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:	**2023/62/91838/E**
Site Address:	New Hall Farm, New Hall Lane, Overton, WF4 4RP
Description:	Installation of renewable energy generating station comprising ground-mounted photovoltaic solar arrays together with substation, transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements
Recommending Officer:	Nick Hirst

DECISION – Devolve decision-making powers to Wakefield Council

I hereby authorise that Kirklees Council devolve its development control functions to Wakefield Council for the determination 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: 18/04/2024

Application: 2023/62/91838/E

Site: New Hall Farm, New Hall Lane, Overton, WF4 4RP

Proposal: Installation of renewable energy generating station comprising ground-mounted photovoltaic solar arrays together with substation, transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements

Overview of the application and recommendation

Duplicate planning applications have been submitted to Kirklees Council and Wakefield Council for the development of a solar farm straddling the districts' boundaries.

The area to host the solar farm comprises a number of agricultural fields located at New Hall Farm to the south of Overton, south west of the urban edge of Wakefield, and south of the A642. The entire layout of the PV arrays would be located within the administrative area of Wakefield District Council and is located within the Green Belt.

Only a very small proportion of the site, with no solar panels, is within Kirklees. The development within Kirklees is limited to (part of) subterranean pipe / cable laying, to connect to a substation facility in Kirklees (not part of the application). The cable would run for circa 250m within Kirklees, under the A642 / New Road which is 50mph at the relevant location with footway to the north only.

As all the proposed solar panels would lie in Wakefield, with only minimal engineering works within Kirklees, officers consider that it would be inappropriate for Kirklees Local Planning Authority (or any Local Planning Authority) to make a decision on a proposal that is almost entirely outside its jurisdiction in such a way. It is therefore recommended that Kirklees Council delegates its function as the determining planning authority for this application to Wakefield Council under Section 101(1) of the Local Government Act 1972.

Appendix 1 is a plan which shows the application area and administrative boundaries.

Responsibility for determination of the applications

National Planning Practice Guidance confirms that if an application site is on land that falls within the boundary of more than one local planning authority, then identical applications must be submitted to each local planning authority, identifying on the plans which part of the site is relevant to each. However, in accordance with the

nationally set planning fee regulations, the full application fee has been paid only to Wakefield Council whose area contains the largest part of the application site.

While it is open to Kirklees Council to determine the planning application that it has received for the proposed new development, such an approach would be inappropriate as the area of land within its administrative area represents a nominal 1.2% of the overall application site, and no significant above-surface works are proposed within Kirklees. The red-line boundary within Kirklees comprises a road, land adjacent to the road, and a small field (although no works are proposed within the field). The proposed works within Kirklees are limited to subterrain utility works (ducting).

Separate consideration and determination of the application by the two councils could also lead to an uncoordinated approach with differing decisions.

Section 101(5) of the Local Government Act 1972 authorises two or more local planning authorities to discharge any of their functions jointly. This arrangement can be achieved through the establishment of a joint committee. In practice, this type of arrangement is typically established if it is likely that there would be several cross-boundary applications and so is not considered appropriate in this case. Alternatively, pursuant to Section 101(1) of the Local Government Act 1972 a local authority may arrange for the discharge of any of its functions by any other local authority. In this way it is possible for one local planning authority to delegate its development control functions to another in respect of a specific cross-boundary planning application or site.

Accordingly, Kirklees Council could delegate its decision-making powers to Wakefield Council in respect of the determination of this cross-boundary planning application. Wakefield Council would then lead the determination of the planning application and Kirklees Council would act as a consultee.

This approach is deemed suitable since it would ensure that the determination of the application, imposition of conditions and agreement of planning obligations in any related S106 Agreement (which may need to be entered into by both local planning authorities) are consistent and provide an effective development management framework for regulating the delivery of the development. Whilst the proposal submitted is for a substantial solar farm development, it is not considered to be of a scale significant enough to warrant the establishment of a joint committee. Wakefield Council has confirmed that it is content with such an approach, and it is considered that Section 101(1) would provide the most appropriate mechanism to enable Kirklees Council to delegate its authority.

Notwithstanding the above, before Kirklees Council decides to delegate decision making to Wakefield Council, officers must give due regard to the material planning

considerations relevant to the district. This exercise serves as a check that it would not be in Kirklees Council's interest to retain control of the application.

This assessment follows.

Relevant Planning History

Low Farm, Wakefield Road

2021/93644: Erection and operation of grid-connected solar photovoltaic farm to supply up to 49.9MW, with ancillary infrastructure and landscaping and biodiversity enhancements – Granted.

Relevant Planning Policy

Kirklees Local Plan (KLP) (in so far as it relates to land within Kirklees):

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

The areas of the application within Kirklees are designated as Green Belt on the LP Policies Map and are within the Hope Pit Conservation Area.

The following are the Kirklees Local Plan policies deemed relevant to the proposal:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP21** – Highway and access
- **LP26** – Renewable and low carbon energy
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP31** – Strategic Green Infrastructure Network
- **LP32** – Landscape
- **LP35** – Historic environment
- **LP53** – Contaminated and unstable land

The council also has a suite of Supplementary Planning Documents, although none are considered relevant to the proposal. Guidance notes have been published, with the following deemed relevant:

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20/07/2021, and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, 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.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 13** – Protecting Green Belt land
- **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

Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- A Green Future: Our 25 Year Plan to Improve the Environment

Climate change

The Council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

On the 12/11/2019 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Consultation Responses

Statutory

K.C. Highways Development Management: Given the limited nature of the proposal no concerns are held over the operational phase of the development. However, concerns exist over the construction phase. The application is supported by a Construction Management Plan which includes traffic movements of concern upon the roads within Kirklees. Therefore K.C. Highways Safety have objected to the proposal.

K.C. Lead Local Flood Authority: The site is almost wholly within Wakefield Council's area and the watercourses flow away from Kirklees, therefore there is no increased risk of flooding within the Kirklees area. Also, there are no significant flooding events reported within Kirklees in the vicinity of the proposed solar farm. Therefore, 'no comment' was offered.

Wakefield Council: No objection to this application being delegated to Wakefield Council.

Non-Statutory

K.C. Ecology: Confirmed that the scope of works within Kirklees is very limited and has raised no concerns from an ecological perspective.

K.C. Conservation and Design: Have expressed concerns over the applicant's heritage assessment of Hope Pitt Conservation Area and the scheduled site '*Shaft Head and associated headgear near Caphouse, Colliery, Overton'.* The desk-based assessment purely focuses on the direct impact of the cable route and site compound. There does not appear to be a setting assessment of the proposed solar array on the Hope Pitt Conservation Area. Furthermore, K.C. Conservation and Design query if the 1km radius is sufficient to fully consider the impacts of the solar array.

These comments will be considered in the below assessment.

West Yorkshire Police Designing Out Crime Officer: No objection subject to inclusion of conditions. However, concerns relate to the security of the solar farm and not the development that falls within Kirklees. While the comments from the DOCO have

been shared with Wakefield Council, officers must defer the assessment of works within Wakefield to that district's planning officers. Kirklees Council would not look to impose or request conditions that relate solely to land outside of Kirklees.

K.C. Environmental Health: Consideration has been given to noise and ground pollution. No objection subject to conditions.

K.C. Trees: Appropriate arboricultural surveys, impact assessment, and work methodology has been considered and provided. No objection subject to a condition requiring the development to be done in accordance with the submitted documents.

Natural England: Were consulted and confirmed themselves not to be a statutory consultee on this proposal. They offered no comment, bar direction to their standing advice which covers a variety of matters. These include considering impacts on landscapes, ancient woodland, and net gain alongside others.

Historic England: Concerns held and recommended should be addressed prior to determination. The concern is whether the Heritage Impact Assessment is adequate, and they consider the following should be considered:

- whether a study area of 1km is appropriate for the extent of the proposed solar array and the topography of the application site;
- the contribution the setting of New Hall Farm Moat and Fishpond Scheduled Monument makes to its exceptional significance;
- a setting assessment of all affected non-designated heritage assets, especially the historic post-medieval farm buildings at New Hall Farm
- a setting assessment of Hope Pit Conservation Area, rather than just considering the direct impacts of the proposed cabling through the conservation area; and,
- an assessment of the Historic Landscape alongside Archaeology and Built Heritage.

The Coal Authority: Confirmed that the nature of the proposal is exempt from requiring a Coal Mining Risk Assessment.

West Yorkshire Archaeological Advice Service: In their latest comments to Kirklees Council, WYAAS questioned the location of the relevant documents, although they were online. However, in their response to Wakefield Council (available via public access) they noted the location of the documents and asked various questions.

Assessment

The commentary below provides analysis of the matters which are within the remit of Kirklees Council consider. The consultations carried out sought to gain the views of

all consultees so that their comments could be passed to Wakefield Council for consideration of the wider site area and development. Thus, the remainder of the analysis below reflects the need to consider only the aspects of the scheme which fall within the control of Kirklees Council and hence there will only be an analysis of the policies specific to the aspects of the proposal that are within Kirklees as follows.

Environmental sustainability and climate change

The National Planning Policy Framework (2023) states in paragraph 157 that:

> *'The planning system should support the transition to a low carbon future in a changing climate… and support renewable and low carbon energy and infrastructure'*

Paragraph 163 states that the need for renewable energy developments should be regarded as a given and 'not require applicants to demonstrate the overall need for renewable or low carbon energy'. It continues that LPAs should 'approve the application if its impacts are (or can be made) acceptable'.

While it is reiterated that there are no solar panels proposed within Kirklees, the ducting that would be within Kirklees is evidently necessary to enable the development and is a component part of delivery of the renewable energy scheme, with the principal impacts (aka the solar farm itself) not falling to be considered. Therefore, the above paragraphs should be considered to add notable weight in favour of the proposal.

The impact on the Green Belt

It is important to remember the parts of the proposal which relate to the Kirklees administrative area are those concerned with the laying of a cable trench along the public highway and connecting to the electricity network. An in-depth and detailed consideration of the Green Belt impacts of the solar farm itself is therefore outside the remit of this assessment. Such an assessment is principally a matter for Wakefield Council to consider given they have the area of the site where it is proposed to site the solar farm.

Assessing the impacts within Kirklees, the NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 154 (buildings) or 155 (other works) of the NPPF, and as built upon within the Local Plan. In this case paragraph 155(b) is considered relevant. The paragraph states that engineering operations are acceptable within the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it.

The laying of subterrain cabling / ducting under an existing highway, even circa 250m of it, would have no lasting impact upon the openness of the Green Belt. This is giving due regard to the spatial and visual aspects of openness. While short term disruption would be caused during construction, being confined to an existing road and temporary in nature, there would be no material harm to openness. The five purposes of the Green Belt are set out in paragraph 143 of the NPPF, and officers are satisfied that the cabling would conflict with none of those purposes.

Impact on the historic environment

K.C. Conservation and Design, Historic England and the West Yorkshire Archaeological Advice Service have raised concerns over the proposal, on varied heritage grounds, as set out within the consultee section. Insofar as it relates to heritage assets in Kirklees, the primary concern is that the application has failed to appropriately assess and consider the proposal's impacts upon the Hope Pitt Conservation Area.

Wakefield Council are aware of these concerns, with Historic England and WYAAS providing direct representations to Wakefield Council as part of their own consultation. While it is accepted that Hope Pitt falls within Kirklees and not Wakefield, S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Chapter 16 of the NPPF (Conserving and Enhancing the Historic Environment) would still be material considerations in Wakefield Council's assessment of the development. Wakefield Council would need to consider all impacts upon relevant heritage assets affected (or potentially affected) by the development, regardless of administrative boundaries.

Based on the information available, officers are of the opinion that the proposed solar farm would cause less than substantial harm to the Hope Pitt Conservation Area. This is giving due regard to the site being not within the conservation area and therefore not directly impacting upon the fabric of the historic environment. In terms of the setting, the application site is quite removed with intervening terrain features, therefore mitigating views into and from the conservation area that include the proposed solar panels. However, a reduced number of views are expected, and such a modern feature on historically open land around the conservation area will prejudice its original setting. Whether the public benefits of the proposed development outweigh the harm would ultimately be a decision for the decision maker.

Regardless of the above, given that Wakefield Council would be required to assess the impacts upon the identified heritage assets (plus any assets within their own district). Kirklees Council officers are satisfied that due regard would be undertaken by officers of Wakefield Council.

Residential amenity

The works proposed within Kirklees are limited underground cabling that would be well-removed from dwellings. While there may be temporary impacts during their installation, once complete there would be nothing above ground to result in harm. There are expected to be no detrimental impact upon local residents from the works in Kirklees.

Views towards the solar farm itself, once completed and operational, would be limited from dwellings within Kirklees due to the separation distance, topography and built/natural features. The distances under consideration and the low height of the solar panels (and associated infrastructure) mean there are no significant concerns related to overbearing or overshadowing.

Consideration of glint and glare is set out below.

There is the potential for noise pollution from the site to affect Kirklees residents. However, the submitted noise report demonstrates that, if operated in accordance with the proposed details, there would be no such harm. A condition requiring adherence to this document is recommended.

Officers are satisfied that there would be no direct, material harm to the amenity of residents within Kirklees due to the development.

Highways

No new site accesses or parking areas are to be located within Kirklees. The operational phase of the development would have a nominal highway impact in terms of traffic generation, that could be adequately accommodated within the network, therefore not causing concerns over junction impacts.

However, construction traffic would be more substantial and the road network is semi-rural in that area of Kirklees, and is therefore not necessarily suitable for HGV movements to and from the site. The application is supported by a Construction Management Plan which has been reviewed by K.C. Highways, who offered the following commentary:

> *The main road is restricted width through here and on a bend with DWLs and gets very busy during peak periods (AADT 12,000+, with significant peak flow bias). There are often vehicles waiting to emerge from the side road, held up by platoons of traffic on the A637. The junction angle is acute, the inner radius is very tight. Visibility to the left is very restricted. I don't see how a large eastbound HGV is going to be able to turn right and clear the main road*

without taking the whole junction mouth up, if at all… HGVS turning left out will also need to swing out into the westbound lane of A637. Blockage of the A637 and/or side road and associated safety concerns with manoeuvring seem highly likely. Also, sometimes there are cars parked on the side road quite close to the A637 – these would stop HGVs turning in or out.

Firstly, we need to see swept paths for the A637 junction, for construction vehicles. It may not even be physically possible to get 16.5m Artics / 12m Rigids in and out of this junction, due to the angle and width restrictions. Also, we need to see visibility splays.

Finally, if safe movements are possible, permitted hours of operation during the construction phase may need to be reviewed with current traffic flow data to hand. Even if only an average of "eight twoway vehicle movements per day by the largest vehicles" as stated, this is an estimate, and we need to ensure they are restricted to safe periods. I would advise that the Developer commissions a 24-hour weekday classified turning count at the A637/Hardcastle Lane junction (Monday or Friday). We can then look at that data (along with the swept paths) and establish what restrictions on operational hours for construction traffic are likely to be acceptably safe.

Finally, I would also consider a temporary TRO to prevent parking/loading close to the junction for the duration of the construction period, during any agreed hours of operation.

In light of the above comments, officers conclude that the submitted CMP is inadequate, although there are no fundamental concerns that could not be adequately addressed via amendments to the CMP which may be secured via condition.

In conclusion, officers are satisfied that, subject to a condition, the proposal would not prejudice the safe and effective operation of the highway network (within Kirklees), in accordance with Local Plan Policy LP21.

Glint and glare

The application is supported by a Glint and Glare Assessment. The report's methodology first seeks to establish a 'bald earth' scenario, calculating where solar reflections from the development may be caused as a 'worse case' situation, followed by the impact being quantified (none to high impact), giving due regard to any mitigating factors such as screening or angle of view. Potential receptors, in this case PROWs, dwellings, and road users in the surrounding area (1km from site) are identified.

For road users the report concludes, largely by virtue of the site's pre-existing screening and area's intervening undulating topography, that there would be low impacts caused that require no specific mitigation. Two points (receptors 30 and 31) covering circa 500m on Hardcastle Lane and Old Road are considered further, as they have the potential to be impacted upon to a greater degree. However, it was concluded that any glare would be fleeting and not directly in front of road users, therefore also having a low impact. Officers raise no concerns over this assessment.

PROW KIR/111/10 is located circa 200-300m south of the site. The solar panels are expected to be evident from the PROW, however the report concludes any impacts would be of a low magnitude. This is giving regard to there being no safety hazard associated with walkers and low density of users. Officers accept this position.

Considering dwellings, the report identifies that 16 dwellings (located to the site's southwest) may be affected by solar reflections, with impacts that would not be prevented by screening or terrain. However, the report concludes the impact would be low because the effects would take place for less than three months a year and/or 60 minutes in a day. Two dwellings would exceed the three-month criteria, with the report again concluding the impacts would result in low harm. Officers are not satisfied with the degree of evidence provided to conclude the harm would be low in each case and would request further details be provided to accept the applicant's position.

Notwithstanding the above, officers are satisfied that the concerns identified would not prevent Kirklees Council delegating decision making powers to Wakefield Council. Wakefield Council are aware of and share the identified concerns, and there is considered no intrinsic need for Kirklees Council to maintain control of this application due to these outstanding concerns. Officers have requested that Wakefield Council consult Kirklees Council on any amended plans, allowing for officers to review new details and provide further comments.

Further to the above points, the submission has considered cumulative impacts with the solar farm consented at Low Farm (application ref: 2021/93644) and panels upon New Hall Prison. By virtue of the layout and separation distance between the sites, observers from roads and dwellings are not predicted to experience visible reflections at the same location and time. Officers accept this conclusion.

In summary, reservations over the potential impacts to properties and residential amenity are held. Officers are satisfied this matter may be progressed by Wakefield Council and that glint and glare matters do not prevent this application being delegated.

<u>Other matters</u>

Trees

K.C. Trees have reviewed the submitted details (insofar as they relate to land within Kirklees). While the ducting would be located near to trees of amenity value, they consider the submitted Arboricultural Method Statement and Tree Protection Plan to demonstrate adequate means of protection. They therefore raise no concerns, subject to a condition requiring the works be undertaken in accordance with the submitted Arboricultural Method Statement and Tree Protection Plan.

Contamination

On ground pollution, a Phase 1 report has been provided that identifies potential contamination across the site, including within Kirklees land. Therefore, K.C. Environmental Health have requested conditions be imposed for a phase 2, remediation and validation report (as required). This is to ensure no issues of contamination or risk to health, in accordance with Local Plan LP53.

Representations

Final publicity date expired: 26/11/2023.

The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the council's adopted Statement of Community Involvement

In total, 15 public representations (including one from the local MP) were received in response to the proposal. Most were in objection to the proposal. The following is a summary of the comments received:

Green Belt / visual impact

- The area is of high aesthetic value with long visas towards open countryside and historic towns. The surrounding land is undulated and characterised by villages on high ridges but retains a rural character. It has a high sense of remoteness, openness, tranquillity, and amenity value. The proposal would cause harm through resulting in an industrialised landscape.
- The proposal is inappropriate development within the Green Belt and harms its openness.
- Solar panels should be installed on buildings or brownfield sites, not within Green Belt and greenfield land.
- The applicant has not demonstrated adequate Very Special Circumstances to justify the proposal's substantial harm to the Green Belt.

- West Yorkshire Police have concerns over the height of the fencing, stating 2.4m should be used and a more heavily reinforced type, to deter theft. However, this would result in even greater harm to openness and result in an industrial landscape.

Renewable energy

- Defining the development as ‘temporary’ is disingenuous.
- The applicant’s claims of off-setting are inaccurate and disingenuous.
- The proposal is for renewable, clean energy which is needed. The proposal will not harm amenity nor prejudice the use of paths.
- The proposal will have cumulative impacts with other existing or proposed solar farms, such as Low Farm in Kirklees.
- The proposal is a nationally significant infrastructure proposal and should have been considered alongside the Low Farm development by the Secretary of State.
- New Hall would be the third of four solar farms that exist or are planned for the area. Low Farm behind the NCM Museum, HMP New Hall, New Hall Farm and recently Haigh/Woolley. Impacting the surrounding area and covering more than 500 acres with ‘miles of fencing’.
- The proposal will not benefit local people; the energy will feed the national grid.
- Questioning whether solar panels have genuine green credentials and their actual benefits to mitigating climate change.

Heritage

- The proposal will prejudice local heritage and history, specifically Wakefield’s industrial heritage.
- If the LPA is minded to approve the application, the Secretary of State should be notified in accordance with S77 of the TCPA1990.

Residential amenity

- The proposal will cause glint and glare.
- The construction phase will be noisy, messy, and increase traffic in the area. Any anticipated construction periods are likely to be extended.
- The proposal will cause harmful noise pollution.

Highways / PROWs

- The proposal would prejudice the amenity of local PROW users as well as residents' health through harming walkable areas.

- The development would result in residents not choosing to walk in the local area and drive instead, defeating the purpose.

Ecology

- The area is home to a variety of local fauna, including protected species, as well as hedgerow and vegetation. The development would harm the site's suitability as a habitat.

Flooding

- The proposal will compact soil that will increase flood risk through preventing infiltration and speeding surface flow. This flooding may harm local heritage features, such as archaeological sites.
- The proposal will cause toxins to leach into the water system, which leads to the river Calder which will have varied detrimental impacts.

Other

- The site is Grade 2 and 3a agricultural land that has a high volume of production, the loss of which would threaten national food security.
- The Low Farm application should have been subject to an EIA, like this proposal. The submitted Environment Statement is very lightweight with various issues omitted.
- The site is within an area of high coal risk, with the Coal Authority identifying various mine entries.
- Objections received by Wakefield LPA should be considered by Kirklees LPA.

MP Mark Eastwood has provided comments on the application, which are summarised as follows:

- Concerns that this development and Low Farm are component parts and should not have been submitted separately. It establishes a dangerous precedent for future methods of undermining the planning system.
- The proposal would cause flood risk for local residents in Wakefield, which in turn will affect the authorities' resources to help residents.
- Concerns over the ethical implication of Kirklees Council approving a proposal which has impacts on neighbours, simply because it does not affect Kirklees.
- The proposal will result in the loss of land uses widely for recreation and enjoyment.
- This application has the potential of unintended negative consequences on other important areas of environmental concern, such as biodiversity, flood risk and food security.

Response: Officers consider that the vast majority of the above issues fall outside the scope of the application within Kirklees administrative boundary.

To reiterate, the purpose of this assessment is to determine whether it is reasonable to delegate authority of the elements of the proposal within Kirklees to Wakefield, not to fully assess the planning merits of aspects of the proposal wholly within Wakefield.

Officers are satisfied that matters raised that are material, such as impacts on heritage and highways, have been considered elsewhere within this report.

<u>List of conditions to request Wakefield Council impose (if minded to approve)</u>

Based on the assessment undertaken and intention to recommend that Kirklees Council delegates authority, officers would request that the following conditions (or similar) be imposed, should Wakefield Council be minded to grant planning permission:

1. The hereby approved development shall be undertaken in accordance with the directives outlined in the hereby approved Arboricultural Method Statement and Tree Protection Plan by arbtech, dated 16/06/2023.
Reason: In the interest of protecting trees of public amenity value, in accordance with LP33 of the Kirklees Local Plan.

2. Notwithstanding the submitted details, prior to the commencement of development (including ground works), a Construction (Environmental) Management Plan (C(E)MP) shall be submitted to and approved in writing by the Local Planning Authority. The C(E)MP shall include details of:

1) Details of construction access arrangements;
2) Any phasing of development;
3) Hours of works;
4) Construction vehicle sizes and routes;
5) Numbers and times of construction vehicle movements;
6) Locations of HGV waiting areas and details of their management;
7) Parking for construction workers;
8) Loading and unloading of plant and materials;
9) Storage of plant and materials;
10) Signage;
11) Temporary drainage arrangements, including details of the disposal of surface water from the development including methods to manage silt;
12) Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
13) Street sweeping;

14) Measures to control and monitor the emission of dust and dirt during construction;
15) Site waste management, including details of recycling/disposing of waste resulting from construction works;
16) Mitigation of noise and vibration arising from all construction-related activities, including restrictions on the hours of working on the site including times of deliveries;
17) Artificial lighting used in connection with all construction-related activities and security of the construction site;
18) Site manager and resident liaison officer contact details, including details of their remit and responsibilities;
19) Methods of engagement with local residents and occupants or their representatives; and
20) Engagement with the developers of nearby sites to agree to any additional measures required in relation to cumulative impacts (should construction be carried out at nearby sites during the same period).

The development shall be carried out strictly in accordance with the C(E)MP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

Reason: In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, to ensure harm to biodiversity is avoided, and to accord with Policies LP21, LP24, LP30 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity and biodiversity impacts are devised and agreed at an appropriate stage of the development process.

3. The combined noise from any fixed mechanical services and external plant and equipment 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.

4. Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 189, 190 and 191 of the National Planning Policy Framework.

5. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 4 further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 189, 190 and 191 of the National Planning Policy Framework.

6. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 5. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 189, 190 and 191 of the National Planning Policy Framework.

7. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 189, 190 and 191 of the National Planning Policy Framework.

<u>Conclusion and recommendation</u>

It is also concluded that there are no fundamental material planning concerns to the works proposed within the Kirklees administrative area. This is subject to the following being agreed with Wakefield Council:

- That Kirklees Council be consulted on any material amendments to the proposal.
- That Wakefield Council have regard to the comments received from consultees and in response to the publicity of the application made to this (Kirklees) Council when they consider their concurrent application.
- That Wakefield Council imposes the above conditions (or similar) if minded to approve (unless an updated position is offered by Kirklees Council via consultation).

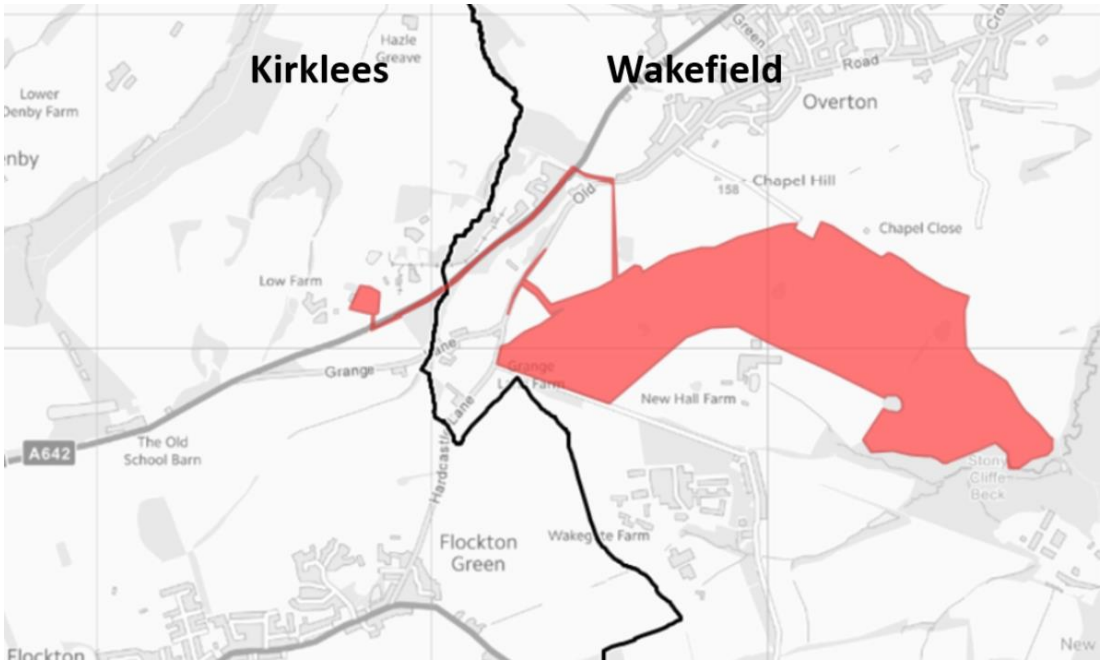
Wakefield Council officers have confirmed their agreement to the above.

It is therefore recommended that Kirklees Council delegate decision making powers for this application under Section 101(1) of the Local Government Act 1972 to Wakefield Council, with a request for the above-listed planning conditions to be imposed and that Kirklees Council be treated as a consultee on any amended plans, in relation to planning application 2023/91838.

Recommendation: Devolve Decision Making

Report Dated: 15/04/2024

Appendix 1: Plan of site area and administrative boundaries


Kirklees
Wakefield
Hazle Greave
Lower Denby Farm
Overton
Chapel Hill
158
Chapel Close
Low Farm
Grange
New Hall Farm
A642
The Old School Barn
Flockton Green
Stony Cliffe Beck