

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2024/62/93213/W
Site Address:	Kingsgate Centre, King Street, Huddersfield, HD1 2QB
Description:	Remodelling of facade to form new shopfronts serving proposed internal restaurants and new external ducts to serve restaurant units
Recommending Officer:	Joanna Rednall

DECISION – CONDITIONAL FULL PERMISSION

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.

John Holmes

AUTHORISED OFFICER

Date: 9th January 2025

Officer Report – 2024/93213

Site Description

The proposed application relates to the former House of Fraser site which is part of the Kingsgate Shopping Centre. The section of the building this application relates to fronts onto Zetland Street, an adopted highway. The site is located within Huddersfield Town Centre, and the site is adjacent to the Huddersfield Town Centre Conservation Area.

Description of Proposal

The applicant is seeking permission for remodeling of facade to form new shopfronts serving proposed internal restaurants and new external ducts to serve restaurant units.

To the front/ west facing façade it is proposed that the existing doors and windows would be replaced with full, glazed PPC aluminum frames. The fenestration details would result in clear glass CW units to sections of the ground floor to match the existing glazing.

Planning permission is also sought to install four external kitchen exhaust ducts on the southern side of the building. The four ducts are to be installed to the external wall of the building and are required to serve restaurant units.

A new plant installation is proposed to the south of the external ducts, measuring approximately 4 metres x 2.5 metres x 4.5 metres in height.

This application seeks permission for operational development to the frontage of the building and is not seeking consent in relation to the use of the building.

History of Negotiations / Amendments Received

No amendments have been requested by Officers.

Relevant Planning History

The most relevant planning history relates to the following planning applications:

- 2024/91169 Alterations to existing building facade, removing existing glazed shopfronts and replacement with new shopfronts and entrances
Conditional full permission

The most relevant planning history relates to the development of the site for a mixed use, dating back to the 1990s.

Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015).

The application has been publicised on the Council's website and by neighbor notification letters. The expiry date of the publicity period was the 23rd December 2024

No representations have been made as a result of the publicity.

Consultation Responses

KC Environmental Health: No objections subject to recommended noise condition.

Allocation and Policy

The site is allocated within Huddersfield Town Centre, a primary shopping area and is adjacent to Huddersfield Town Centre Conservation Area within the Kirklees Local Plan (adopted 2019).

The following legislation, policy and guidance is considered relevant to the determination of this application:-

Kirklees Local Plan

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP14 – Shopping frontages Within Kirklees
- LP17 – Huddersfield town centre
- LP21 – Highway and Access
- LP24 – Design
- LP35 – Historic Environment
- LP52 – Protection and improvement of environmental quality

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter2 Achieving sustainable development
- Chapter7 Ensuring the vitality of town centres
- Chapter12 Achieving well-designed places
- Chapter16 Conserving and enhancing the historic environment

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise

Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character of appearance of Conservation Areas.

When making a recommendation in respect of a planning application affecting a Listed Building or its setting, attention must be given to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.

Assessment

The following matters are considered in the assessment below –

1. Principle of development
2. Impact upon the character and appearance of the area (including impact upon historic environment)
3. Impact upon residential amenity
4. Impact upon highway safety
5. Climate Change
6. Other matters – e.g. trees/ecology (e.g. bats)
7. Representations
8. Conclusion

1 – Principle of Development

Sustainable Development

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.

Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in chapter 2 of the National Planning Policy Framework.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

Policy LP14 (Shopping frontages Within Kirklees) of the Kirklees Local Plan requires that uses within Primary Shopping Areas will be expected to maintain or provide active ground floor uses whereby retail uses within the above areas will be supported.

Policy LP17 (Huddersfield town centre) sets out that Huddersfield Town Centre will be the principal focus for high quality comparison retail goods within the district and details a number of criteria developments in the town centre would be supported where these are met.

The proposal would support the continued retail function of the building and it is considered would have a beneficial impact in terms of ensuring the vitality / viability of the town centre. It is therefore considered that, on the basis the development has an acceptable impact upon visual amenity, residential amenity and access / highway safety considerations, as well as all other relevant considerations, the principle of development is considered to be acceptable in this case

2 – Impact on character and appearance of the area (including impact upon historic environment):

Visual Amenity

Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *‘the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape’*.

Remodeling of facade to form new shopfronts

The application seeks planning permission to remodel the front/west facing building façade to form new shopfronts to serve internal restaurants. The application façade is set within a prominent location along Zetland Street and the proposed development would provide an active frontage within the street scene. The proposed door and windows would be finished in PPC aluminum frames and would result in a cohesive appearance through the use of similar materials and similar design to the existing building façade.

It has been assessed the proposed alterations to the front building façade would not result in significant visual impact, any new signage would be controlled by separate legislation and is not under consideration as part of this application. Due to these reasons, the proposed alterations would have an acceptable visual impact and would comply with Chapter 12 of the NPPF and LP24 of the Local Plan.

External ducts

Four external ducts are proposed to the south-facing elevation, these would have a somewhat utilitarian appearance, each duct approximately 18 metres in height, 0.5 metres in width and 0.5 metres in projection from the external wall. The ducts will occupy a relatively secluded position to the side of the building, set back some 20 metres from the nearest road (Queensgate) and partly screened by the host and landscaped area. In view of this, given the commercial nature of the surroundings, it is considered that it would be unreasonable of the LPA to sustain a refusal of this development on visual amenity grounds in this case. This conclusion is drawn on the basis of the context within which the ducts would be viewed. Therefore, it is considered, on balance, that this element of the proposal would not cause detrimental harm to the visual amenities of the locality, and is considered to comply with Local Plan Policies LP24 and the aims of Chapter 12 of the NPPF.

A new plant installation (AHU unit shown on the submitted plans) is proposed to the south of the external ducts, measuring approximately 4 metres x 2.5 metres x 4.5 metres in height. The proposed elevations show the plant would be partially screened by existing landscaping and fencing, with approximately 1.5 metres extending above the fence. As a result, the plant would be visible from limited sections of Queensgate but would otherwise be screened by the existing building and surrounding landscaping. The plant is relatively small in scale when viewed in the context of the commercial surrounding area, therefore it would not appear particularly incongruous within the locality. The proposed colour finishes of the ducts and plant are shown in the proposed plans ((05)001 Rev N), and to ensure the colour finishes complement the existing building and creates a cohesive appearance, it is recommended for a condition ensuring the development is carried out in complete accordance with the plans be attached to the decision notice.

Subject to conditions, the proposal is therefore regarded as acceptable for permission in this regard as it would not significantly harm the visual amenity of the area and be acceptable and accord with Policy LP24 of the Local Plan and Chapter 12 of the NPPF.

Historic Environment

Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character of appearance of Conservation Areas. This is echoed within policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

Paragraph 212 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset the Local Planning Authority should give great weight to the heritage asset's conservation irrespective of the level of harm.

At paragraphs 212 – 214 the NPPF is clear, that where development leads to substantial harm, this is necessary to achieve substantial public benefits that outweigh that harm or, in the case of less than substantial harm this should be weight against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

LP35 of the Kirklees Local Plan requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

The site is adjacent to the Huddersfield Town Centre Conservation Area, and it is not a listed building. There are Grade II listed buildings adjacent to the site, these being 50, King Street (to the west) and 41 & 45 Queensgate (to the south). With regard to the remodeling of the west-facing building façade, it is considered that the modest scale of the alterations would have an acceptable impact upon the adjacent Conservation Area and in this regard the proposal would not lead to harm to an identified heritage asset. Turning to the external ducts and plant, it is considered these alterations would not cause harm to the setting of the adjacent CA or listed buildings, having regard to their size, scale and siting, taking into account the size and scale of the existing development they would form a part of, as well as the commercial context against which the development would be viewed. It is therefore concluded that the development would not cause harm to the setting of the conservation area and listed buildings given the context of the wider development site.

3. Impact on Residential Amenity

Sections B and C of LP24 states that alterations to existing buildings should:

“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Due to the nature of the proposed development, it is considered that the proposed development would be sited at a sufficient distance away from any neighbouring properties so as to prevent undue harm to these properties in terms of loss of light, overshadowing, loss of privacy or overlooking, or the creation of an overbearing effect.

Environmental Health

Turning to the likely effects of potential pollution on living conditions, paragraph 187 of the NPPF states that planning decisions should ensure that new development is appropriate for its location including mitigating against potential cumulative effects. In addition to this, Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

KC Environmental Health were formally consulted and advised recommended that, in order to protect the amenity of residential occupiers from noise associated with extraction plant any grant of permission is subject to condition requiring that the combined noise from any fixed mechanical services and external plant and equipment associated with this application be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time.

With regard to odour, the proposed development has not specified the type of food establishments that will occupy the building, therefore it is difficult for KC Environmental Health to anticipate the potential for odour issues. Nonetheless, it is recommended that any extraction system is designed, installed and maintained following the advice within “Control of Odour and Noise from Commercial Kitchen Exhaust Systems” by EMAQ May 2022. The Environmental Health Teams response also points out that the Council has powers under Section 80 of the Environmental Protection Act 1990 to prevent statutory nuisance and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur.

Taking account the nature of the existing operations of the site, and the development proposal, as well as the fact emissions from the flues would be at roof level it is considered that subject to inclusion of the recommended

condition the proposal would not have a significant impact upon residential amenity of neighbouring occupiers. It is recommended any grant of permission includes the recommended condition and also includes informative notes advising the applicant of separate powers available to the Council in relation to noise / odour and which also provides advice about odour extraction systems.

Subject to condition and informative notes, the proposal would therefore be in general conformance with LP24 and LP52 of the Kirklees Local Plan and Chapter 12 and paragraph 187 of Chapter 15 of the NPPF.

4. Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide which seek to ensure acceptable levels of off street parking are retained are also considered to be of relevance.

The proposed development would not adversely affect the existing parking spaces within the site being contained within an existing commercial setting, nor intensify use and therefore would not cause additional harm to highway safety. The proposal would be compliant with LP21 and LP22 of the Kirklees Local Plan.

5. Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Considering the scale and nature of the proposed development, especially that it is for private use, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The proposed development would therefore comply with Chapter 14 of the National Planning Policy Framework.

6. Other Matters

Land stability

Policy LP53 of the Kirklees Local Plan and paragraphs 187 and 196 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The application site falls within an area at high risk of ground movement as a result of past mining activities as determined by the Coal Authority. Whilst falling within a high risk area the Coal Authority identify the development type as that which does not need submission of a Coal Mining Risk Assessment. As such, given the nature of the development proposals, it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with policy LP53 and paragraphs 187 and 196 of the National Planning Policy Framework.

7. Representations

No representations have been received.

8. Conclusion

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.

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

Recommendation

APPROVE

Decision Authorisation: Delegated Powers

Application Number: 2024/93213

Officer Recommendation: Approve

Conditions

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this

decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and to accord with Policies LP01, LP02, LP07, LP21, LP22, LP24, LP35 and LP52 of the Kirklees Local Plan, and Policies within Chapters 2, 4, 6, 11, 12 and 14 of the National Planning Policy Framework

3. The combined noise from any fixed mechanical services and external plant and equipment associated with this application shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. "Rating level" and "background sound level" are as defined in BS 4142:2014+A1:2019.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

NOTE: It is recommended that any extraction system is designed, installed and maintained following the advice within "Control of Odour and Noise from Commercial Kitchen Exhaust Systems" by EMAQ May 2022. It should be noted that the Council has powers under Section 80 of the Environmental Protection Act 1990 to prevent statutory nuisance and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
LOCATION PLAN	PL-01	-	11/11/2024
EXISTING, DEMO & PROPOSED ELEVATIONS ZETLAND ST	(PL4)001	-	11/11/2024
EXISTING, DEMO & PROPOSED	(PL4)002	-	11/11/2024

Plan Type	Reference	Version	Date Received
ELEVATIONS ZETLAND ST –			
PROPOSED ELEVATIONS	(05)001	N	11/11/2024
PROPOSED PLAN – LEVEL 1	(04)102	B	11/11/2024
3D VIEWS	(PL4)003	-	11/11/2024
PROPOSED PLAN - LEVEL 5	(04)108	C	11/11/2024
Application form	-	-	11/11/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments were sought as it was considered that the proposal was acceptable as submitted.

Report Dated:

08/01/2025

Coal – high

