

**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:	2023/44/91415/W
Site Address:	Kingsgate Centre, Store 1, King Street, Huddersfield, HD1 2QB
Description:	Discharge of condition 3 (materials) of previous permission 2019/92693 for variation condition 2 (plans) of previous permission 2018/93568 for change of use of existing unit in mixed Class A1/A2/A3 retail development to form 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 – Discharge of Condition – Approve

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

Victor Grayson

AUTHORISED OFFICER

Date: 31-Oct-2023

Application: 2023/44/91415/W

Site: Kingsgate Centre, Store 1, King Street, Huddersfield, HD1 2QB

Proposal: Discharge of condition 3 (materials) of previous permission 2019/92693 for variation condition 2 (plans) of previous permission 2018/93568 for change of use of existing unit in mixed Class A1/A2/A3 retail development to form 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

Condition 3 (materials)

3. Prior to their use, details of all the external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed using the approved materials, prior to the hereby approved building being brought into use.

Reason: *To ensure appropriate end materials are used, in the interest of visual amenity and the surrounding historic environment, to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.*

An approval pursuant to condition 3 has previously been issued under application 2020/90513. This proposal seeks the approval of modified materials.

The primary difference between the proposed materials and the previously approved is the cladding of the roof extension.

The newly-proposed cladding, to be an aluminium cassette with concealed fixings, is itself is considered acceptable although officers expressed initial concerns over the initially-proposed colour (light grey). This led to negotiations and a site meeting where various colours were discussed. RAL 7037 (dust grey) was agreed as an appropriate colour and was similar to that previously approved. The documents were updated to reflect these discussions.

Most materials are as previously approved or the change is nominal. Accordingly, officers consider the submitted details to be acceptable. Full discharge cannot be approved at this stage, however, as the condition has an ongoing clause.

Notwithstanding the above, compared to the previous approved document, the proposed material schedule states that security bollards have been omitted from the proposal. When queried on this, the applicant stated that they had been removed via NMA application ref. 2022/92823 (the applicant stated that bollards are not shown on the approved plans). Officers dispute this claim. The NMA in question was for the specific amendments as follows:

- Reconfiguration of the roof extension
- Relocation and cladding of roof-access staircase
- Amendments to plant screen, from mesh to solid cladding
- Internal layout changes
- Removal of the skybar and slide

No reference was given to omitting or removing bollards in the application form or decision notice.

Furthermore, an NMA decision, unless specifically stated so, does not 'overrule' conditions or details submitted pursuant to a condition. Condition 6 requires the submission of crime and terror mitigation measures, which were approved via Discharge of Conditions application 2020/90862 as including bollards to Zetland Street, and that the approved details are implemented '*before hereby approved uses are brought into use.*'

The above issue does not prevent the approval of the submitted details. However, a note detailing the above is recommended, for the avoidance of doubt that officers remain of the view that bollards are required.

Recommendation: Approve Discharge of Condition

Report Dated: 30/10/2023

Proposed Letter Text

Condition 3 (materials)

You have submitted the following documents pursuant to condition 3:

- Plan ref. 1134 (05) 001 Rev. E
- Document titled Schedule of External Facing Materials – Rev A

I can confirm that the details of the proposed materials are acceptable for the initial purpose of condition 3. However, be aware that condition 3 has the following ongoing requirement, which must be adhered to, to ensure ongoing compliance:

The development shall be completed using the approved materials, prior to the hereby approved building being brought into use.

This approval relates to the materials contained in the above documents. Should other and/or additional materials be intended for use, a further submission of details pursuant to condition 3 would be required.

Notwithstanding the above, it is noted that the submitted details state that security bollards have been 'omitted'. This is not accepted. For the avoidance of doubt, condition 6 (pursuant to which details were approved under application 2020/90862) still requires the installation of security bollards. Unless a further, formal decision is made by the council to the contrary (in relation to

condition 6), bollards are required to be installed in accordance with details that have previously been formally approved.