

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 73**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO  
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING  
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	<b>2024/70/91006/E</b>
Site Address:	Fox's Biscuits Ltd, Wellington Street, Batley, WF17 5JE
Description:	Variation of condition 2 (plans) on previous permission 2022/92292 for installation of replacement windows
Recommending Officer:	Elenya Jackson

**DECISION – VARIATION OF CONDITION APPROVED**

**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.**

Emma Thompson

***AUTHORISED OFFICER***

Date: 04-Jun-2024

## **Officer Report**

### **Site Description**

Fox's Biscuits, Wellington Street, Batley, WF17 5JG is a prominent 6 storey building dating back to the 1950's. The building is set back from the street scene via a car park which is associated with the site.

The building is situated across from Batley Market Place Conservation Area.

### **Description of Proposal**

This application is for the variation of condition 2 (plans) on previous permission 2022/92292 for the installation of replacement windows.

This variation would not add any extra windows to the elevations of the building but would re-configure the glazing profile associated with the windows. All windows would instead feature three openable panes in the top portion of the window.

The previous condition read as:

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 ensure the satisfactory appearance of the development on completion, in accordance with Policies LP21, LP22 and LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

The proposal seeks to amend the plans approved under the previous application.

### **History of Negotiations**

No amendments were sought.

### **Representations**

The application was advertised on the Kirklees Website, neighbour notifications and a site and press notice which expired on 2.06.2024

### **Consultations**

The site is across from Batley Market Place Conservation Area. Although the principal of the proposal is related to the visual design aspects of the proposal, it is considered that the building is not listed, and the principle of new windows has previously been established. Therefore, no consultations have been deemed necessary.

### **Policy**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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).

The site is unallocated on the Kirklees Local Plan proposals maps.

#### Kirklees Local Plan:

- **LP 01** – Achieving sustainable development
- **LP 02** – Place shaping
- **LP 22** – Parking

- **LP 24 – Design**
- **LP 35- Historic Environment**

### 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 2023, together with Circulars, Parliamentary Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications. NPPF relevant chapters:

- Chapter 2 – Achieving sustainable development
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

### **Assessment**

The proposed variations to the previously approved plans are set out in full above, within the 'Description of Proposal' section of the report. For the sake of ease, each variation shall be discussed individually.

#### Proposed Variations

Previously, the proposal was approved for new windows in several elevations of the building. The proposal requests further windows to be replaced and the previously approved glazing profile to be amended to feature three panes in the top portion of the window which are larger in height.

Officers have reviewed the plans and consider that the alterations would not be result in any detrimental to visual amenity when considering the context of the site.

It is considered that, as the proposed alterations to the fenestration would retain similar relationships with neighbouring properties, the principal of altering the windows has previously been established and the alterations are minimal in the context of the proposal, the proposal would result high quality development in accordance with local plan policies LP24 and LP25 and Chapter 12 of the NPPF.

#### **Representations**

One representation was received in response to the application which referred to issues of surrounding noise.

#### **Response:**

This application is for altering the glazing profile of previously approved windows on site and would not result in a marked increase in operations on site. The following notes will be placed on the decision notice:

**NOTE** Noisy construction related activities shall not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00hours, Saturdays  
With no noisy activities on Sundays or Public Holidays.

**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.

However, complaints relating to noise associated with construction should be directed towards Environmental Health.

### **Conclusion**

The proposed variations as set out above accord with all relevant national and local policy. This variation will still represent high quality sustainable development, whilst still maintaining a good standard of amenity for nearby dwellings.

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 that the development would constitute sustainable development and is therefore recommended for approval.

## Decision Authorisation - Delegated Powers

**Application Number:** 2024/91006

**Officer Recommendation:** Approve

### Conditions and Reasons

1. The development hereby permitted shall be begun prior to the 1st September 2025.

**Reason:** Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2 and LP24 of the Kirklees Local Plan and advice contained within the National Planning Policy Framework.

**NOTE:** The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to surrounding properties.

Plans and specifications schedule:-

Plan Type	Reference	Date Received
<b>Previous Approval</b>		
Existing Elevations- Survey Drawing	37/2398/02	1.09.2022
Location Plan	37/2398/01	7.07.2022
Design and Access Statement		7.07.2022
<b>Current Application</b>		
Proposed Elevations	37/2398/08	9.04.2024

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 Planning 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. The Case Officer did not undertake any negotiations with the applicant due to the application being acceptable in its submitted format.

### Digital Infrastructure: Fibre To The Property (FTTP)

Access to affordable and reliable broadband is necessary for Kirklees' residents, businesses, and visitors to take advantage of the growing digital economy and 'digital by default' services. Fibre optic cables direct to a property (FTTP) is the most reliable way of delivering high speed broadband

connectivity and allows for gigabit internet speeds. Access to high quality digital infrastructure provides the foundations for, amongst other things:

- Economic prosperity – workforces that are digitally-literate enables business to thrive.
- Digital literacy – digital literacy and skills increase employability and people can exploit the internet for transactional, social, entertainment and learning purposes.
- New services – digital delivery can lower costs and provide innovative public and health services more conveniently.

It is therefore advised that digital infrastructure, including FTTP, and its benefits for the development be considered from the earliest feasible stage. Methods include working with Internet Service Providers to install digital infrastructure alongside other utilities or providing pre-infrastructure allowing for speedier installation at a later date.

To discuss the benefits that FTTP may have for your development, please contact Carl Tinson in Kirklees Council's Digital Team at [carl.tinson@kirklees.gov.uk](mailto:carl.tinson@kirklees.gov.uk)

**Note:** The provision of fibre infrastructure is often available from certain telecommunications providers free of charge for development over a certain scale, provided that sufficient notice is given. Notice periods are typically at least 12 months prior to first occupation. In some cases, providers may request a contribution from the developer.

**Note:** Where no telecommunications provider has been secured to provide fibre infrastructure by the time of highway construction, it is advised that additional dedicated telecommunications ducting is incorporated alongside other utilities to enable the efficient and cost effective provision of fibre infrastructure in the future.