D2 – Unallocated land
- BE1 – Design principles
- BE2 – Quality of design
- BE12 – Space about buildings
- S1 – Town Centres/Local Centres shopping
- TC1 –Huddersfield Town Centre Policies
- T10 – Highway Safety
- G6 – Land contamination

National Planning Guidance:

- 6.4 Chapter 1 – Building a strong, competitive economy
- Chapter 2 – Ensuring the vitality of town centres
- Chapter 7 - Requiring good design
- Chapter 8 - Promoting healthy communities
- Chapter 10 - Meeting the challenge of climate change, flooding
- Chapter 11 – Conserving and Enhancing the Natural Environment
- Chapter 12 - Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 One representation have been received from Huddersfield Taxis Ltd

No objection as long as the office at 27 Cross Church Street will be accessible for vehicles to pick customers up 24 hours a day.

- 7.2 Huddersfield Civic Society – No objection to the plan in general but concern the proposed canopy protrudes too far into Cross Church Street and is garish in appearance. The street is already rather narrow and the canopy would further reduce its width as well as have a detrimental effect on the setting of the listed parish church. The way markers between the existing Kingsgate entrance and the proposed cinema entrance are also gaudy and unnecessary, detracting from the Conservation Area. The HCS have been reconsulted on the revised scheme and their comments will be brought to Committee in the Update report.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

8.2 **K.C Highway Services** – No objections

8.3 **Historic England** – Accept the scheme as it stands with the exception of the new entrance feature. Unless this feature is removed, they object on the grounds that the proposal will result in major harm to the significance of the listed buildings, and would harm this part of the conservation area and the setting of the Grade II* listed building. Historic England has confirmed verbally that if the canopy is removed, they would not exercise their right to call in the application to the Secretary of State.

8.4 **The Environment Agency** – No objections

8.5 **The Coal Authority** – No objections

8.6 Non-statutory:

8.7 **K.C Environmental Services** – No objections

8.8 **Ecologist** – No objections

8.9 **K.C Conservation and Design** – No objections

8.10 **K.C Flood Management** – No objections

8.11 **The Victorian Society** – Objected to the original submission due to the size of the cinema building and the impact of the front canopy and the alterations to the frontage of the two listed buildings which form the entrance into the development. The VS have been reconsulted on the revised scheme and their comments will be brought to Committee in the Update report

8.12 **Council for British Archaeology** – Objected to the original submission due to the impact on the listed buildings, the conservation area and the setting of St Peters Church. The CBA have been reconsulted on the revised scheme and their comments will be brought to Committee in the Update report.

8.13 **Yorkshire Water** – No objections

8.15 **West Yorkshire Police Liaison Officer** – No objections

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Ecological Issues
- Highway issues

- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

10.1 Principle of development

10.1 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004). The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment.

10.2 The NPPF sets out a presumption in favour of sustainable development. For decision taking this means ‘approving development proposals that accord with the development plan without delay’. Paragraph 23 of the NPPF states planning policies should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality; promote competitive town centres that provide customer choice and retain and enhance existing markets and, where appropriate re-introduce or create new ones, ensuring that markets remain attractive and competitive.

10.3 Policy TC1 of the UDP states the role of Huddersfield Town centre will be enhanced by:

- Improving the range, quality and quantity of shopping provision
- Increasing the amount of housing by conversion of properties and new building
- Encouraging additional employment opportunities
- Providing leisure and recreation facilities;
- Improving the quality of the built environment and open spaces
- Supporting the expansion of the University and Technical College
- Managing private and public transport to improve access and safety
- Extending the pedestrianisation of shopping streets and reducing town centre traffic, and
- Enabling development opportunities.

10.4 Considered against these objectives, the proposed extension to the Kingsgate centre would provide new leisure facilities, assist in improving the quantity of shopping provision, and would provide significant employment opportunities. The proposed economic benefits of the scheme are detailed in the supporting Economic Statement. The Kingsgate shopping centre makes up 33% of Huddersfield Town Centre’s total retail footprint, and there is an identified

need to secure the future vitality and viability of Kingsgate. The proposed retail extension to the 'Next' unit would continue to support the viability and vitality of the retail sector within the town centre and fully accords with the principals of chapter 1 of the NPPF. It is proposed that in addition to the construction jobs, 259 full time jobs would be created within the new development.

- 10.5 The proposed cinema and restaurant uses would enhance the existing night-time economy of the town centre by providing a different offer to that provided by the high concentration of public houses and hot food takeaways within the vicinity of the site. There would be significant public benefits to diluting the 'alcohol economy' in this part of the town centre and the proposal would strengthen the vitality and viability of the overall town centre.
- 10.6 The principle of a mixed use leisure and retail development within this highly sustainable central town centre location is welcomed. As such there are no objections to the principle of development.
- 10.7 Urban Design and Heritage Matters
- 10.8 The footprint of the proposed leisure complex is of a significant scale which would extend from the rear of properties off Cross Church Street, across the existing yard areas to Venn Street. The development footprint also extends into land to the west of Oldgate House to provide an extension to the existing Next unit. The site is partially located in the Huddersfield Town Centre Conservation Area, and the proposed development would affect a number of heritage assets including 20-22 Cross Church Street, all separately Grade II listed and the setting of several other listed buildings including St Peter's Church, Grade II* listed.
- 10.9 The special interest of the conservation area is characterised by the town's nineteenth century buildings, a variety of streetscapes, alleyways and yards focused along the ancient east - west axis of Kirkgate and Westgate. During the late eighteenth and early nineteenth centuries, Huddersfield expanded rapidly with commercial and industrial development to the north and south of the market place. Cross Church Street is one of a number of north- south routes leading to Kirkgate and provides significant views of both St Peter's Church, Grade II* listed and the former St Paul's Church. The historic street pattern, narrow plots and dense urban grain of Cross Church Street reflects the town's growth during this period and is characterised by the continuous streetscape.
- 10.10 The distinctive character of the street is strengthened by small scale commercial properties including 20 - 22 Cross Church Street (Grade II listed) constructed from Pennine Gritstone with a consistent pattern of fenestration and pitched roofs clad with stone slates. These buildings make a positive contribution to the conservation area and the setting of St Peter's Church.

- 10.11 Levels vary across the site, generally sloping downwards from Cross Church Street to Venn Street. Level pedestrian access would be achieved from Cross Church Street leading through to the proposed restaurant units and onto the existing shopping mall. The cinema complex is proposed on the upper floor with access provided via escalator. The roof line of the building would sit above that of neighbouring properties along Cross Church Street and the former Palace Theatre, and the building would have a functional box like appearance to be constructed of a mix of natural stone, reconstituted stone, aluminium cladding and render.
- 10.12 Paragraph 128 of the NPPF stipulates that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 131 states local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.
- 10.13 Historic England supports the proposed development in principle, but raised a number of concerns regarding the scale and massing of the building and the impact on the conservation area, the impact on listed buildings 20-22 Cross Church Street, and the impact on the setting of several other listed buildings, including St Peter's church, grade II* listed.
- 10.14 Officers have undertaken negotiations with the applicant to secure a reduction in the height of the building of 4.1 metres, together with revised elevational details to secure corners to the highest cinema level to soften the building profile. The proposed construction materials now include natural Yorkshire stone to the gable elevation, and the top level cladding would have greater reflectivity. Further negotiation has been undertaken with the developer, and it is their intention to increase the amount of natural Yorkshire Stone on the northern elevation to ensure that only natural stone is visible above and around the sides of the existing neighbouring building. The details of the amended plans will be reported to Members in the update.
- 10.15 The massing and height of the proposed building is still significant, and it is appropriate to give consideration as to how this compares to the previously approved scheme for an extension to the Kingsgate Centre in 2007. This was an outline application which sought to approve details of scale, approved at appeal in 2008 with a later extension of time granted in 2011. It is therefore a material consideration to the assessment of this application. The proposed height of the scheme is comparable to that previously proposed, although the footprint of the extension is significantly reduced in comparison to the 2007 scheme which previously incorporated both the former Palace Theatre and Oldgate House.

- 10.16 Historic England welcomes the revisions the applicant has made to the proposed scheme. They note the reduction in height of the proposed retail extension and consider it imperative that careful thought is given to the palette of materials to further mitigate the harm.
- 10.17 Revisions have also been secured to reduce the amount of demolition proposed to the listed buildings, and the treatment of the entrance off Cross Church Street. The relationship between the proposed mall and 20-22 Cross Church Street has been redesigned so that 22-22 will be clearly read as distinct buildings in their own right, and not confused as part of the new build proposal. A comprehensive set of enhancements are proposed to include the removal of modern features, and the entrance feature off Cross Church Street has been revised to allow less obstruction to views down the street towards St Peter's Church.
- 10.18 Historic England welcomes the refurbishment of the front elevations of 20-22 Cross Church Street, and consider this has the potential to enhance the buildings and the wider streetscape along this important route through the conservation area. They are also pleased to see the comprehensive schedule of alterations to the listed buildings, and the retention of more of the rear elevation, and the reduction in size of the opening link to the cinema. They welcome the retention of the first floor, although they remain concerned about the removal of the staircase from ground to first floor. They are concerned the proposed ladder access would preclude the use of the upper floors and remain to be convinced that the removal of this fabric will not harm the significance and use of the upper floors. They are also concerned that there is limited information regarding how structures will be adequately supported to form the opening at ground floor. In response to this, officers understand that the rooms will be left vacant which can be an issue for future maintenance. However, the existing stair is non-original so no historic fabric is to be removed and should the use change in the long term, a stair case can be reinstated. In the meantime it is proposed that ladder access is to be provided. Similarly this applies to the basement. Details of how the structure will be supported can be submitted through condition. This is an acceptable compromise.
- 10.19 Historic England still raise concerns about the extension of the frontage into Cross Church Street with the formation of a canopy which could obscure views of the listed buildings, including St Peters Church and the contribution 20-22 Cross Church Street make to the historic streetscape. The applicant has sought to overcome these matters by removing the proposed totem signage from the canopy and proposing a single hanging sign above. The applicant has also proposed to contribute £30,000 towards a public art work on Cross Church Street which would act as a way marker, together with £10,000 towards appropriate preparation of the area. In the most recent consultation Historic England remain to be convinced by the need for the projection into the street and why this cannot be achieved by appropriate signage, lighting and hard landscaping. They are concerned this addition will obscure views of the listed buildings including St Peters Church and the contribution the 20-22 Cross Church Street makes to the historic streetscape.

In response the developer has confirmed that they will be removing the proposed canopy from the proposal, and details of amended plans will be reported to Members in the update. Historic England has confirmed verbally that if the canopy is removed, they would not exercise their right to call in the application to the Secretary of State.

10.20 Subject to the above matters being addressed, it is likely that the proposal could amount to less than substantial harm. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The economic benefits of the scheme have already been stated. The applicant has offered a contribution towards highway improvement works along Cross Church Street to the value of £185,000, the details of which are considered in the highway section below. It is considered the proposed significant benefits to the town centre economy of Huddersfield, and the impacts on the vitality and viability would be sufficient to outweigh the harm in this case. This is however, dependent on the applicant addressing the concerns about the canopy.

10.21 Residential Amenity

10.22 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. UDP Policy D2 requires the effect on residential amenity to be considered and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows of existing and proposed dwellings.

10.23 The nearest residential properties to the site include student accommodation in the former Palace Theatre and Oldgate House and residential uses within the buildings off Cross Church Street.

10.24 The relevant distances are:

- 13 metres from the extension to habitable room windows of residential units within Oldgate House
- 2 metres from the extension to habitable room windows of the proposed residential units within the former Palace Theatre
- 2 metres from the extension to the rear of properties off Cross Church Street.

10.25 The distance of 12 metres achieved to the student accommodation at Oldgate House is considered to be acceptable. It is considered there would not be a detrimental overshadowing impact, or a loss of amenity on the occupants of this building.

- 10.26 In respect of the impact on residential properties off Cross Church Street, the only residential properties are at No.24 Cross Church Street. Planning permission was granted in 2012 (Ref 2012/93380) for the conversion for the basement, and first and second floors to residential accommodation. Planning permission was also granted in 2013 (Ref 2013/91196) for conversion of the roof space. The accommodation approved within the roof space is lit by roof lights, and on the first and second floors the rear windows which front onto the application site serve non habitable rooms. Within the basement the kitchen / dining space fronts onto the site. There would inevitably be an impact on outlook and light to the rear of this property, however, on balance, this is not considered to be unduly detrimental when weighed up against the wider benefits of the scheme.
- 10.27 The proposed extension would however, have a closer relationship with the student accommodation in the former Palace Theatre, made more acute by a recent planning approval (2016/91196) for an extension to the south of the former theatre to create additional units. This would have the effect of the proposed extension being brought even closer to residential units, which are yet to be constructed. This raises concern about loss of light to habitable rooms in those units which will front south onto the development site. Whilst there would be no window openings in the retail extension leading to a loss of privacy there would be an impact on light. Clearly this would be harmful to future occupiers if the extension to the Palace Theatre student development is constructed and occupied. To address this concern and following November's Position Statement report and discussion by Committee, the applicant has stepped the roof form of the building to increase the separation distance. The two upper floors of the building (floor level 4 & 5) would be relatively unaffected by the proposal, the third floor would suffer some loss of light, and the first and second floor would remain affected. It is clear the applicant has listened to the concerns of Members on this matter and sought to amend the scheme as much as is particularly possible to improve the amenity to the student flats. Several flats have now had their amenity significantly improved and others will see a benefit from the increased light to the flat windows which is considered overall as much as reasonably can be achieved. Weighing everything in the balance, it is considered the proposed regeneration benefits weigh in favour of the proposal.
- 10.28 In respect of noise, Environmental Services note the details submitted with the application gives a design target criteria for the proposed external plan fans on the roof. Given the proximity of existing residential units, i.e. the student accommodation on Kirkgate (old palace theatre) and Old Gate (old Council building) Environmental Services are concerned that this design target is too high. Therefore, a site specific noise report will be needed to produce an appropriate noise criteria based on BS4142:2014. We recommend that a rating level of 0dB be achieved when calculated at the façade of the residential units. Environmental Services raise no objections subject to the inclusion of a condition requesting a report specifying the measures to be taken to protect the occupants of nearby noise sensitive premises from noise.

10.29 Ecological issues

10.30 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. Due to the urban nature of the site and surrounding land the range of species that could potentially be affected by the proposals is low and typically there is limited opportunity for ecological enhancement. There are however, records of nesting swifts behind Oldgate House. The last record was in 2010 and at the time the colony was considered to be declining. This highlights the potential for ecological impacts and an offence under the Wildlife and Countryside Act 1981 (as amended), i.e. destruction of active bird nests, but also an opportunity for ecological enhancement. The Council's ecologist recommends that a bird breeding survey is undertaken to include the exterior of the buildings immediately adjacent to the proposed development and focusing on the potential for nesting swift. A survey has not been provided however, the ecologist is confident that subject to suitable mitigation, the proposal could be acceptable. This should include the provision of swift nests on the new building and can be secured by condition.

10.31 Highway issues

10.32 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. The site is located within the town centre and in a highly sustainable location. The intention is to utilise the existing facilities of Kingsgate car park as whilst the cinema / restaurant facility would be open throughout the day, the majority of use by non-shoppers will be during the evening when the car park is empty. This arrangement is considered to be acceptable.

10.33 In respect of servicing, the service access point for the development will be from the existing service yard of Kingsgate, and there will be no change to the entry / exit point. It is however, proposed to construct a new entrance ramp parallel to the existing to free up the existing ramp as an access point for TK Maxx and the new development. It is proposed the undercroft to the development would be used for staff car parking, recycling facilities, utilises and refuse disposal. Highway Services raise no objections to the proposed development.

10.34 As noted above the developer proposes to make a contribution of £185,000 towards Improvements works along the length of Cross Church Street. Members will recall their broad support at the November Committee meeting for the Council improving the appearance of Cross Church Street. An indicative for information purposes only scheme has been prepared by the Council which includes the provision of a build out to accommodate the proposed entrance, block paving with planters, and the provision of a contraflow cycle lane along with a raising and narrowing of the carriageway to make a near smooth surface from one side of the street to the other. The increased footway widths would involve the removal of the on street car parking that exists and the removal of the taxi rank and would be subject to consideration under the Highway Acts separate to this planning application. If

the Council decides to pursue these works to the Cross Church Street in order to improve the pedestrian and cyclist experience and to upgrade the streetscape, this would enhance the setting of the listed buildings and make a positive contribution to improving this part of the conservation area. It would also contribute to the vitality and viability of the town centre. The proposed improvement works would be undertaken by the Council using the proposed developer's contribution to part fund the works. The proposed improvements are considered to represent a significant environmental improvement to this part of the town centre, and the monetary contribution would be secured through a Section 106 agreement.

10.35 Drainage issues

10.36 The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. The applicant has indicated an intention to discharge surface water to the public sewer. Given the location of the development, in the built up central area, there is little scope to provide space for attenuation to meet the 30% flow guideline. The area only shows combined sewers and no other systems, and is 100% positively drained. Kirklees Flood Management do not object to connections to the public sewer network. However, they advise that alternative measures such as green or blue roof systems incorporating attenuation of flows, and/or grey water recycling should be secured. The Local Authority are obligated to ensure SUDS systems are considered, and would be beneficial in combatting the impact of climate change on local drainage networks. This could be addressed through condition.

10.37 Yorkshire Water initially objected as the proposed building would be sited over the public sewerage system and would jeopardise Yorkshire Water's ability to maintain the system. The developer has liaised with Yorkshire Water to agree a sewer diversion, and on this basis they have removed their objection. Drainage issues are addressed subject to conditions.

10.38 Representations

10.39 One representation has been received from Huddersfield Taxis Ltd. They note that they would raise no objection as long as the office at 27 Cross Church Street will be accessible for vehicles to pick customers up 24 hours a day. In response the proposed improvement works to Cross Church Street would be via a separate process to the planning application and subject to appropriate consultation.

10.40 The amended plans publicity expires on 25th November and any further comments received will be brought to Committee in the Update report.

10.41 The Civic Society have commented on the original plans and raise no objection in general but are concerned that the proposed canopy protrudes too far into Cross Church Street and is garish in appearance. They are concerned the canopy would further reduce the limited width of the road as

well as have a detrimental effect on the setting of the listed parish church. They are also concerned that the way markers between the existing Kingsgate entrance and the proposed cinema entrance are gaudy and unnecessary, detracting from the Conservation Area. In response to this, the proposed way markers have been omitted, to be replaced by a piece of public art, and it is the developers' intention to remove the canopy. The HCS have been reconsulted on the revised scheme and their comments will be brought to Committee in the Update report.

10.42 Planning obligations

10.43 The applicant has offered a contribution towards highway improvement works along Cross Church Street to the value of £185,000, and £30,000 towards a public art work on Cross Church Street and £10,000 towards appropriate preparation of the area. This will be secured by a Section 106 agreement.

10.44 Other Matters

10.45 Health and Safety

The site falls within the defined Development High Risk Area where there are coal mining features and hazards which need to be considered. The Coal Authority note the applicant has obtained appropriate and up-to-date coal mining information, this identifies the site has been subject to past coal mining activity, namely unrecorded probable historic shallow coal workings. The report concludes that further site investigations are to be undertaken to establish the exact situation regarding coal mining legacy. The Coal Authority has no objection subject to the imposition of appropriate conditions.

10.46 Air Quality

Huddersfield Town Centre is currently an Area of Concern. It is the Policy of the Councils that in areas of concern, where developments will have a negative impact on air quality, that the impact should be assessed and mitigated against. Environmental Services therefore request that the developer submit a report that assesses the impact the development could have on Local Air Quality. In particular, the pollution damage costs attributed to the proposal are to be calculated to determine the amount of mitigation required to reduce this impact. The report should specify what measures the developer intends to take to reduce this impact. Subject to the inclusion of appropriate conditions, air quality matters are addressed.

10.47 Contamination

Environmental Services have assessed the Phase 1 Report and raise no objections subject to the inclusion of a Phase II report and remediation strategy. Contamination land issues can be addressed through condition.

10.48 Environmental Matters

The Environment Agency raise no objections as they controlled waters at this site are of low environmental sensitivity.

11.0 **CONCLUSION**

11.1 The principle of a mixed use leisure and retail development within this highly sustainable central town centre location is welcomed. The proposal would cause less than substantial harm to the affected heritage assets which would be outweighed by the substantial economic and regeneration benefits to this part of the town centre.

11.23 The harm to the living conditions of the student flats if the extension to the Palace theatre was built has been discussed within the report. The scheme has been amended in light of the concerns raised by Members about this relationship and although the first and second floor flats would be affected the upper 3 levels of accommodation have had their amenity either significantly or noticeably improved by the amendments the developer has made to the plans. Overall therefore weighing the benefits against the impacts of the scheme it is clear that the planning balance falls in favour of the application. As such the application is recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)

1. Timeframe for implementation
2. Development in accordance with the approved Plans
3. A Phase II Contaminated Land Report
4. Remediation Strategy
5. Validation Report
6. Scheme of drainage measures to incorporate green or blue roof systems and / or grey water recycling
7. Prevention of any building over or within 3 metres either side of the centre line of the public combined sewers
8. A scheme for the proposed means of disposal of foul and surface water drainage, including details of any redirection of flows linked to sewer diversion.
9. Prevention of any building 3 metres either side of the live water main.
10. Scheme detailing intended crime prevention measures
11. A Noise Report specifying measures to protect occupants of nearby noise sensitive premises at Kirkgate and Oldgate.
12. Air Quality Impact Report
13. The provision of swift nesting opportunities
14. Details of how the listed buildings will be supported.

Background Papers:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92029>

Certificate of Ownership – Notice served on:

Mr David Harvey of 6 Cross Church Street
The owner of 28 Kirkgate
The owner of 41 Kirkgate
Jonathan Wilson of 14 St Georges Square
Phil Kelly of 90 New North Road
Mr Patel of 100 Westbourne Road
Messrs Forshaw of 14 Wood Street
Martyn Roe of 6-8 James Street
The Owner of 14-16 Cross Church Street
The Owner of 18 Cross Church Street
The Owner of 18 Cross Church Street
The Owner of 20 Cross Church Street
The Owner of 22 Cross Church Street
The Owner of 24 Cross Church Street
The Owner of 26 Cross Church Street
The Owner of 28 Cross Church Street
The Owner of 26 Kirkgate