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**Report of the Head of Planning and Development**

**STRATEGIC PLANNING COMMITTEE**

**Date: 09-Jun-2022**

**Subject: Planning Application 2022/91065 Erection of agricultural building Mug Mill Farm, Mug Mill Lane, Thornhill, Dewsbury, WF12 0QE**

**APPLICANT**

J Wigglesworth

**DATE VALID**

30-Mar-2022

**TARGET DATE**

25-May-2022

**EXTENSION EXPIRY DATE**

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Dewsbury South**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

Kirklees Council to devolve its development control functions to Wakefield Council for the determination of the application.

**1.0 INTRODUCTION**

- 1.1 This application is reported to the Strategic Planning Committee as the application is for a cross boundary application with Wakefield Council.
- 1.2 Officer's seek approval of the Strategic Planning Committee to devolve the decision making authority to Wakefield Council in respect of the determination of this planning application.

**2.0 BACKGROUND**

- 2.1 A full planning application has been submitted to Wakefield Council and Kirklees Council for the erection of agricultural building. In circumstances where the application site crosses the administrative boundary between two Local Planning Authorities, two identical applications should be submitted, one to each of the Local Planning Authorities, seeking permission for the development of land falling within each administrative area.
- 2.2 In this case, the part of the application site where the building is proposed lies within the administrative boundary of Wakefield Council, with only the vehicular access from Wood Lane within the administrative boundary of Kirklees Council.
- 2.3 Wakefield Council have taken an active role in determining the duplicate application to this one being considered. This is evident by the amendments displayed on the Wakefield Council planning website.

**3.0 OPTIONS FOR CONSIDERATIONS**

- 3.1 Paragraphs 73 - 74 of the Communities and Local Government Circular 04/08 sets out the procedures in respect of payment of the application fee for a cross boundary application as follows: 'The planning fee is payable solely to the Authority of whichever area contains the larger or largest part (within the red line boundary) of the whole application site.'
- 3.2 In this case, the majority of the site, including where the building is set, falls within the administrative area of Wakefield Council. Thus, the application fee is paid solely to them whereby Kirklees Council have not received a fee.

- 3.3 The obligation on applicants to submit their application to the relevant Local Planning Authority's should be unaffected by the administrative arrangements put in place between Local Planning Authorities for the determination of cross boundary planning applications. Accordingly, where an application site falls within the administrative areas of two Local Planning Authorities the applicant should submit an application to each Planning Authority.
- 3.4 Paragraph 73 of Circular 04/2008 states that where an application site straddle one or more Local Planning Authority boundaries, it is necessary to submit identical applications to each Local Planning Authority, identifying on the plans which part of the site is relevant to each.
- 3.5 It is strictly possible and lawful for an applicant to formulate two distinct planning applications for each Local Planning Authority. However, such an approach would be artificial since each Local Planning Authority would need to know the details of the development as a whole in the other Local Authority's administrative area in order to make an appropriate determination of the application. For example – Kirklees Council would need to know what the access would serve and Wakefield Council would need to know how the development would be accessed.
- 3.6 In the absence of alternative administrative or statutory arrangements, a planning application should be determined by the Local Planning Authority whose administrative area the development is proposed to be carried out. In the case of cross boundary applications, this can lead to two Local Planning Authorities making individual determination, imposing different conditions on the permissions and entering into separate Section 106 Agreements. In some cases they may come to different outcomes. This is considered to be undesirable in terms of achieving a coordinated approach to delivering development.
- 3.7 Section 101(5) of the Local Government Act 1972 authorises two or more Local Planning Authorities to discharge any of the functions jointly. This arrangement can be achieved through the establishment of a joint committee. In practice, this type of arrangement is usually established for larger application or if it is likely that there will be a number of cross boundary applications. Kirklees and Wakefield could choose to establish a joint committee and determine the cross boundary application collectively. In practice, however, this approach is not considered to be an efficient use of Council resources for such a small planning application.
- 3.8 An alternative solution is that Kirklees Council could devolve its decision making powers to Wakefield Council in respect of its determination of any cross boundary planning application submitted to it. Wakefield Council who has been paid the full application fee in any event, would then determine both the application submitted directly to it and the application initially submitted to Kirklees but delegated to Wakefield. This is considered by officers to be the preferred option available to the council.
- 3.9 If Wakefield Council was minded to grant consent for the cross boundary development, it could grant planning permission authorising the development applied for in both of the administrative areas under the two original planning applications. The same applies should Wakefield be minded to refuse the application.

#### **4.0 RECOMMENDATION**

4.1 Officers consider that it would be appropriate in this case for Kirklees Council to devolve its development control functions to Wakefield Council for the following reasons:

- The proposed development within Kirklees' administrative boundary comprises of the existing access only, whereby no alterations are proposed;
- The build itself would be sited outside of Kirklees' administrative boundary.

#### **5.0 IMPLICATIONS FOR THE COUNCIL**

5.1 None to note.

#### **6.0 OFFICER RECOMMENDATION**

6.1 Officer's recommend that in accordance with Section 101(1) of the Local Government Act 1972, the Strategic Planning Committee devolves its development control powers to Wakefield Council in respect of application 2022/91065 for full planning permission for the erection of an agricultural building.