

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

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

Reference No: 2020/44/90862/W

Site Address: Kingsgate Centre, King Street, Huddersfield, HD1
2QB

Description: Discharge conditions 4, 6, 8, 10, 11 on previous
permission 2018/93568 for 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

Recommending Officer: Nick Hirst

DECISION – Approve Discharge of Conditions

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

David Wordsworth

AUTHORISED OFFICER

Date: 22-Jan-2021

Application: 2020/44/90862/W

Site: Kingsgate Centre, King Street, Huddersfield, HD1 2QB

Proposal: Discharge conditions 4, 6, 8, 10, 11 on previous permission 2018/93568 for 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

Assessment – 20/01/21

An initial 'refusal' for all requested conditions was issued for this application on the 7th of May, 2020. The assessment undertaken at that time is attached as appendix 1 to this report. The issuing letter included a caveat that if further details were provided within a given time, they would be considered as part of this application.

Further details were received for condition 6 (Crime and terror mitigation) only. All other conditions (4, 8, 10 and 11) remain as previously assessed.

Given the time lapse and no further details have been provided, another opportunity to submit details for the outstanding conditions is not to be offered. Therefore, a new DOC application will be required.

Condition 6 (Crime and terror mitigation)

6. Prior to the hereby approved development being brought into use, a report containing the proposed crime mitigation/prevention and anti-terrorism mitigation measures for the development shall be submitted to and approved in writing by the Local Planning Authority. The identified measures shall be implemented before hereby approved uses are brought into use and shall thereafter be retained.

Reason: *In the interest of crime prevention and anti-terrorism mitigation, so as to comply with Policies LP16 and LP24 of the Kirklees Local Plan and Paragraph 95 of the National Planning Policy Framework.*

The following is extracted from the assessment undertaken on 20/01/2021:

The Council's Designing Out Crime Officer and the local Counter Terrorism Security Advisor have reviewed the proposed strategy and have expressed concerns (detailed in their confidential consultation responses).

The concerns were sent onto the applicant via email but no response has been received. Officers would like to discuss the concerns of the

DOCO and the CTSA prior to determining this condition. Therefore, officers are unable to discharge this condition at this time, pending a discussion with the applicant.

Following the previous assessment, a meeting took place between the applicant and their team, the case officer, Kirklees Highway officers, CTSA officers, and PALO officer on the 21st of July, 2020. CTSA and PALO's outstanding concerns were discussed. On the back of the meeting a revised Security Measures Statement was submitted.

The document does not address all of either CTSA or PALO's concerns and requests. However, for the purposes of Planning, the document is considered sufficient and reasonable in light of security related planning policy. It is noted that various aspects of the both the PALO and CTSA officers' concerns, such as vehicle standoff distances, are outside of the control of the applicant or controlled by separate legislation. However, the meeting has allowed ongoing dialog between the applicant and Council for possible security enhancements beyond the scope of the application and within the wider Huddersfield town centre. Furthermore, dialog is continuing between the applicant, CTSA and PALO on the wider operation of the site.

In light of the above, officers are satisfied that condition 6 may now be discharged.

Recommendation: Discharge condition 6. No other condition may be discharged, with no option to be offered for extra time.

Report dated: 20.01.2021

Proposed 2nd letter text

I write further to the letter dated the 7th of May 2020. The letter confirmed at that time, none of the submitted conditions could be discharged. The below should be read in conjunction with the previous letter.

Condition 6 (Crime and terror mitigation)

You submitted the document entitled 'Security Measures Statement Rev. A' on the 1st of October 2020 to discharge condition 6.

I can confirm that the submitted details are acceptable for the purpose of condition 6.

Be aware that condition 6 has the ongoing requirement that the identified measures shall be implemented before the approved uses are brought into use and shall thereafter be retained.

Procedural

The previous letter dated the 7th of May 2020 allowed for the submission of further details relating to the outstanding conditions, subject to the information being provided within 8 weeks. While information was provided in relation to condition 6, no such information has been submitted for the other conditions. This discharge of condition application is therefore now closed. A subsequent discharge of condition application will be required for any outstanding conditions.

Appendix 1: Assessment – 07/05/2020

Assessment

Condition 4 (construction management)

4. Prior to construction commencing, a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site and construction workers parking facilities. Unless otherwise agreed in writing by the Local Planning Authority, all construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.

Reason: *Due to the restrictive nature of the site, so as to ensure adequate arrangements are agreed which allow heavy vehicles to safely access the site, in the interest of the safe and efficient operation of the Highway in accordance with Policy LP21 of the Kirklees Local Plan.*

The submitted details have been reviewed by Highways DM, who requested the condition. The submitted details are noted, however the following is outstanding;

- They have concerns that the 'no vehicles' restriction at the Kingsgate / Cross Church St junction runs from 10am until 4pm. Whilst the applicants state that that the road will close at 10am, they've not said when it will reopen in the afternoon, Highway Safety would suggest the closure should match the signed times. This must be confirmed by the applicant.
- The routing of construction traffic to and from the site needs to be confirmed. Zetland Street should be used with HGV turning provided such that HGVs can enter and exit in a forward gear without the need to use Kings Street.
- There is also a potential scheme to improve Kings Street which may be undertaken this year. The applicants Construction Management plan should acknowledge these potential works and the need for liaison with the Councils Highway Design section to ensure that any conflicts between the timing of the proposed works are minimised.

As the above is outstanding, the condition cannot be discharged at this time.

Condition 6 (Crime and terror mitigation)

6. Prior to the hereby approved development being brought into use, a report containing the proposed crime mitigation/prevention and anti-terrorism mitigation measures for the development shall be submitted to and approved in writing by the Local Planning Authority. The identified measures shall be implemented before hereby approved uses are brought into use and shall thereafter be retained.

Reason: *In the interest of crime prevention and anti-terrorism mitigation, so as to comply with Policies LP16 and LP24 of the Kirklees Local Plan and Paragraph 95 of the National Planning Policy Framework.*

The Council's Designing Out Crime Officer and the local Counter Terrorism Security Advisor have reviewed the proposed strategy and have expressed concerns (detailed in their confidential consultation responses).

The concerns were sent onto the applicant via email but no response has been received. Officers would like to discuss the concerns of the DOCO and the CTSA prior to determining this condition. Therefore, officers are unable to discharge this condition at this time, pending a discussion with the applicant.

Condition 8 (EV Charging)

8. Prior to the hereby approved development being brought into use, a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultralow emission vehicles shall be submitted to, and approved in writing by, the Local Planning Authority. The hereby approved development shall not be brought into use until the approved scheme is installed and is made operational. The installed charging points shall thereafter be retained thereafter.

Reason: *In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.*

The submitted details have been discussed between officers and K.C. Environmental Health, who requested the condition.

The applicant calculated that the application covered 28% of the Kingsgate's floor area. 28% of the car park is 176 spaces, which they propose as the proportionate car parking. This is considered acceptable.

The requirement set out in Planning policy guidelines is for 1 EV point per 20 spaces increasing to 1 EV point per 10 spaces at an agreed trigger point, although lesser EV points of high charge speeds can allow for lower numbers.

The applicant is proposing 8 charging points. 5% of 176 is 8.8, so officers consider it more appropriate to round to 9. They have also failed to propose a trigger point for the remaining 5%.

Notwithstanding the above, the submitted details suggests that the 8 spaces are proposed as Fast Charge units although there is some ambiguity if this is the case or that they could be accommodated. 8 Fast Charge units are considered more beneficial for a shopping car park than 18 standard charging points, given the high turnover such parking spaces would have.

Officers are to put it back to the applicant to clarify and confirm that 8 Fast Chargers capable of a delivery of 22kW is proposed and feasible. If not, officers will seek 9 standard charging points and agreement of a trigger point for the additional 9 units.

In addition, no details of how the use of the parking spaces served by the EV charging points will be managed has been given. This should show how these parking spaces will be available for use for charging electric vehicles and not be used for vehicles not being charged.

Given the above, this condition cannot be discharged at this time.

Condition 10 (drop off-point)

10. Pursuant to requirements of condition 9, before the turning and drop-off area is brought into use a scheme for the efficient management of the turning and drop-off area shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: *To ensure appropriate facilities are provided on site for the drop off and collection of patrons, in the interest of Highway safety and efficiency, in accordance with Policy LP21 of the Kirklees Local Plan.*

This condition was requested by K.C. Highways, who've reviewed the submitted plans and stated the following;

These proposals need to include measures to prevent the spaces being used for parking and details of how the spaces will be monitored, controlled and enforced when necessary to ensure they are used for the intended purpose drop off and pick only. Signing alone may not be enough.

A plan should be provided showing the proposed signing and lining.

Officers consider this a reasonable request and therefore do not recommend the discharge of the condition at this time.

Condition 11 (traffic survey)

11. Prior to the hereby approved development being brought into use a traffic survey of King Street, between Queen Street/Cross Church Street, and Zetland Street, shall be undertaken. Within six months of the cinema being brought into use the traffic survey shall be repeated and an assessment of the identified associated development traffic shall be submitted to, and approved in writing by, the Local Planning Authority. The assessment shall include consideration of the necessary provision of any traffic management measures required to control associated development traffic, along with implementation schedule of any necessary measures. The traffic control measures shall be implemented as per the agreed scheme and thereafter retained.

Reason: *To ensure the proposal's impact upon the local highway network is appropriately assessed and mitigated against, in the interest of Highway safety and efficiency, to comply with the aims and objectives of Policy LP21 of the Kirklees Local Plan.*

This condition was requested by K.C. Highways, who've reviewed the submitted plans and stated the following;

The traffic survey does not include any information regarding the evening use only 09.00 to 17.00. The cinema, bars and restaurants will be open late into the evening and the survey should include the opening times associated with the proposed use.

No information is provided to say how the vehicles were behaving. The concern was that the existing measures may be ignored, and more effective enforcement measures may be needed.

Officers consider this a reasonable request and therefore do not recommend the discharge of the condition at this time.

Procedural

Officers have attempted to contact the applicant regarding the inability to discharge the above conditions. No response has been received. Giving consideration to the ongoing lockdown, it is proposed to give the applicant additional time to resolve the outstanding matters. It is proposed to give the applicant a two-month timeframe to submit further details as part of this application, in the interest of taking a flexible and supportive approach.

Conclusion

For the above reasons none of the proposed conditions may be discharged.

Recommendation: Refuse / Split decision (with timed option to provide further details)

Proposed Letter Text

Condition 4 (construction management)

You have submitted the document 'Planning Statement - Condition 4: Site set for Development Works at Kingsgate Shopping Centre' to discharge condition 4.

The submitted details are noted, however the following needs to be addressed:

- It is noted that the 'no vehicles' restriction at the Kingsgate / Cross Church St junction runs from 10am until 4pm. Whilst the document state that that the road will close at 10am, it is not said when it will reopen in the afternoon. Highway Safety would suggest the closure should match the signed times. This must be confirmed by the applicant.
- The routing of construction traffic to and from the site needs to be confirmed. Zetland Street should be used with HGV turning provided (demonstrated on plan) such that HGVs can enter and exit in a forward gear without the need to use Kings Street.
- There is also a potential scheme to improve Kings Street which may be undertaken this year. The applicants Construction Management plan should acknowledge these potential works and the need for liaison with the Councils Highway Design section to ensure that any conflicts between the timing of the proposed works are minimised.

Please can the submitted details be amended to address the above. For the avoidance of doubt, condition 4 is not discharged at this time.

Condition 6 (Crime and terror mitigation)

You have submitted the document entitled 'Crime Prevention Measures Report' to discharge condition 6.

The Council's Designing Out Crime Officer and the district's Counter Terrorism Security Advisor (CTSA) has raised concerns and have advised against the discharge of the condition at this time. Each has requested a meeting between themselves, the applicant/agent and officers of the LPA. This request was forwarded via email on the 14th of April; however, no response has been received.

Therefore, condition 6 is not discharged at this time, pending the results of a meeting between the abovementioned parties. To arrange this meeting please contact Nicholas Hirst at nick.hirst@kirklees.gov.uk

Condition 8 (EV Charging)

You have submitted the document 'Planning Statement - Condition 8' to discharge condition 8.

Officers accept the logic of 176 parking spaces as a starting point. However, officers would round 5% of 176 (8.8) to 9 units. Furthermore, there is no proposed trigger point for the remaining 5% of units.

Notwithstanding the above, the proposed 8 units are shown to be two different chargers that are each capable of providing a nominal 22kW per charging point. The use of Fast Charge units for the site, being a retail car park, is welcomed over slower alternatives. If it can be confirmed that all 8 units are to be 22kW units and would operate at their maximum speed, no additional charging points are sought.

It is understood that the car park is managed and that users are subjected to parking fees. It is therefore assumed that the parking bays served by the EV charging points will be managed in a way that prevents them being used by non-electric vehicles. Confirmation of how the spaces will be managed needs to be provided by the applicant.

Please can the submitted details be amended to provide clarification on the above. For the avoidance of doubt, condition 8 is not discharged at this time.

Condition 10 (drop off-point)

You have submitted the document 'Planning Condition Statement: Condition No 10' to discharge condition 10.

These proposals need to include measures to prevent the spaces being used for parking and details of how the spaces will be monitored, controlled and enforced when necessary to ensure they are used only for the intended purpose of drop off and pick only. Signing alone may not be enough. A plan should be provided showing the specifics of the proposed signing and lining.

Please can the submitted details be amended to address the above. For the avoidance of doubt, condition 10 is not discharged at this time.

Condition 11 (traffic survey)

You have submitted the document 'Planning Condition Statement: Condition No 11: Traffic Survey King street' to discharge condition 11.

The traffic survey does not include any information regarding evening use, being limited to 0900 - 1700. The proposed cinema, bars and restaurants will be open late into the evening. Therefore, the survey should include the opening times associated with the proposed use. Furthermore, no information

has been provided to say how the vehicles recorded within the survey were behaving. The original concern that led to the condition was that the existing measures to control traffic movement on King Street may be ignored, and that more effective enforcement measures may be needed. Please include a record of how surveyed vehicles are behaving.

For the avoidance of doubt, condition 11 is not discharged at this time.

The submission of further details

Various further details are required to discharge the above conditions. If the requested details are provided within eight weeks of the date of this letter, they will be accepted as part of this application. Please quote 2020/90862 and send the details direct to nick.hirst@kirklees.gov.uk, so that a further fee will not be required.