

Application No: 2016/92029

Type of application: 62m - FULL APPLICATION

Proposal: *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)*

Location: *Proposed development site comprising, 20-22, Cross Church Street, Fleece Yard, Sun Inn Yard and White Lion Yard, Huddersfield, HD1 2TP*

Grid Ref: 414662.0 416697.0

Ward: *Newsome Ward*

Applicant: *Peter Everest, WD Kingsgate Ltd*

Agent: *Hector Black, Covell Matthews Architects*

Target Date: *19-Sep-2016*

Recommendation: *For Members to note the content of the report and respond to the questions asked*

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

1. SUMMARY OF APPLICATION

Application Details		
Type of Development	Leisure and Retail Development	
Scale of Development	Proposed Floor Space: A3 (2,911sq m) D2 (2,303sq m) and A1 retail (1,949sq m)	
No. Jobs Created or Retained	259 New full time jobs	
Policy		
UDP allocation	The site falls within the Town Centre Insert Map and is otherwise unallocated.	
Independent Viability Required	No	
Representation/Consultation		
Individual Support (No.)	0	
Individual Objection (No.)	0	
Petition	0	
Ward Member Interest	No	
Statutory Consultee Objections	Yes	
Contributions		
• Public Realm Improvement Works	£185,000 contribution towards highway improvements on Cross Church Street	
• Other Issues		
• Any Council Interest	Yes	
• Planning Pre-Application Advice	Yes	
Pre-App Consultation Undertaken?	Yes	
Comment on Application	Yes	
	Yes	
	Yes	
	POSITION STATEMENT – For Members to note the content of the report and respond to the questions asked	

RECOMMENDATION: For Members to note the content of the report and presentation and respond to the questions at the end of each section

2. INFORMATION

The application is referred to Strategic Committee as it proposes major development over 1250 square metres of retail floorspace.

3. SITE DESCRIPTION/PROPOSAL

Site Description:

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.

Proposal:

The application seeks planning permission and listed building consent for the erection of 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.

The extension would be large in scale, and have a functional box like appearance, which would extend from the rear of properties off Cross Church Street, across the existing yard areas to Venn Street, and 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 the highest level of wall cladding forming the envelope of the cinema level is to have a reflective, low maintenance, gloss finish.

The proposal would involve the partial demolition of two listed buildings: No's 20-22 Cross Church Street. The extent of demolition is being revised but at present the scheme 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. A canopy is proposed extending out into the pavement above the ground floor of both 20 and 22 Cross Church street with a glazed 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.

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. BACKGROUND AND HISTORY

88/06698 – Outline application for retail development, refurbishment of Queen Street Mission and King St yards with ancillary parking & highway works – conditional outline permission

89/06911 – Outline for retail & ancillary development including refurbishment of the yards properties, environmental improvements and associated change of use – Conditional Outline permission

91/02220 – Reserved Matters for 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

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

2001/90493 – Erection of centre-wide shop signage – Advertisement consent granted

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

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.

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. PLANNING POLICY

The site is unallocated on the Kirklees Unitary Development Plan proposals map.

Kirklees Unitary Development Plan

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 Policy Framework

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

6. CONSULTATIONS

The following is a brief summary of the consultation responses received. Where necessary, these consultations are reported in more detail in the assessment below:

K.C Highway Services – No objections

K.C Flood Management – No objections

The Environment Agency – No objection

West Yorkshire Police Liaison Officer – No objections

The Coal Authority – No objections

K.C Environmental Services – No objections

K.C Ecologist – Recommend a bird breeding survey is undertaken

K.C Conservation and Design – Waiting comments to revised scheme

Historic England – Oppose the application in its current form due to the impact on 20-22 Cross Church Street from the extent of demolition proposed and the lack of justification for this. They also oppose the canopy and signage scheme projecting out on to Cross Church Street. Revised Plans have been provided by the developer to overcome historic England's concerns, the outcome of these discussions will be brought to Committee in the Update report.

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 a subsequent Strategic Planning Committee.

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 a subsequent Strategic Planning Committee.

Yorkshire Water – Object - The building would be constructed over the public sewerage system which could jeopardise Yorkshire Water’s ability to maintain it.

7. REPRESENTATIONS

The application has been advertised by neighbour letter, newspaper advertisement and site notice with the amended plans publicity to expire 4th November.

At the time of writing no representations have been received.

8. ASSESSMENT

General principle:

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.

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.

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.

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.

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.

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.

Are there any comments which Members wish to make in relation to the principle of the proposed development at this stage?

Urban Design and Heritage Matters:

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.

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.

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.

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 reconstituted stone, aluminium cladding and render.

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.

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.

Officers have undertaken negotiations with the applicant to secure a reduction in the height of the building. The revised elevations show a significant reduction in height of 4.1 metres, and the benefits of this in respect of visual amenity and the impact on heritage assets is clearly shown in the Visual Impact Assessment provided.

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.

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. The latest revisions now propose to retain all the first floor and the retention of the staircase in the upper floor. 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.

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.

They also welcome 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 have raised concerns however, regarding the removal of the first floor to create the mall entrance, and the bridge linking to one room on the second floor of 20 Cross Church Street. The latest revised plans seek to overcome this concern by retaining the ceiling above the ground floor and removing the glazed link at the upper floor. Historic England are being consulted on these latest revisions and committee will be updated on the progress of these discussions. There is concern there is limited information as to how the structures will be adequately supported. There is still also concern about the extension of the frontage into Cross Church Street with the formation of a canopy and totem signage, 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 is seeking to address these matters.

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 Historic England's assessment of any further revisions received.

Are there any comments which Members wish to make in relation to the design/scale of the proposal and the impact on heritage assets at this stage?

Impact on highway safety:

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.

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.

As noted above the developer proposes to make a contribution of £185,000 towards Public Realm Improvements works along the length of Cross Church Street. A 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. This would involve the removal of some on street car parking that exists and would be subject to consideration under the Highway Acts if the Council decided to pursue this works to the Cross Church Street in order to improve the pedestrian and cyclist experience and to upgrade the streetscape to enhance the setting of

the listed buildings and make a positive contribution to improving this part of the conservation area. 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.

Are there any comments which Members wish to make in relation to highway safety matters or the proposed public realm improvement works at this stage?

Amenity

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.

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.

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.

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.

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.

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. Members at the time of making a decision on the application will need to consider this harm in the round when deciding what weight to afford the relevant planning considerations when coming to a decision. This impact is likely to result in an on balanced recommendation by Officers at planning committee when this application is reported for determination.

In respect of noise, Environmental Services note the details submitted with the application gives a design target criteria for the proposed external plant 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.

Are there any comments which Members wish to make in relation to amenity issues at this stage?

Drainage Issues:

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.

Yorkshire Water object as the proposed building would be sited over the public sewerage system and would jeopardise Yorkshire Water's ability to maintain the system. It is understood the developer is liaising with Yorkshire Water about possible diversions, however at this time the objection remains in place. This matter is yet to be addressed and remains outstanding at the time of writing.

Are there any comments which Members wish to make in relation to drainage issues at this stage?

Ecological Issues:

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. The report should assess the potential for the development to result in significant ecological impacts. The proposals should include, if possible, nesting provision designed specifically for swift. This information is awaited and this matter is yet to be addressed.

Are there any comments which Members wish to make in relation to ecological issues at this stage?

Other Matters:

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.

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.

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.

Environmental Matters

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

Are there any comments which Members wish to make in relation to the above issues at this stage?

10. Conclusion

Members are asked to note the contents of this report. Members' comments on the following questions will be helpful in moving the application forward:

1. Do members have any comments on the principle of the development
2. Do members have any comments on the extent of works to the two listed buildings
3. Do Members have any comments about the scale and height of the cinema building and retail extension in relation to views from the conservation area and the setting of the listed buildings
4. Do members have any comments about the canopy and projecting signage scheme
5. Do members have any comments about the proposed highway works to Cross Church Street
6. Are there any other matters which Members wish to raise?