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**Report of the Head of Development and Master Planning****STRATEGIC PLANNING COMMITTEE****Date: 20-Jun-2019**

**Subject: Planning Application 2018/93568 Change of use of existing unit in a mixed Class A1/A2/A3 retail development to form a mixed A1/A2/A3/A4/D2 retail and leisure development, internal alterations and reconstruction of upper level, with extension, external slide and formation of roof terrace for use as sky bar Kingsgate Centre, Store 1, King Street, Huddersfield, HD1 2QB**

**APPLICANT**

Peter Everest, WD  
Kingsgate Ltd

**DATE VALID**

29-Oct-2018

**TARGET DATE**

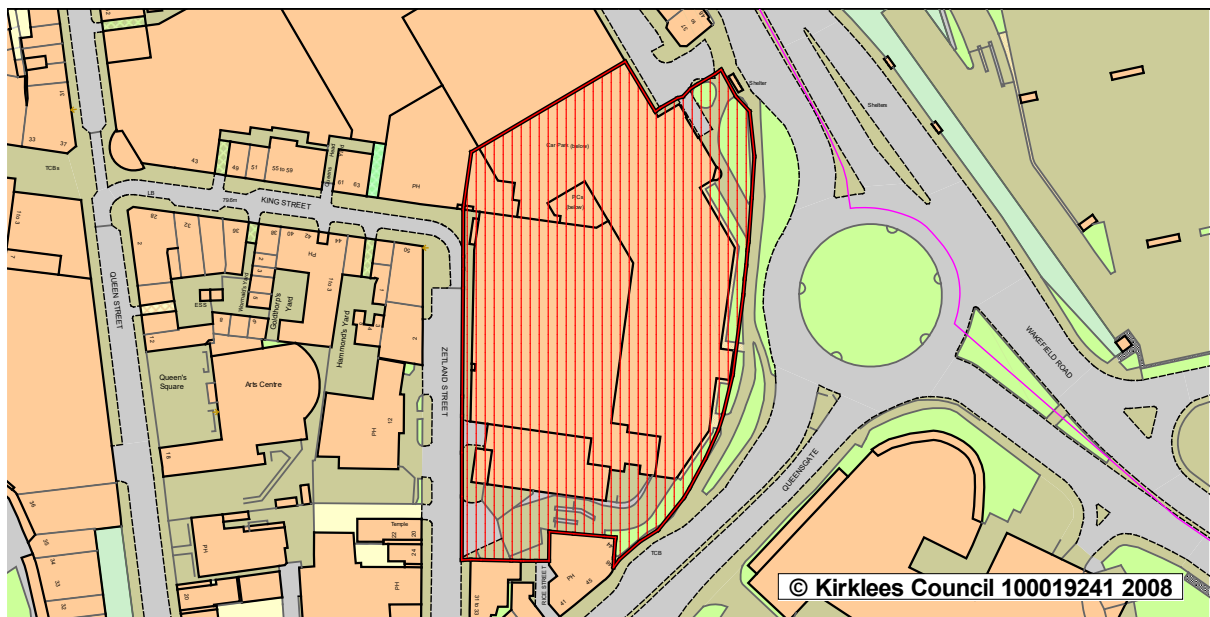
28-Jan-2019

**EXTENSION EXPIRY DATE**

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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: Newsome**

Yes

Ward Members consulted  
(referred to in report)

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## **RECOMMENDATION**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. To secure a financial contribution for the improvement of the local highway network (£25,000)

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 and Master Planning 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 and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION**

- 1.1 The application seeks the change of use and subdivision of an existing unit within the Kingsgate Centre, with a use class of A1/A2/A3, to form a mixed use retail and leisure development of A1/A2/A3/A4/D2. Specifically, the proposal seeks several restaurant units and food courts (A3) within the lower ground floor and cinema (D2), with ancillary Sky Bar, on the upper floor. This incorporates internal and external alterations, including the reconstruction of the upper level through a roof extension.
- 1.2 The application is referred to the Strategic Planning Committee as the proposal is non-residential and has a site area exceeding 0.5ha. This is in accordance with the Council's delegation agreement.
- 1.3 The application was initially brought to the Strategic Planning Committee on the 3<sup>rd</sup> of January, 2019. Members resolved to support the application, subject to an additional condition relating to a Traffic and Pedestrians Management Plan, to include details of drop off and pick up arrangements, and further details on the planned night time car parking arrangement. Members requested that these details be returned to committee.

- 1.4 The applicant has now provided further details on the Highways arrangements, which includes providing a turning and drop-off area, alongside a condition for monitoring traffic post development being agreed. Additionally, the applicant has provided an amended frontage plan onto Zetland Street and has included a Sky Bar associated with the Cinema use.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The Kingsgate Centre principally hosts retail units. The application site comprises land within the Kingsgate Centre, and associated adjacent land. The proposed works relate to the largest A1 retail unit within the Kingsgate Centre, split over three floors, which is currently occupied by the department store House of Fraser. The proposal also relates to the Centre's roof.
- 2.2 The Kingsgate Centre is on the south-eastern edge of Huddersfield Town Centre. To the west the application site fronts onto the bottom of Kings Street and Zetland Street, which mostly host restaurant and drinking establishments. The Kingsgate's Zetland Street elevation hosts an entrance to House of Fraser's lower ground floor, a mixture of blank and glazed elevations, the service and car park entrances. To the south and east of the site is Huddersfield Town Centre's ring-road and Shorehead Roundabout.

## **3.0 PROPOSAL**

- 3.1 The existing A1 retail unit is split over three floors. These are to be changed into separate uses.
- 3.2 The lower ground floor, on level with Zetland Street, currently has an A1/A2/A3 permission but operates as A1. The proposal seeks to change this to an A1/A2/A3/A4/D2 use, with the current intention to sub-divide the area into four restaurants and 'street food' units facing into a food court, in addition to the cinema's access lobby and retail storage.
- 3.3 The ground floor level, accessed from the Kingsgate Centre, is to remain in an A1 use. Physical alterations are limited to the removal of the existing escalators connecting the centre's three floors and the installation of a staircase and elevators connecting the lower ground and upper floor levels (to serve the cinema).
- 3.4 The upper level, currently an A1 use with ancillary café, is to be converted to a D2 Cinema Use. It is to provide 9 screens, of varying sizes. To accommodate these screens, a roof extension is required. A part of the centre's existing roof is to be converted into a 'Sky Bar' ancillary to the cinema.
- 3.5 At its tallest point the roof extension is to project upwards 8.6m above the Centre's existing parapet wall. This is on the Zetland Street elevation. This is not evident from all elevations due to the existing building's parapet walling and varied existing roof height. For example, from the Shorehead elevation the visible increase is 5.4m. The extension has an irregular, roughly square, footprint with maximum dimensions of 45m x 55m. It is to be clad in metal panels (grey) with feature reflective panels. At the centre of the roof extension's own roof is to be 2.0m high plant screening.

- 3.6 Other works proposed are to the frontage onto Zetland Street. This includes forming several new access points into the new restaurant units, the food court and cinema lobby. Glazed panels are to be installed at lower ground floor level, with a projecting canopy overhead, and new signage locations above (no details of proposed signs at this time).
- 3.7 The application seeks an external slide, connecting the roof terrace Sky Bar to the cinema lobby. The design provided at this time is indicative, but shows a sloping looping cylinder with an indicative material of steel with no given colour.
- 3.8 The following hours of use are sought;

Use	Monday to Friday	Saturday	Sunday / Bank Holidays
A1 (Shops)	0600 – 0200	0600 – 0200	0600 – 0200
A2 (Financial and professional services)	0600 – 0200	0600 – 0200	0600 – 0200
A3 (Restaurant and Café)	0600 – 0200	0600 – 0200	0600 – 0200
A4 (Drinking Establishments)	0600 – 0200	0600 – 0200	0600 – 0200
D2 (Assembly and leisure)	Always open		

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

##### 4.1 *Application site (including the whole Kingsgate Centre)*

88/06698: Outline Application for Retail Development Refurbishment of Queen St. Mission & King St. yards with ancillary car parking & highway works – Conditional Outline Permission

91/02220: New Shopping Centre and associated development including car parking – Approval of Reserved Matters

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

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) – Section 106 Full Permission

2016/92030: Listed Building Consent for 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) – Consent Granted

2018/90166: Outline permission for alterations and conversion of retail unit (A1) to 58-bedroom hotel (C1), partial demolition of building at level 4, erection of extension at roof level, erection of lift/stair core extension and erection of canopy to King Street at street level (within a Conservation Area and setting of Listed Buildings) – Conditional Outline Permission

2018/93933: Erection of extension at level 4 above existing unit store 1 – Withdrawn

2018/93937: Change of use from existing Class A1 (retail) to Class D2 (assembly and leisure) erection of entrance canopy, entrance lobby and a public lift (within a Conservation Area) – Conditional Full Permission

#### 4.2 *Surrounding area*

Given the site's location within Huddersfield Town Centre there are numerous planning applications within the surrounding area. Beyond those referenced above, none are considered relevant to the current application.

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

- 5.1 Officers have sought clarification on the proposed materials of construction, how the site would operate and the impact on the local highway. During the course of the application the applicant decided to amend the plans, most notably on the Zetland Street elevation. This was their own choice, without officer feedback.
- 5.2 At the committee on the 3<sup>rd</sup> of January, 2019, members resolved to support the application. This was subject to an additional condition relating to a Traffic and Pedestrians Management Plan, to include details of drop off and pick up arrangements, and further details on the planned night time car parking arrangement. Members requested that these details be returned to committee.
- 5.3 This led to further negotiations between officers and the applicant. As a result, an on-site turning and drop-off area has been incorporated into the scheme. Further details on car parking management have been provided, alongside a condition for monitoring traffic post development being agreed.
- 5.4 While these discussions were ongoing the applicant provided further amended plans, changing the frontage onto Zetland Street and including a Sky Bar ancillary to the cinema. This was on their own volition, following internal review. Discussions also took place in regards to the proposed conditions' wording, with comprehensive details being provided to enable concise and precise conditions to be imposed.

### 6.0 **PLANNING POLICY**

#### Kirklees Local Plan (LP)

- 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 27th February 2019).

6.2 The site is Unallocated on the LP Policies Map. However the site falls within the Huddersfield Town Centre Local Centre boundary, being part of a Primary Shopping Area and with the frontage into the Kingsgate Centre a Primary Shopping Frontage. The site is adjacent to the Huddersfield Town Centre Conservation Area.

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP13** – Town centre uses
- **LP14** – Shopping frontages
- **LP16** – Food and drink uses and the evening economy
- **LP17** – Huddersfield Town Centre
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP25** – Advertisements and shop fronts
- **LP30** – Biodiversity and geodiversity
- **LP35** – Historic environment
- **LP47** – Healthy, active and safe lifestyles
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality

#### National Planning Guidance

6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19th February 2019, and the Planning Practice Guidance Suite (PPGS), first launched 6th March 2014, together with Circulars, Ministerial Statements and associated technical guidance.

6.4 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 7** – Ensuring the vitality of town centres
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **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 has been advertised via site notice, press notice and through neighbour letters to addresses bordering the site. This is in line with the Council's adopted Statement of Community Involvement. The end date for the original period of publicity was the 7<sup>th</sup> of December, 2018.

- 7.2 Following receiving the latest amended plans, the application was re-advertised by neighbour letters and directly to those who provided comments during the original period of public representation. The second period of publicity expired on the 30<sup>th</sup> of May, 2019.
- 7.3 As a result of the advertisement periods one representation was received. The following is a summary of the comments made;
- The NPPF supports cinemas as a town centre use. Hope local policy reflects this.
  - A3/A4 uses would also be positive. While the Kingsgate is Huddersfield's only shopping centre it is lacking such services.
  - Limited highways details have been provided, raising concerns over the introduction of a D2 use. The ring road is already a cause for concern and the intensification of parking could be an issue.

#### Local Member Response

- 7.4 Councillors Karen Allison and Julie Stewart-Turner expressed initial concerns over the proposal. Following a meeting between the councillors and officers, in which the proposal's details were discussed in more length, the councillors provided no further objection.
- 7.5 Local ward councillors were notified of the latest amended plans. At the time of publishing, no response has been received. Should any comments be received, they will be reported to members in the update.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

Historic England: No objection.

K.C. Highways: Have been involved in the negotiations between the applicant and officers. Subject to the proposed conditions and based on the details submitted since the committee held on the 3<sup>rd</sup> of January, no objection.

### **8.2 Non-statutory**

K.C. Conservation and Design: Note the mass and scale of the extension, however consider the benefits of the proposal to outweigh the harm caused. Welcome the improvements to the Zetland Street elevation.

K.C. Crime Prevention: No response received.

K.C. Ecology: No objection subject to condition.

K.C. Environmental Health: No objection subject to condition.

K.C. Policy: No objection on policy grounds.

K.C. Public Health: Have provided advice and guidance to the applicant.

Yorkshire Water: No response received.

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is one such material consideration. The starting point in assessing any planning application is, therefore, to ascertain whether or not a proposal accords with the relevant provisions of the development plan; the Kirklees Local Plan (2019). When a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.
- 10.2 NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.
- 10.3 The site is within Huddersfield Town Centre. NPPF Paragraph 85 requires that planning decisions to support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. This includes retaining and enhancing existing markets and, where appropriate, re-introduce or create new ones. This is supported by the preamble of LP13, which states;
- Town centres are continually changing, and evolve depending on market supply and demand at any particular time. The habits and requirements of consumers, businesses, and visitors are also a contributory factor. Centres provide an important cultural destination for communities, and provide goods and services which are essential for people to live and work and for businesses to prosper and be successful.*
- 10.4 The proposal would result in the net loss of 5290sqm of retail floor space, although these floors are noted to have permission to convert to A2 or A3 (granted under the Kingsgate Centre planning permission). Being the upper and lower floors, neither of these front onto primary or secondary shopping frontages but are within Primary Shopping Areas. However, Primary Shopping Areas do not exclude non-retail uses. While officers note the loss of retail space within a Primary Shopping Areas, given the recent economic climate and known retail business issues, in principle officers welcome the diversification of both the Kingsgate Centre and Huddersfield Town Centre.



- 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. Turning to jobs, the current site has an equivalent number of full-time jobs of 145. The proposed figure is unknown, however officers are satisfied that it would be either equivalent or higher, given the comparable densities of employment between A1 and A3/D2 uses.
- 10.6 To conclude on the principle of development, the principle of introducing 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. Consideration must be given to the proposal's local impact, outlined below.

#### Urban Design issues, including the Historic Environment

- 10.7 Policy LP24 requires development to promote good design, which should respect and enhance the character of the townscape. This requirement is reflected by Paragraph 127(c) of the NPPF, which states;

*Planning policies and decisions should ensure that developments: are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

- 10.8 Establishing the historic context, while not within the Huddersfield Town Centre Conservation Area, because of the site's proximity to the Conservation Area's boundary it has the potential to impact upon it. Furthermore there are numerous listed buildings adjacent to the site. Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 introduce a general duty in respect of Listed Buildings and Conservation Areas. In considering whether to grant planning permission for development which affects a listed building, its setting or the setting of a Conservation Area the LPA should give special attention to the desirability of preserving or enhancing the character or appearance of heritage assets. Additionally, Policy LP35 and NPPF Chapter 16 outline the principle of development and restrictions for heritage asset development.
- 10.9 First, consideration is given to the changes to the Zetland Street elevation. Currently it is a predominantly blank wall, with some interest provided by darkened glazed sections and changes in material. Regardless it is considered to provide little in terms of visual amenity value and is clearly identifiable and a secondary side/rear elevation.
- 10.10 The proposal seeks to change the Zetland Street elevation into an active frontage through creating several new entrances, adding a canopy and areas for advertising. The works are considered visually attractive and appropriately links with the proposed roof extension, resulting in a coherent new commercial frontage that is modern and suitably harmonises and respect the more traditional setting on Kings Street.

- 10.11 Some concern is held over the proposed upper signage locations, which do not have a central alignment, although it is acknowledged that these are dictated by the existing glazed sections. Furthermore the details of the proposed signs would be subject to separate Advertisement Consent applications. Given the site's location to the Conservation Area, suitably high quality adverts which respect the traditional character and architecture of the area would be sought in such applications. The other signage locations are considered appropriate.
- 10.12 A notable inclusion of the proposal is an external slide connecting the roof-terrace Sky Bar to the lobby of the cinema. It will be prominently visible, running from the roof and along the elevation fronting onto Zetland Street, which will become a principal elevation by virtue of this proposal. The arrangement of the slide shown on the plans is indicative, with the final appearance being subject to specialist consultant design and specifications. There are no comparable forms of development within Huddersfield Town Centre. This in itself is not a cause for concern, however design policy does require new development to respect and harmonise with the surrounding development's built form. While a visually unique feature, the slide would enhance the entertainment offer of the site, which this development is seeking to turn into a key entertainment centre for the town centre. On balance, officers do not oppose the inclusion of the slide in principle, although a condition is to be imposed requiring full technical details to be submitted prior to its erection, to include appearance, materials and ongoing maintenance.
- 10.13 Turning to the roof extension, the addition of a lightweight and modern roof extension is not unique within Huddersfield Town Centre, with examples being evident on Dundas Street (The Alteration Shop) and Half Moon Street (Standard House). However that proposed is of a greater scale and would be visible from several prominent gateways and vistas around the town. Conversely, architecturally Kingsgate is a large and modern-designed building, compared to many of Huddersfield more traditional buildings. The proposed extension has a lightweight, attractive yet functional appearance that would allow it to appear subservient to, while harmonising with, the host building.
- 10.14 The Kingsgate's most prominent elevation is that facing onto Shorehead. However, on this elevation the proposed roof extension is set well back into the structure, away from the frontage (circa 15.0m), and has the lowest increase in height compared to the existing parapet wall (5.4m). Because of this, while officers acknowledge the extension will be visible, it is not anticipated to appear overly prominent or incongruous so as to appear visually unattractive. Turning to Zetland Street, although the extension would be close to the road frontage it remains 5.0m set back into the building's roof. This results in a limited angle of view for pedestrians within the street, minimising its prominence and apparent mass. Views from within Huddersfield Town Centre, which are predominantly on a higher ground level are restricted due to the massing of development within the town.
- 10.15 The extension will be visible from other viewpoints. However those referenced are the most prominent and impactful. For the reasons given, officers do not consider the mass, scale and appearance of the extension harmful to the visual amenity of the wider area.

- 10.16 Considering the materials, metal cladding is proposed. The Zetland elevation, which would have the greatest mass of the extension, it is to be broken up by reflective panels. Brochures of the proposed materials have been provided. Officers are satisfied that the materials sought would suitably harmonise with the host building while achieving the objectives of being lightweight and a subservient appearance. Nonetheless, if minded to approve, officers would seek a condition requiring samples to be provided, to ensure a suitable end product is used.

### *Historic Environment*

- 10.17 Considering the above in the context of the historic environment, the NPPF requires that all development should preserve or enhance the character of conservation areas and setting of listed buildings. The improvement of the shop fronts on to Zetland Street are deemed an enhancement and is as such compliant with the NPPF. Regarding the roof extension, the increase in height does have an impact upon the setting and character of the conservation area and therefore is considered to cause harm. The slide, as an overtly modern feature in close proximity to the historic environment, would also cause a level of harm. However, the identified cumulative harm is not considered to impact upon the overall significant of either the Conservation Area or adjacent listed buildings and is deemed less than substantial. It is noted that Historic England, while consulted, decided to provide no comment or objection. Accordingly, officers conclude the harm to be less than substantial.
- 10.18 In accordance with the NPPF, where less than substantial harm is caused it must be weighed against the public benefits. The public benefits of this scheme are considered to include the enhancements to the Zetland Street frontage, securing a financial contribution to improve local highways and securing a vital and viable use within a town centre, which in turn will increase footfall and 'spend' in the area. These have been considered by officers and K.C. Conservation and Design, who conclude that the public benefits will outweigh the harm caused.
- 10.19 Concluding on the above, officers are satisfied that the proposed works would be visually attractive upon the host building, complementing the existing built form, while also harmonising with the surrounding area. While some harm would be caused to the historic environment, this would be outweighed by the public benefits of the proposal. Therefore the development is deemed to comply with Policy LP24 and LP35 of the LP and Chapters 12 and 16 of the NPPF.

### Residential Amenity

- 10.20 While the proposal would increase the height of the existing structure, officers are satisfied that there are no 3<sup>rd</sup> party residential units within a close enough proximity to the site to suffer from harmful overbearing or overshadowing from the proposed development.
- 10.21 Considering overlooking, the development would increase the amount of glazed openings within the Zetland Street elevation. However these face into the road and the opposing neighbouring drinking establishments. Therefore no harm would be caused. The roof-terrace Sky Bar would provide views to the east, south and west. To the east is the ring road and to the west is Zetland Street with the aforementioned neighbouring drinking establishments. To the

south are other commercial properties, however several of these are noted to host residential flats at upper levels. However, given the separation distance, the level differences between the units and the roof terrace and the layout of windows on the neighbouring properties, officers are satisfied that there would not be a harmful overlooking relationship caused by the roof-terrace Sky Bar.

- 10.22 Restaurant, drinking establishment and assembly and leisure (A3, A4 and D2 respectively) uses have the potential to be noise and odour pollutants. It is proposed that the A3/A4 units would have hours of use of 0600 – 0200, with the cinema seeking none to be specified. The roof-terrace Sky Bar would operate 0900 – 2300 (2200 Sundays and Bank Holidays).
- 10.23 First considering noise, the site is within Huddersfield town centre and is surrounded by commercial premises. This includes the retail units and drinking establishments on King Street and Zetland Street and the other retail units within the Kingsgate Centre. Beyond the Kingsgate Centre is the ringroad, itself a source of noise pollution.
- 10.24 The ground-floor A3/A4 units front onto Zetland Street, and are faced by neighbouring drinking establishments. For a town centre establishment, their desired hours of use until 0200 is considered reasonable and consistent with other similar uses on Zetland Street and King Street.
- 10.25 Cinemas are required by their nature to have high standards of noise attenuation (for example, between screens to protect user experience). Accordingly, officers consider it unnecessary and unreasonable to require technical specifications of noise mitigation. In discussion with the applicant and Environmental Health, officers propose a condition requiring the Cinema to be inaudible from any nearby noise sensitive premises, which is considered a reasonable method of control. A similar condition would be sought for associated plant equipment.
- 10.26 The roof-terrace Sky Bar is to operate as an ancillary part of the Cinema. However given its nature it has a greater possibility to cause noise pollution. Officers consider the desired hours of use to be reasonable and appropriate for such a use, however also seek a Noise Management Strategy via condition. This would detail possible sources of noise pollution and how they'd be managed. This is supported by Environmental Health.
- 10.27 Turning to odour pollution, Environmental Health have requested that a condition be imposed requiring technical detailing be provided for the required extraction units for the A3/A4 units prior to use commencing. While the applicant has stated these would be at roof level and are unlikely to cause issue, given the concentration of units sought and the unknown occupancy of these units, officers consider this to be a reasonable condition and seek the imposition of the condition.
- 10.28 In summary, subject to the above referenced conditions, officers are satisfied that the proposed development would not cause harm to residential amenity, in accordance with the aims and objectives of LP24 and LP52 of the Local Plan and Chapters 12 and 15 of the NPPF.

### Highway issues

- 10.29 Policy LP21 of the KLP 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 existing and proposed uses are anticipated to have a similar demand for parking, albeit with different peaks in demand.
- 10.30 Considering parking, the applicant intends to use the existing facilities of the Kingsgate's car park (in addition to other nearby car parks serving Huddersfield Town Centre). The Kingsgate's car park serves the A1 retail unit that currently occupies the site. In the context of the wider Kingsgate Centre and being within the town centre, officers are satisfied that A1, A3, A4 and D2 uses have broadly similar demand for parking; therefore the existing car park is deemed able to accommodate the proposed change of use. Conversely, A3, A4 and D2 use's demand for parking would be more evening orientated, compared to retail being through the workday. The proposed change of use would therefore more evenly spread the demand for parking at the Kingsgate's car park into the evening, when the car park is currently underutilised.
- 10.31 At the committee on the 3<sup>rd</sup> of January members sought further clarification on the proposal's impact upon the local Highway networks. Specific concerns were held over the proposal leading to increased movements on King Street, which has a timed access only Traffic Regulation Order (TRO).
- 10.32 Discussions between officers, Highways and the applicant have led to the agreement of a condition requiring a traffic survey be undertaken prior to the development being brought into use. This would be repeated six months after the cinema use commencing, followed by an assessment of any identified increase in traffic. The assessment would include consideration of the necessary provision of any traffic management measures required to control associated development traffic. In addition the proposal has been amended to incorporate a turning and drop off area, accessed via Zetland Street. This will ensure a place for patrons to be safely and efficiently dropped off and for vehicles to safely turn off the Highways, as opposed to being forced to undertake the manoeuvre on the carriageway. The turning area would share an access with the main car park and service yard. However, subject to a management plan for the turning area, to detail how it would be appropriately managed (such as signage staff) officers are satisfied there would be no conflict between users.
- 10.33 While the proposal is not anticipated to increase vehicular demand, it would increase that from pedestrians within the town centre. To address concerns of the impact on the local network, the developer proposes to make a contribution of £25,000 towards council led Highway improvements initiatives in the local area. The improvement works would be undertaken by the Council using the developer's contribution to part fund the works to mitigate the increased usage of the pedestrian network. The indicative 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.

- 10.34 Servicing arrangements for the Kingsgate Centre are to remain as existing. Officers are to seek a Construction Management Plan via condition, given the nature of the proposed development and the site's access constraints.
- 10.35 Subject to the abovementioned conditions and securing the contribution via S106, officers are satisfied that the proposed development would not harm the safe and efficient operation of the Highway, in accordance with Policy LP21 of the LP and Chapter 9 of the National Planning Policy Framework.

### Other Matters

#### *Crime prevention and counter terrorism*

- 10.36 The proposal seeks restaurants and drinking establishments within Huddersfield Town Centre. Furthermore it would result in an intensification of a public area. Crime prevention and counter terrorism are material planning considerations, as outlined by LP24 of the LP and Chapter 8 of the NPPF.
- 10.37 The applicant has undertaken consultation with the National Counter Terrorism Policing and will continue to do so through the technical design process. This is welcomed, however to ensure suitable measures are proposed and implemented, if minded to approve a condition is to be imposed.

#### *Air Quality*

- 10.38 Huddersfield Town Centre is an Area of Concern and it is located within an Air Quality Management Area (Queensgate/Southgate). Previously officers considered the development to represent Major development for purposes of air quality. On review of the West Yorkshire Low Emission Strategy, given that the proposal principally seeks a change of use, with no new floor space being created, it is concluded that the proposal is not Major development.
- 10.39 Notwithstanding this, Air Quality mitigation is still sought. Discussions have taken place between officers, Environmental Health and the applicant over enhancing the provision of charging points within the Kingsgate's car park. It has been agreed to secure a condition requiring a scheme to be provided by the applicant, detailing the number and type to be provided, prior to the development being brought into use.
- 10.40 Subject to such a condition, officers are satisfied that the proposal would comply with the aims and objectives of LP24 and LP51 of the LP and Chapters 9 and 15 of the NPPF,

#### *Ecological considerations*

- 10.41 The proposal seeks alterations and enlargements to the roof. While officers are satisfied there will be no harm to local ecology, the LP and NPPF seek for planning applications to provide ecological enhancements. This has been considered by K.C. Ecology who consider the most appropriate enhancement to be swift boxes, to support the local population. This is to comply with LP33 and Chapter 15 of the NPPF.

## Representations

10.42 One representation was received. The following is a summary of the comments made, with officer response;

- *The NPPF supports cinemas as a town centre use. Hope local policy reflects this.*
- *A3/A4 uses would also be positive. While the Kingsgate is Huddersfield's only shopping centre it is lacking such services.*

**Response:** These comments are noted and align with officer's consideration of the principle of development.

- *Limited highways details have been provided, raising concerns over the introduction of a D2 use. The ring road is already a cause for concern and the intensification of parking could be an issue.*

**Response:** This is noted. However, as addressed within the Highways section officers are satisfied that the proposal would not represent a material intensification in demand for parking. As noted, a contribution is sought for local highway improvements to address pedestrian demand.

## **11.0 CONCLUSION**

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 The principle of converting retail space within the Kingsgate Centre into leisure, resulting in a mixed used leisure and retail development, is welcomed in principle. This is taking note of the sustainable town centre location. While the proposal would cause harm to the neighbouring Conservation Area, this is deemed to be less than substantial. The less than substantial harm is outweighed by the public benefits of the proposal.

11.3 Officers raise no objections to other material planning considerations, including highways, residential amenity and ecology.

11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development and Master Planning)**

1. Time limit (3 years commencement)
2. In accordance with plans
3. Facing materials to be provided
4. Construction management plan
5. Ecological enhancements (swift colony)
6. Crime and counter terrorism measures
7. Cooking Odour Impact Assessment
8. Charging point scheme
9. Turning area / drop off point to be provided
10. Scheme for management of turning area / drop off point
11. Traffic survey to be undertaken
12. Sky bar noise management
13. Details of slide to be provided
14. Sky bar hours of use
15. Restaurant hours of use
16. Cinema inaudibility
17. Associated plant noise control

### **Background Papers**

#### Application and history files

Available at;

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018/93568>

#### Certificate of Ownership

Certificate A signed