

**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.: 2026/CL/90565/E

Site: Spen House, Spen Lane, Gomersal, Cleckheaton,  
BD19 4AD

Description: Certificate of lawfulness for proposed erection of  
agricultural building

Case Officer: Laura Yeadon

**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 28-Apr-2026**

## **Officer Report**

[Weblink](#)

### **Site Description**

Spen House is a large elongated detached dwelling located within an area defined as Green Belt within the Kirklees Local Plan. The property is set back from the roadside by approximately 75 metres and is accessed via gate posts off Spen Lane. The submitted details indicate that the land within ownership of the applicant surrounds the site with the application form stating that the agricultural holding is more than 5 hectares.

### **Description of Proposal**

Permission is sought for a Certificate of Lawfulness for the erection of an agricultural building.

The building would be located to the west of the dwellinghouse known as Spen House, set back from the roadside by approximately 30 metres. The building itself would be a width of 50 metres and a depth of 10 metres with an eaves height of 6 metres and an overall height of 7.6 metres. It is proposed that the building would be constructed of plastic coated sheeting set upon a stone dwarf wall.

The details within the application form state that the building would be used for the storage of hay.

### **Officer Note**

As part of a Certificate of Lawful Development, the onus is on the applicant to provide evidence which states why the proposal fits with the permitted development legislation. In this case, the applicant has stated on the application form that the proposal should be granted as:

- The building is under 1500 square metres
- Under 12 metres high
- Further than 25 metres from the road
- On a agricultural holding of more than 5 hectares
- More than 400 metres from a listed building
- Used for hay storage

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

No negotiations have taken place and no amended plans received.

### **Relevant Planning History**

1990/00591 – Change of use from residential to part residential part offices – Refused – Appeal Upheld

1996/92325 – Erection of extensions and alterations – Conditional Full Permission

1997/92729 – Extensions and improvements – Conditional Full Permission

1998/92188 – Demolition of existing house and erection of dwelling – Conditional Full Permission

2000/91925 – Erection of two storey portico and balcony extension – Conditional Full Permission

2002/92017 – Erection of games room extension – Conditional Full Permission

2013/90468 – Works to TPO(s) SP2/70 – Granted

2016/93958 – Dead or dangerous tree – Noted

### **Consultation Responses**

None required

### **Representations**

One representation has been received with the following comments being made:

- Puzzled by the application as it is for the garden of a residential property
- Never observed farming/agricultural activities taking place in the grounds
- Proposed building over-large in relation to the site

### **Issues and Assessment**

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined within section 55 of the Town and Country Planning Act 1990;
2. If so, whether permitted development rights apply to the property; and
3. As the application form eludes to the limitations set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 6 (Agricultural and forestry), whether or not the proposed building benefits from a general planning permission by virtue of Class A of Part 6 or any other planning permission either grant or deemed to be granted applies.

Schedule 2, Part 6, Class A of the Order sets out the Permitted Development Rights which relates to the 'agricultural development on units of 5 hectares or more'.

### Officer Note

As part of the submission, the application form states that the agricultural holding is more than 5 hectares. However, whilst a 'deed plan ownership' plan has been submitted, this does not demonstrate unambiguously that agriculture within a defined agricultural unit is taking place within the site; nor that the size of building proposed is reasonably required for the storage of hay. Google Earth imagery over the years does not provide any demonstrable evidence to indicate any agricultural activities have been undertaken over any significant period since 2002. Some land to the east of the proposed building has some evidence of grass clipping in 2015 although there is no clear evidence this formed part of any established agricultural unit has includes the land subject to this application. This lack of detail does not clearly demonstrate that the use of all the land within ownership outlined in blue is used for agricultural purposes and there is no clear boundary to the extent of curtilage or garden area for the property. As such, the use of the land for agricultural purposes has not been demonstrated.

Notwithstanding this, for clarity, the proposal shall be assessed in full against Schedule 2, Part 6, Class A of the Order.

### **Permitted development**

**A.** *The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—*

- (a) works for the erection, extension or alteration of a building; or*
- (b) any excavation or engineering operations*

*which are reasonably required for the purposes of agriculture within that unit.*

**Comment:** *As stated over it is considered the building is not required for any purposes of agriculture within any defined agricultural unit.*

### **Development not permitted**

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

- (a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;

**Comment:** *The development would not be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area.*

- (b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period

of 10 years ending with the date on which development under Class A(a) begins;

**Comment:** *Not applicable*

- (c) it would consist of, or include, the erection, extension or alteration of a dwelling;

**Comment:** *It would not consist of, or include, the erection, extension or alteration of a dwelling.*

- (d) it would involve the provision of a building, structure or works not designed for agricultural purposes;

**Comment:** *As stated above, there is no evidence to show the building is designed for agricultural purposes other than an unqualified claim the building is for the storage of hay.*

- (e) the ground area which would be covered by—
  - (i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations would exceed 1,000 square metres]; or
  - (ii) any building erected or extended or altered by virtue of Class A would exceed 1,500 square metres], calculated as described in paragraph D.1(2)(a) of this Part;

**Comment:** *The ground area covered would not exceed 1500 square metres*

- (f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;

**Comment:** *No part of the building would be within 3 kilometres of the perimeter of an aerodrome*

- (g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

**Comment:** *The building would be within 3 kilometres of the perimeter of an aerodrome*

- (h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

**Comment:** *No part of the development would be within 25 metres of a metalled part of a trunk road or classified road*

- (i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of

slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;

**Comment:** *Whilst the building would be within 400 metres of a protected building, the use of the building is not proposed to be used for the accommodation of livestock or for the storage of slurry or sewage sludge*

- (j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming;

**Comment:** *Not applicable*

- (k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—

- (i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or
  - (ii) is or would be within 400 metres of the curtilage of a protected building, or

**Comment:** *Whilst the building would be within 400 metres of the curtilage of a protected building, the building would not be used for storing fuel or waste from a biomass boiler or an anaerobic digestion system*

- (l) the erection or extension of a building would be carried out on land or a building that is, or is within the curtilage of, a scheduled monument].

**Comment:** *The building would not be on land within the curtilage of a scheduled monument.*

### **Conditions**

Development may be permitted by Class A subject to the following condition:-

A.2(1)(i)

*the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;*

The applicant has not demonstrated any either does the Local Planning Authority have any record to confirm the Authority determined that prior approval is not required or has been given. Consequently and even it was considered the above limitations had been met, should the development had begun at the time of this application, it would have been in breach of condition A.2(1) and thus would have been deemed unlawful.

In the interest of completeness, the applicant has not advanced any evidence to claim any other permitted development Part or Class is applicable. No other planning permission expressly granted by the Local Planning Authority applies to the proposed development.

### **Conclusion**

The proposal has been considered with regard to any planning permission granted by the Local Planning Authority or the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) and is recommended for refusal.

The proposed building does not benefit from any planning permission granted by the Local Planning Authority nor any general planning permission granted under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015. The applicant has not satisfied the Local Planning Authority that the building is reasonably required for agricultural purposes within any agricultural unit nor has the Local Planning Authority determined that prior approval has been given or is not required prior to the date of this application.

Plans and specifications schedule:-

| <b>Plan Type</b>                              | <b>Reference</b> | <b>Version</b> | <b>Date Received</b>       |
|-----------------------------------------------|------------------|----------------|----------------------------|
| Application form                              |                  |                | 2 <sup>nd</sup> March 2026 |
| Location plan                                 |                  |                | 2 <sup>nd</sup> March 2026 |
| Proposed site plan, elevations and floor plan |                  |                | 2 <sup>nd</sup> March 2026 |
| Title deed document                           | WYK63936         |                | 2 <sup>nd</sup> March 2026 |

Dated – 27<sup>th</sup> April 2026

