
Save the Sitlington Countryside
c/o Stevenson House
139 Netherton Lane
Netherton
Wakefield
West Yorkshire WF4 4HQ
28 September 2025

Dear Ms Chew,

Re: Planning Reference 2025/92303 – Application for Certificate of Lawfulness (Proposed Commencement of Development), Land at Low Farm, Wakefield Road, Flockton, Huddersfield WF4 4BB

Introduction

Save the Sitlington Countryside is a community organisation representing more than 250 residents of Sitlington Parish. Our community group is supported by Sitlington Parish Council, local Ward Members, and both the current and former Members of Parliament. We object to the Application for a Certificate of Lawfulness for the following reasons.

The development, authorised under planning permission ref. 2021/62/93644/E, was not lawfully commenced prior to its expiry on 24 August 2025. The limited works carried out on 4 August 2025, comprising the formation of an access track and fencing within Parcel 9, were undertaken while multiple pre-commencement conditions remained either undischarged, unimplemented, or reliant upon expired or outdated information. These works were therefore not undertaken in accordance with the permission.

Even where certain conditions were formally discharged, the commitments relied upon to obtain discharge have not been implemented in practice. Several of the approved management plans and technical statements remain unfulfilled or have been materially breached. The result is that the conditions have not been complied with either in form or in substance.

The present application has been submitted by Boom Low Farm Solar Ltd, an entity which has no lawful entitlement to rely upon or implement the permission. The Decision Notice issued in 2021 names Boom Power Ltd as the sole applicant and beneficiary. No evidence has been provided of any transfer or assignment of the permission, and the current applicant has no standing to claim the benefit of it.

The principle established in *F.G. Whitley & Sons v Secretary of State for Wales* [1992] JPL 856 applies directly. The Court held that development cannot be lawfully commenced unless all pre-commencement conditions have been properly discharged and complied with, both formally and substantively.

Where works are undertaken in breach of a condition precedent, those works are unlawful and cannot constitute lawful commencement for the purposes of section 56 of the Town and Country Planning Act 1990.

For these reasons, the works undertaken on 4 August 2025 cannot amount to lawful commencement of permission 2021/62/93644/E. The application for a Certificate of Lawfulness should therefore be refused.

Legal Framework

Whitley & Sons v SoS (1992) 64 P&CR 296 – unlawful to commence while pre-commencement conditions remain unmet.

Corporate Identity and Standing

The Decision Notice for permission ref. 2021/62/93644/E identifies Boom Power Ltd as the sole applicant and beneficiary. Only Boom Power Ltd is legally entitled to rely upon and implement that permission.

Despite this, numerous condition discharge approvals for the Low Farm site were issued to other entities—namely Boom Developments Ltd and Boom Low Farm Solar Ltd.

This inconsistency cannot credibly be treated as an administrative oversight. In correspondence dated 11 July 2023, Ashfords LLP, the developer’s solicitors, expressly confirmed to Kirklees Council that Boom Developments Ltd promoted the New Hall Farm project, whereas Boom Power Ltd was responsible for Low Farm. That letter, publicly available on the Council’s portal, demonstrates that the Local Planning Authority (“LPA”) knew—or ought reasonably to have known—that discharges issued to Boom Developments Ltd were not made to the lawful permission-holder.

The present Lawful Certificate of Development (“LDC”) application further compounds these irregularities: it was submitted by Boom Low Farm Solar Ltd, signed by Jack Spurway on behalf of Boom Power Ltd, and presented on Boom Developments Ltd letterhead. This confused corporate presentation undermines the procedural integrity of the application and raises legitimate questions about the Authority’s approach to verification.

In particular, it is unclear what due diligence the LPA undertook to confirm the legal identity of each entity purporting to act under the permission. The evidence suggests that the Authority may simply have accepted the developer’s assertions at face value without seeking corporate documentation, proof of authorisation, or confirmation of beneficial entitlement. If so, that failure has contributed materially to the current uncertainty over who, if anyone, lawfully implemented the permission.

As a matter of law, the benefit of a planning permission vests solely in the named applicant or its lawful successor in title. Condition discharges or applications made by unrelated entities are legally ineffective. Accordingly, none of the pre-commencement conditions for Low Farm were validly discharged, and the permission has not been lawfully implemented.

Given the persistent misidentification of the applicant, the absence of any lawful discharge in the name of Boom Power Ltd, and the apparent lack of due diligence by the Authority in verifying the standing of the entities involved, the Council has strong and defensible grounds to conclude that the permission has never been lawfully commenced. The current LDC application, made by a company without entitlement, is procedurally defective and should be refused.

Pre-Commencement Conditions

Each of the pre-commencement conditions attached to the planning permission has been considered in detail. The breaches summarised below illustrate, in clear terms, the extent to which the developer has failed to comply with the commitments that formed the basis upon which the Local Planning Authority discharged those conditions.

It is evident that the LPA acted in good faith in discharging the relevant conditions, relying upon representations and submissions made by or on behalf of the developer. However, the developer has consistently failed to implement, in substance, the approved schemes and measures to which those discharges related. In doing so, the developer has not merely committed procedural irregularities, but has fundamentally undermined the efficacy of the conditions themselves.

The principles established by the Court of Appeal in *F.G. Whitley & Sons v Secretary of State for Wales* [1992] 64 P. & C.R. 296 are directly applicable. The Court held that where a planning permission is subject to a condition precedent—requiring compliance before commencement—any works carried out in breach of that condition are unlawful and cannot serve to implement the permission. Compliance must be both formal and substantive. It is insufficient that conditions are discharged in form if, in practice, the approved measures have not been implemented.

Accordingly, where works are undertaken in the absence of effective compliance with pre-commencement requirements—whether relating to environmental management, construction access, archaeology, landscaping or other prerequisites—those works are undertaken unlawfully and do not constitute commencement for the purposes of section 56 of the Town and Country Planning Act 1990.

On the evidence available, multiple pre-commencement conditions have not been implemented as approved. The developer's failures in this regard render the August 2025 operations non-compliant with the permission and incapable of amounting to lawful commencement.

The Whitley principle is therefore engaged, and the Authority retains a strong and defensible basis to determine that no lawful commencement of the permission has occurred.

Condition 5 - Landscaping (LEMP)

Approved 12 Aug 2025 - eight days after commencement.

Breaches

- *Approved after commencement.*
- *Drawings were submitted for approval after works had commenced.*
- *Relied on 2021-22 ecological surveys (expired under CIEEM).*
- *Supporting evidence for the discharge of this condition was produced for an entity different to the applicant.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 6 - Construction Management Plan (CMP)

Approved 24 Jul 2025, yet not properly implemented.

Breaches

- *Approved days before commencement, leaving no time for implementation.*
- *No Site Manager appointed by the Principle Contractor (only supervisors listed).*
- *No H&S Manager - PPE breaches evidenced on the applicant's photographs.*
- *No site boards anywhere on site and specifically near parcel 9.*
- *No induction/toolbox talk records.*
- *No highway survey undertaken with the LPA.*
- *Works began in Parcel 9 contrary to phasing.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 7 - CEMP (General)

Approved 24 Jul 2025, yet not properly implemented.

Breaches

- *Approved days before commencement, leaving no time for implementation.*
- *Relied on expired 2021-22 ecology, out of date by 2025 under CIEEM guidance.*
- *No site boards anywhere on site and specifically near parcel 9.*
- *CEMP not publicly available on site.*
- *No complaints procedure available to members of the public.*
- *No dust/noise monitoring.*
- *No induction records.*
- *No LPA liaison.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 8 - CEMP (Biodiversity)

Approved Jul 2025 yet not properly implemented.

Breaches

- *Approved too late to implement.*
- *Relied on expired 2021-22 surveys.*
- *No Ecological Clerk of Works present.*
- *No toolbox talks or induction records.*
- *No fencing or other protection measures.*
- *No monitoring reports.*
- *No LPA liaison.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 9 - Invasive Species (Japanese Knotweed)

Approved 2022; no validation submitted.

Breaches

- *Relied on 2022 method without follow-up.*
- *Knotweed still present Aug 2025; no certificates to confirm control.*
- *No eradication or validation.*
- *The application was submitted by Boom Low Farm Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 10 - Arboricultural Method Statement (AMS)

Approved Mar 2023 yet not properly implemented.

Breaches

- *No evidence of communication with the Council's Tree Officer prior to the commencement.*
- *No evidence that the method statement was approved and agreed to in writing by all key personnel prior to the commencement of site works.*
- *Surveys Mar 2023; >2 years old by Aug 2025. BS5837 requires update after 12-18 months*
- *Relied on outdated survey data which were not updated before 2025 works.*
- *No fencing, no supervision, no inductions records.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 11 - Arboricultural Impact / Access Roads

Approved Mar 2023 yet not properly implemented.

Breaches

- *No Arboricultural supervision during works.*
- *Surveys Mar 2023; >2 years old by Aug 2025. BS5837 requires update after 12-18 months.*
- *Relied on outdated survey data which were not updated before 2025 works.*
- *No fencing, no supervision, no inductions.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 12 - Ground Investigation

Approved November 2024 yet not properly implemented.

Breaches

- *WSP required RAMS for contamination.*
- *Land & Power's method statement ignores all contamination requirements.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 13 - Remediation Strategy

Approved November 2024 yet not properly implemented.

Breaches

- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 14 - Unexpected Contamination

Condition remains un-discharged.

Breaches

- *No evidence operatives were instructed to halt works if contamination was found.*
- *Condition not discharged and remains outstanding.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 15 - Validation Report

Condition remains un-discharged.

Breaches

- *Condition not discharged and remains outstanding.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 16 - Coal Mining Risk

Approved July 2023 yet not properly implemented.

Breaches

- *No intrusive works before commencement.*
- *Parcel 9 will contain substations, not exempt.*
- *Parcel 9 is closest to Caphouse Colliery; recent mining works demonstrate risks are live.*
- *Relied on incomplete desk-based report.*
- *Land and Power ignored the WSP-specified precautions for Parcel 9.*
- *The application was submitted by Boom Low Farm Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 18 - Highways Access and Sightlines

Condition remains un-discharged.

- *Condition never discharged, yet works commenced.*
- *Approved access blocked by padlocks/boulders.*
- *Works commenced via unauthorised track into Parcel 9.*

Condition 19 - Archaeological WSI

Part discharged Jun 2023.

Breaches

- *WSI was valid for one one year, expired February 2024.*
- *Relied on expired approval.*
- *The application was submitted by Boom Low Farm Ltd, not Boom Power Ltd who were granted the planning permission.*

Condition 20 - Archaeological Evaluation

Condition remains un-discharged.

Breaches

- *Condition never discharged yet works have commenced.*
- *Dependent on expired WSI.*
- *No evaluation carried out.*

Condition 21 - Ecological Design Strategy (EDS)

Approved May 2025.

Breaches

- *No evidence of a Biodiversity Champion.*
- *No evidence of a Suitably Qualified Ecologist.*
- *Relied on 2021-22 ecology (expired by 2025).*
- *No toolbox talks or induction records.*
- *No monitoring reports.*
- *No LPA liaison.*
- *The application was submitted by Boom Developments Ltd, not Boom Power Ltd who were granted the planning permission.*

Inconsistent Documentation

The method statement prepared by Land & Power Ltd for the "Low Farm Access Track" is dated 11 August 2025—some seven days after the applicant asserts that works commenced on 4 August 2025. This document identifies Boom Power Ltd as the client. However, the application for the Certificate of Lawful Commencement was submitted in the name of Boom Low Farm Solar Ltd. Across the wider record, three distinct corporate entities—Boom Power Ltd, Boom Developments Ltd, and Boom Low Farm Solar Ltd—appear to have been involved in various stages of the discharge of pre-commencement conditions.

Only Boom Power Ltd, as the named permission-holder, was legally entitled to discharge those conditions or to implement the development. Any purported discharge or commencement by another entity is, at best, irregular and, at worst, without lawful effect.

The Construction Management Plan (CMP) names Mr John Gannaway (on behalf of Boom Power Ltd) as Site Manager. Land & Power Ltd are subsequently identified as the Principal Contractor. Under Regulation

13 of the Construction (Design and Management) Regulations 2015 (“CDM 2015”), the Principal Contractor bears responsibility for the appointment of a competent Site Manager. The documentation submitted only lists two site supervisors and no Site Manager. This supports the inference that the statutory management structure required under CDM 2015 was not properly in place when works began.

Further procedural anomalies are evident in the correspondence. The covering letter to the relevant submission bears the letterhead of Boom Developments Ltd, is signed on behalf of Boom Power Ltd, yet identifies the applicant as Boom Low Farm Solar Ltd. Such inconsistencies in the execution of documents and the identification of corporate actors call into question the authenticity and validity of the procedural steps purportedly relied upon to evidence lawful commencement.

These corporate and documentary inconsistencies are not merely clerical. They raise substantive doubts as to whether the works were undertaken by, or on behalf of, the lawful permission-holder. The identity of the party implementing the development is a material legal question for the purposes of section 56 of the Town and Country Planning Act 1990 and the Whitley principle. Where the works relied upon to establish commencement were carried out by a party other than the permission-holder, or without clear authorisation from that entity, they cannot amount to lawful commencement of the permission.

The sequence of events and the contradictions between the named entities, together with the post-dated method statement, demonstrate a lack of procedural integrity in both the implementation and administration of the project.

The inconsistencies in corporate identity, the retrospective dating of key health and safety documentation, and the absence of a properly appointed Site Manager at the point of commencement all reinforce the conclusion that the works undertaken in August 2025 were not lawfully executed on behalf of the permission-holder. These defects, taken cumulatively, further undermine any assertion that the solar farm permission was lawfully commenced.

CDM 2015 Failures

Both the Construction Management Plan (“CMP”) and the accompanying method statements expressly bring the project within the ambit of the Construction (Design and Management) Regulations 2015 (“CDM 2015”). Accordingly, the statutory regime under CDM 2015 was directly engaged from the outset.

Pursuant to Regulation 6, the client—identified in the project documentation as Boom Power Ltd—was required to notify the Health and Safety Executive (“HSE”) of the project by submission of Form F10 prior to the commencement of any construction activity. Regulation 11 imposes duties upon the principal designer to plan, manage and monitor the pre-construction phase to ensure that health and safety considerations are fully integrated into the design process. Regulation 13 places corresponding obligations upon the principal contractor—in this instance, Land & Power Ltd—to plan, manage and monitor the construction phase in compliance with those statutory duties.

Non-compliance with these obligations is not a mere procedural irregularity. CDM 2015 forms part of the statutory health and safety framework that governs the lawful execution of construction activities. A failure to comply with its mandatory requirements before the carrying out of works may render any purported commencement defective in law. Where the required notification (Form F10) has not been submitted, or the appointed duty holders have not been validly designated or have failed to discharge their respective responsibilities, the works undertaken cannot properly be regarded as having been carried out in accordance with the permission or as a “lawful commencement” for the purposes of section 56 of the Town and Country Planning Act 1990 (“the 1990 Act”).

Moreover, compliance with CDM 2015 is material to the broader question of whether the operations in question were genuinely referable to the authorised development. The absence of such compliance tends to corroborate the conclusion that the works undertaken in August 2025 were preparatory or unauthorised in character, rather than constituting lawful implementation of the solar farm permission.

No evidence has been produced to demonstrate that the requisite Form F10 notification was ever submitted to the HSE,. The HSE have no record of the F10. In the absence of that notification, the project was not compliant with Regulation 6 of CDM 2015.

The documentary record and site observations also reveal inconsistency as to the identity of the client and associated duty holders. References appear variously to Boom Power Ltd, Boom Developments Ltd and Boom Low Farm Solar Ltd. This inconsistency creates uncertainty as to which entity was properly discharging the statutory functions of “client” under Regulation 4, thereby undermining the validity of any subsequent appointments of principal designer or principal contractor.

Further, there is no evidence of any site induction, welfare provision, or health and safety management arrangements having been implemented. Operatives were observed working without personal protective equipment, providing tangible confirmation that no effective safety management system was in place. The method statement naming duty holders is dated 11 August 2025—after the date of the purported commencement. This chronology demonstrates that the necessary statutory framework under CDM 2015 was not established at the time the works began.

Taken together, these deficiencies constitute a clear breach of CDM 2015. Such non-compliance is not limited to matters of health and safety enforcement; it bears directly on the lawfulness of the commencement itself. Development undertaken in contravention of mandatory regulatory requirements—particularly where those requirements are expressly embedded within the CMP and method statements forming part of the approved documentation—cannot properly be regarded as having been undertaken “in accordance with the permission.”

Accordingly, any reliance upon the August 2025 operations as constituting lawful commencement under section 56 of the 1990 Act is untenable.

The absence of a Form F10 notification, the inconsistent identification of the client entity, the lack of welfare and safety management arrangements, and the retrospective dating of key method statements collectively demonstrate that the August 2025 works were undertaken in breach of CDM 2015. Those breaches are material and fatal to any assertion that a lawful commencement of the solar farm permission occurred.

Token Works and Cessation of Activity

Planning permission reference 2021/62/93644/E was expressly granted for the erection of a solar farm comprising solar panels, substations, inverters, cabling, fencing and associated infrastructure. It did not extend to, nor confer a separate or independent permission for, the formation of an access track.

The evidence indicates that the only operations undertaken in August 2025 related to the construction of an access track and the erection of palisade fencing. Land & Power’s own method statement, dated 11 August 2025, describes the scope of works solely as “Low Farm - Access Track and Palisade Fencing”.

There is no suggestion—either in that document or elsewhere in the record—that these works were intended, or understood, to amount to the commencement of the solar farm itself.

In legal terms, such operations fall to be characterised as ancillary or enabling works preparatory to the carrying out of the authorised development. The authorities make clear that works of this nature, being neither integral to the substantive scheme nor demonstrative of an intention to carry it out, cannot constitute lawful commencement for the purposes of section 56 of the Town and Country Planning Act 1990.

Moreover, it is of significance that, following completion of the access track, all activity on site ceased and no further development of the solar farm took place. This factual sequence is inconsistent with the conduct of a developer genuinely implementing a major renewable energy project.

Accordingly, the operations undertaken in August 2025—limited to the formation of the access track and associated fencing—do not, in my opinion, amount to lawful commencement of the solar farm authorised under permission reference 2021/62/93644/E.

LPA Enforcement Risks

The documentary record evidences multiple breaches of pre-commencement conditions and establishes, beyond reasonable doubt, that the works undertaken on 4 August 2025 were not carried out “in accordance with the permission.” Notwithstanding this, the Local Planning Authority must exercise caution in the manner by which it proceeds with enforcement.

A number of discharge letters were issued in the names of Boom Developments Ltd and Boom Low Farm Solar Ltd rather than the permission-holder, Boom Power Ltd. This introduces a degree of procedural ambiguity that the developer may seek to rely upon. However, the chronology of events and the substance of the relevant approvals remain clear: the CMP, CEMP, LEMP, AMS and archaeological WSIs were each either approved post-commencement, left unimplemented, or founded upon information that had by then expired.

Accordingly, the Authority retains a firm legal basis to determine that no lawful commencement has occurred, consistent with the principles established in *F.G. Whitley & Sons v Secretary of State for Wales* [1992].

Local Government and Social Care Ombudsman

If the Local Planning Authority is unable to provide a satisfactory explanation or resolution regarding these procedural concerns, it may be appropriate to raise the matter with the Local Government and Social Care Ombudsman. This would allow an independent review of whether the correct planning procedures have been followed and whether any administrative errors have occurred.

Yours faithfully,

Save the Sitlington Countryside