

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) Section 191/192**

**DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF  
LAWFUL DEVELOPMENT**

Reference no.: 2025/CL/90942/W

Site: Moss Edge Farm, Moss Edge Road, Holmbridge,  
Holmfirth, HD9 2SD

Description: Certificate of lawfulness for proposed erection of  
two storey rear extension to dwelling, single storey side extension to garage  
and porch to the rear

Case Officer: Charlotte Hancock

**Decision Reference: PROPOSED OPERATIONS REFUSED**

**I hereby authorise the refusal of this application for the reasons set out  
in the officer's report and recommendation annexed below in respect of  
the above matter.**

Kevin Walton

**AUTHORISED OFFICER**

**Date 17-Jun-2025**

## **Officer Report**

### **Site Description**

Moss Edge Farm is a detached dwelling constructed of natural stone with a stone slate roof. The property is accessed by means of Moss Edge Road, a private track which proceeds north off the adopted Hollin Brigg Lane. The property is located adjacent to two other farm buildings which are of a similar material pallet.

The property is located in the Green Belt and Strategic Green Infrastructure Network.

The property has not had its permitted development rights removed.

### **Description of Proposal**

Permission is sought for a certificate of lawfulness for proposed erection of two storey rear extension to dwelling to replace an existing lean to, single storey side extension to garage and porch to the rear attached to the two storey enlargement.

The proposed rear extension would project approximately 3.0 metres from the rear of the original dwellinghouse, would have an eaves height of 2.9 metres, and would have a width of approximately 2.9 metres. The extension would be constructed of stone to match the existing dwellinghouse.

The proposed porch would project approximately 1.3 metres from the rear of the dwellinghouse, would have an eaves height of 2.2 metres and a width of 2.2 metres.

The proposed garage would have a length of 8.6 metres, a width of 6.0 metres and a height of 3.7 metres.

### **History of negotiations/amendments received**

No history of negotiations or amendments.

### **Relevant Planning History**

No relevant planning permission.

### **Consultation responses**

This is an application for a Lawful Development Certificate and, for this reason, no consultations are necessary

### **Issues and Assessment**

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined section 55 of the Town and Country Planning Act 1990; If so, whether Permitted Development rights apply to the property; and
1. Whether the proposed development falls within permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class A (enlargement, improvement or other alteration of a dwellinghouse).

The proposal comprises the erection of extensions thus the proposal constitutes the carrying out of building on and over land that would materially affect the external appearance of the existing building. As such, it is regarded as development as defined by section 55 of the Town and Country Planning Act 1990.

The application therefore falls to be considered under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class A (enlargement, improvement or other alteration of a dwellinghouse). The porch is considered to be part of the proposed two storey enlargement as the porch area is access from a door forming part of the two storey enlargement and thus would not be an existing external door for the purposes of Class D of Part 1.

### **Preliminary matters**

The application site consists of a farmstead comprised of a detached farmhouse with a range of traditional farm buildings. The site is accessed via Moss Edge Road which is located to the north of the application site. The east of the site fronts an agricultural field and the west of the site fronts the farmstead access. In the context of paragraph A.1 (e) of Class A of Schedule 2, Part 1 of the GPDO, it is necessary to establish which elevation of the property is considered to be the principal elevation of the original dwellinghouse.

The term 'principal elevation' is not defined in the GPDO; however, the permitted development rights for householders: Technical Guidance September 2019 (the Technical Guidance) does provide some assistance with the interpretation of the term. The technical guidance states that in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It also states that it will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. The Guidance continues to state that there will only be one principal elevation on a house and where there are two elevations which may have the character of a principal elevation, for

example, on a corner plot, a view will need to be taken as to which of these forms the principal elevation.

In this case, the application site is positioned at an angle adjacent to Moss Edge Road and while Moss Edge Road is unadopted, for the purposes of Class A, private way can also be considered to be Highway. However, Moss Edge Road terminates at the north side of the building where it turns into the farm yard and while a track continues along the west elevation of the building, this appears to be an informal tyre formed route along the boundary of a field and would not be regarded as a highway. Consequently it is only the north elevation that could be said to front the highway serving the development. As the north elevation could only be reasonably regraded as a side elevation, the principal elevation could only be the east or west elevation.

With regard to architectural features, the eastern elevation of the dwelling contains the most windows, and the dwelling was most likely to be designed to have an outlook onto the adjacent fields rather than the farmyard. The west elevation is void of any significant architectural features and contains an original lean to projection commonly associated with rear elevations. Therefore, it can be considered that the eastern elevation of the dwelling is the principal elevation and that the two-storey extension is consequently proposed to the rear.

The garage side extension is proposed to the southern elevation of the dwelling and is proposed to have a height of 3.9 metres and a width of 8.6 metres. Due to the proposed location of the garage, it raised the question of the extent of residential curtilage in this instance. Aerial imagery from 2000 appears to clearly demonstrate that the land immediately surrounding the dwellinghouse has been used in connection with the agricultural use of the attached field as opposed to be garden, parking or other uses that could be considered associated with the farmhouse. There had been no defined curtilage in connection with the property until recent years where an area to the west of the property has been sectioned from the adjacent field.

The area where the garage is proposed has not been defined or used in connection with the residential use of the dwelling. When considering established Court judgements, any curtilage land must have the qualities of land that is intimately associated with the dwellinghouse both past and present and be undoubtably regarded as one enclosure with the dwellinghouse<sup>1</sup>. In this instance there is no evidence to show the land to the south is intimately associated with the dwellinghouse despite being in the same ownership and there are no physical or functional boundaries to show the land was not part of the wider farmed field. It is noted that historical maps do show some feature, whether land or building which has historically been removed. This is not considered sufficient to demonstrate the land continued to be part of any curtilage notwithstanding any original use and the land south of the building has clearly been used for agricultural purposes for at least the previous 25 years.

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<sup>1</sup> (*McAlpine v Secretary of State for the Environment* [1994] EGCS 189).

Consequently, it cannot be concluded that the land where the proposed garage is located has clear functional links to the dwelling and therefore cannot be considered as being curtilage to Moss Edge Farm.

Equally, the land to west beyond where the proposed two storey enlargement is proposed appears to historically be part of the farm yard and has not been used for any domestic purpose associated with the farmhouse and therefore the curtilage boundary on the west elevation is considered to be the west side of the existing building.

An area of land projecting approximately 4 metres to the east of the existing farmhouse along the entire length of this elevation appears to have been annexed from the wider field with some degree of physical feature. It is not sufficiently clear from aerial imagery to established whether this is used for purposes associated with the dwellinghouse. However there is no evidence to demonstrate the land was part of the wider field prior to 2021 and no residential use or curtilage appears to have been established on the east elevation.

Land to the north of the farmhouse appears to have been used as a small parking area judging from aerial imagery, although there is nothing to differentiate this from the farmyard to say any part is curtilage.

While it is unusual for a building not to have any established domestic curtilage, the High Court<sup>2</sup> confirmed that, although it would be relatively unusual, it is possible for a dwellinghouse to have no surrounding residential curtilage at all.

### **Development not permitted:**

A.1 Development is not permitted by Class A if—

a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);

***Comment:*** *Permission has not been granted by any of the above.*

b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

***Comment:*** *The proposed works fall outside the curtilage of the building.*

c) The height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

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<sup>2</sup> R. (Gore) v Secretary of State for Communities and Local Government [2009] J.P.L. 931

**Comment:** *The highest part of the extension would not exceed the height of the highest part of the roof of the existing dwellinghouse.*

d) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse

**Comment:** *The height of the eaves would not exceed the height of the eaves of the existing dwellinghouse.*

e) The enlarged part of the dwellinghouse would extend beyond a wall which –

- (i) forms the principal elevation of the original dwellinghouse; or
- (i) fronts a highway and forms a side elevation of the original dwellinghouse;

**Comment:** *The extension would not extend beyond a wall which forms the principal elevation or fronts a highway.*

f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and-

- l. extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwelling, or 3 metres in the case of any other dwellinghouse.
- l. Exceed 4 metres in height;

**Comment:** *The single storey porch element of the two storey enlargement does not extend more than 4 metres.*

g) For a dwelling not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single story and–

- l. Extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
- l. Exceed 4 metres in height

**Comment:** *The single storey porch element of the two storey enlargement does not extend more than 4 metres.*

h) The enlarged part of the dwellinghouse would have more than a single storey and-

- l. Extend beyond the rear wall of the dwellinghouse by more than 3 metres,
- Or
- l. Be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse

**Comment:** *The extension would have more than a single storey however is proposed to project less than 3 metres beyond the rear wall of the dwellinghouse. However, as the existing west elevation is considered to be the extent of curtilage, the proposed extension would be within 7 metres of the boundary of the curtilage of the dwellinghouse.*

i) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

**Comment:** *The eaves height of the extension is 2.9 metres.*

j) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would-

- I. Exceed 4 metres in height
- I. Have more than a single storey, or
- II. Have a width greater than half the width of the original dwellinghouse

**Comment:** *The garage extension would project beyond a wall forming a side elevation of the original dwellinghouse but is not more than half the width of the original dwellinghouse. The two storey enlargement also projects beyond an original side elevation and has more than a single storey although this part is considered to extend beyond residential curtilage.*

ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j)

**Comment:** *Not applicable.*

k) It would consist of or include –

- I. The construction or provision of a verandah, balcony or raised platform
- I. The installation, alteration or replacement of a microwave antenna,
- II. The installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
- III. An alteration to any part of the roof of the dwellinghouse

**Comment:** *The proposed works would not result in the above.*

l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

**Comment:** *Not applicable.*

**A.1 Development is not permitted by Class A if –**

**Conditions**

**A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if:**

- a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;*
- b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or*
- c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.*
- d) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (b) and (c)*

**Comment:** *The dwellinghouse is not on article 2(3) land.*

**A.3 Development is permitted by Class A subject to the following conditions—**

- a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- a) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—
  - I. obscure-glazed, and
  - I. non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and
  - II. where the enlarged part of the dwellinghouse has more than a single storey, the roof pitch of the enlarged part must, as far as practicable, be the same as the roof pitch of the original dwellinghouse.

**Comment:** *The construction materials would match the existing materials used to construct the original dwellinghouse. No upper floor windows in a wall or roof slope forming a side elevation are proposed.*

**Conclusion:**

The proposal at Moss Edge Farm has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for a split decision.

The proposed two-storey and single-storey rear enlargement and single storey side enlargement do not benefit from general planning permission under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposed single and two-storey rear enlargement exceeds the limitations in

sub-paragraph A.1 (h) of Class A and projects in part beyond the curtilage of the dwellinghouse. The proposed side enlargement is not considered to be within the curtilage of the dwellinghouse and therefore does not benefit from permitted any general planning permission granted by Article 3(1) of the Order.

Plans and specifications schedule: -

<b>Plan Type</b>	<b>Reference</b>	<b>Date Received</b>
Proposed elevations 2	1835 03_02	02/04/2025
Proposed plans	1835 02_01	02/04/2025
Existing plans	1835 00_01	02/04/2025
Proposed elevations 1	1835 03_01	02/04/2025
Application From	-	02/04/2025
Location Plan	-	02/04/2025

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 entered into negotiations and request amended plans for the proposed development and it was considered that the application unacceptable in its submitted form.

**Dated:** 12/06/2025