
From: Samantha Harvey (Cllr) <sharvey@wakefield.gov.uk>
Sent: 07 October 2025 20:12
To: Katie Chew <Katie.Chew@kirklees.gov.uk>
Cc: Cllr JohnJ Taylor <JohnJ.Taylor@kirklees.gov.uk>
Subject: Objection to Application 2025/92303

Dear Ms Chew,

I am writing as the Ward Councillor for Wakefield Rural to formally object to the above application for a Certificate of Lawfulness at *Low Farm, Wakefield Road, Flockton*.

The 2021 permission has **not lawfully commenced**, and this application must therefore be refused.

1 The Wrong Company

- The 2021 planning permission (ref 2021/62/93644/E) was granted to **Boom Power Ltd**, the only lawful beneficiary of that consent.
- Yet almost every subsequent submission for Low Farm – including the CMP, CEMP, LEMP and now this LDC – has been made by **Boom Developments Ltd** or **Boom Low Farm Solar Ltd**, neither of which holds the permission.
- A letter from **Ashfords LLP** dated **11 July 2023**, uploaded to **Kirklees Council's own planning portal**, clearly states: *"Boom Developments Ltd is promoting the New Hall Farm scheme, while Boom Power Ltd is responsible for Low Farm."*
- This same letter was relied upon as a **core document at the 2025 New Hall Farm Public Inquiry** in **Wakefield**, where it was accepted by the Planning Inspector as formal evidence of corporate responsibility.
- Kirklees therefore **cannot credibly claim ignorance** of this information: it appears within its own record and was examined at a neighbouring authority's inquiry.
- If Ashfords' statement is correct, Kirklees has issued multiple condition discharges to **Boom Developments Ltd**, a company with **no legal interest** in the Low Farm permission or land, rendering those approvals **procedurally unsound**.
- If the statement is incorrect, then the evidence relied upon by the Planning Inspector at New Hall Farm was **materially wrong**, raising wider implications for the reliability of that inquiry's outcome.
- Either way, the situation demands explanation:

- **How has Kirklees decided that Boom Developments Ltd possesses any legal interest in the Low Farm land?**
- **What due diligence was undertaken** to verify ownership, corporate authority and standing before discharging conditions to them?
- **On what basis** is the Council now entertaining an LDC submitted by yet another company, **Boom Low Farm Solar Ltd?**
- **In summary:** Kirklees' own files confirm that the wrong companies have been allowed to act as if they hold the Low Farm permission. Granting a Certificate now would endorse an error the Council already knows exists and could compromise both the Low Farm permission and the integrity of the New Hall Farm decision reached in Wakefield.

2 Breach of Pre-Commencement Conditions

Under *FG Whitley & Sons v Secretary of State for Wales (1992)*, any development started before discharging pre-commencement conditions is **unlawful** and cannot constitute commencement. The following conditions were not lawfully discharged or implemented when works began on **4 August 2025**:

No.	Subject	Key Breaches
C5	Landscape & Ecological Management Plan	Approved after works began (12 Aug 2025).
C6	Construction Management Plan	No highway survey, site board, wheel wash or inductions.
C7	Construction Environmental Management Plan	Not implemented; relied on expired 2021–22 surveys.
C8	CEMP: Biodiversity	No Ecological Clerk of Works, toolbox talks or fencing.
C9	Invasive Species	No evidence of knotweed treatment or monitoring.
C10 & 11	Arboriculture	No tree-protection fencing or supervision.
C12–15	Contamination	No RAMS, asbestos plan or validation; 14 & 15 undischarged.
C16	Coal Mining Risk	Parcel 9 beside mine shafts; no exclusion zones or checks.
C18	Highways	Not discharged; approved access padlocked and blocked.
C19 & 20	Archaeology	Part-discharged only; no trenching in Parcel 9.
C21	Ecological Design Strategy	No biodiversity champion or monitoring.

Each of these was a **condition precedent**. Commencement in breach of any one renders the works unlawful.

3 Token Works Only

- The only activity in August 2025 was construction of an **access track and fencing**.
- Land & Power's own paperwork describes the project solely as "*Low Farm – Access Track and Palisade Fencing.*"
- Works ceased immediately afterwards.

4 Enforcement, Accountability and Precedent

This situation raises serious governance issues for the Local Planning Authority:

- **Who can Kirklees actually enforce against?** The permission was granted to Boom Power Ltd, yet the works were carried out by other entities.
- **How can enforcement be effective** if the Council has issued approvals to the wrong party?

- **What precedent does this set** if a Certificate is granted despite these known breaches? It would signal that planning permissions can be implemented by any related company without formal transfer or variation.
- **Risk to the LPA:** Issuing a Certificate in these circumstances could expose the Council to challenge for endorsing unlawful works and failing in its statutory duty to verify applicant authority. Until accountability is clarified, it would be wholly unsafe for Kirklees to certify lawful commencement.

5 Conclusion

- The **wrong company** is applying.
- **Multiple pre-commencement conditions** were breached and two were not discharged.
- The **works undertaken were token** and non-compliant.
- The **LPA cannot identify the correct entity for enforcement**.

By the clear principle in *Whitley (1992)*, the development has **not lawfully commenced**. The LDC application **must be refused**.

Please let me know if this email is sufficient to lodge my objection to the above application or I need to submit it to the planning portal before the deadline.

Yours sincerely,

Samantha

Cllr Samantha Harvey

District Councillor for Wakefield Rural

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