



The Challenges of Curtilage Listing the 'definitive' answer

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Curtilage Listing

- *Mynors, C. & Hewitson, N. 5th edition, 2017
Listed Buildings and Other Heritage Assets*

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- *Historic England, Feb. 2018*
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Historic England Advice Note 10

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**Advice Note on the Curtilage Rule – an
interpretation of the Taunton Deane
judgement**
GN2019/2 v.March 2019*

Curtilage Listing

Planning (Listed Buildings and Conservation Areas) Act
1990

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S.1(5):

- a) *any object or structure fixed to the building;*

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Planning (Listed Buildings and Conservation Areas) Act
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S.1(5):

- a) *any object or structure fixed to the building; and*
- b) *any object or structure within the curtilage of the [listed] building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948.*

Curtilage Listing

The Planning (LBCA) Act 1990 defines *curtilage* as:

Curtilage Listing

The Oxford Dictionary of English defines *curtilage* as:

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Historic England:

“is in general terms any area of land and other buildings that is around and associated with that principal building”.

Curtilage Listing

Attorney-General v Calderdale MBC

(1983) 46 P. & C.R. 131

Nutclough Mill, Hebden Bridge, West Yorkshire

Curtilage Listing

Calderdale

- The physical layout of the listed building and the [potentially curtilage listed] structure;

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- Their ownership, past and present; and

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Calderdale

- The physical layout of the listed building and the [potentially curtilage listed] structure;
- Their ownership, past and present; and
- Their use or function, past and present.

Curtilage Listing

Debenhams Plc v Westminster CC

[1987] A.C. 396

Hamley's toy shop (51-52 Kingly St) & 27-28 Kingly St.

Curtilage Listing

Debenhams

“... a limitation to such structures as are ancillary to the listed building itself, for example the stable block to a mansion house, or the steading of a farmhouse, either fixed to the main building or within its curtilage. In my opinion, the concept envisaged is that of principal and accessory”. Lord Keith of Kinkel

Curtilage Listing

Relevant matter when assessing curtilage:

- Physical layout of the principal building and any other building that may or may not be within its curtilage;
- Their ownership past and present; and
- Their function past and present.

Curtilage Listing

Remembering that:

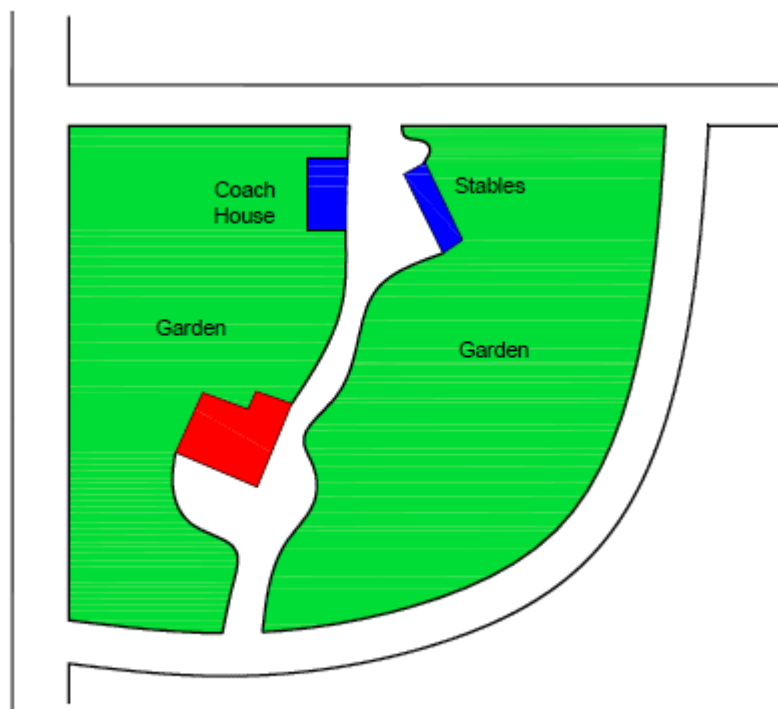
- Not all land in the same ownership as the principal building will necessarily be included in its curtilage;
- Some land in separate ownership may be included in its curtilage; and
- Not every building has a curtilage.

Curtilage Listing

While:

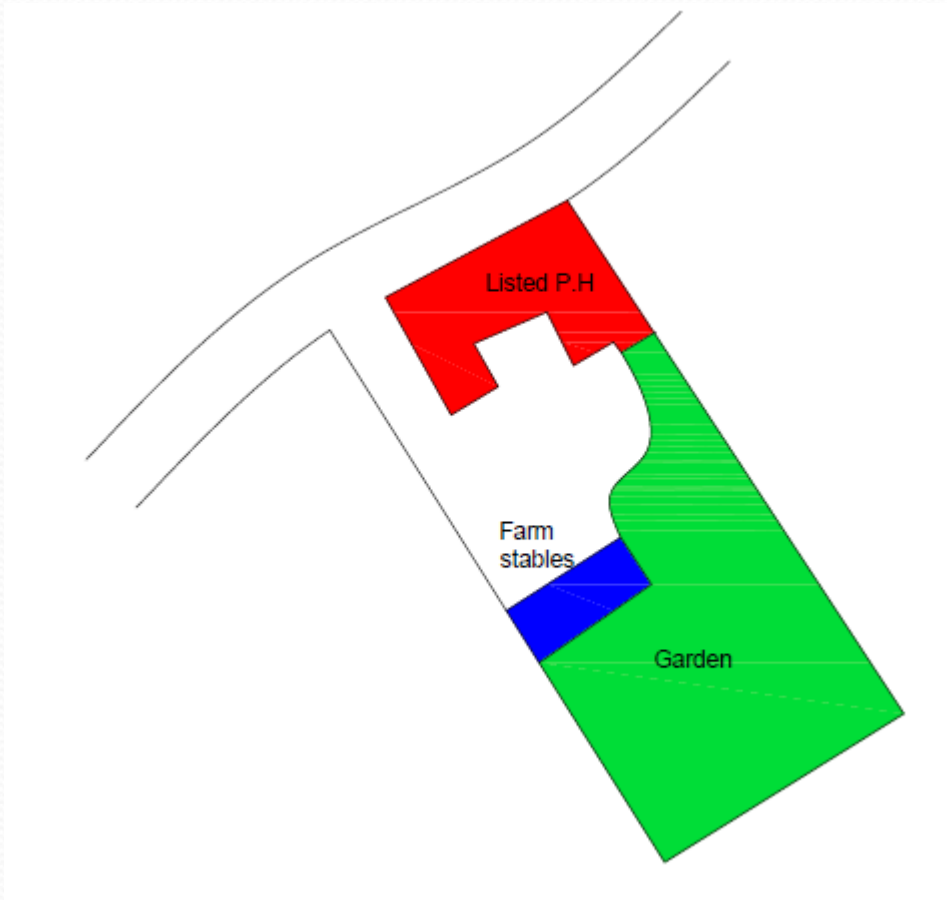
- Any pre-1948 building that was in the curtilage of the principal building at the date of listing (or possibly 1st January 1969) will be included in the listing provided it is ancillary to the principal building (unless it is explicitly excluded in the listing).

Curtilage Listing



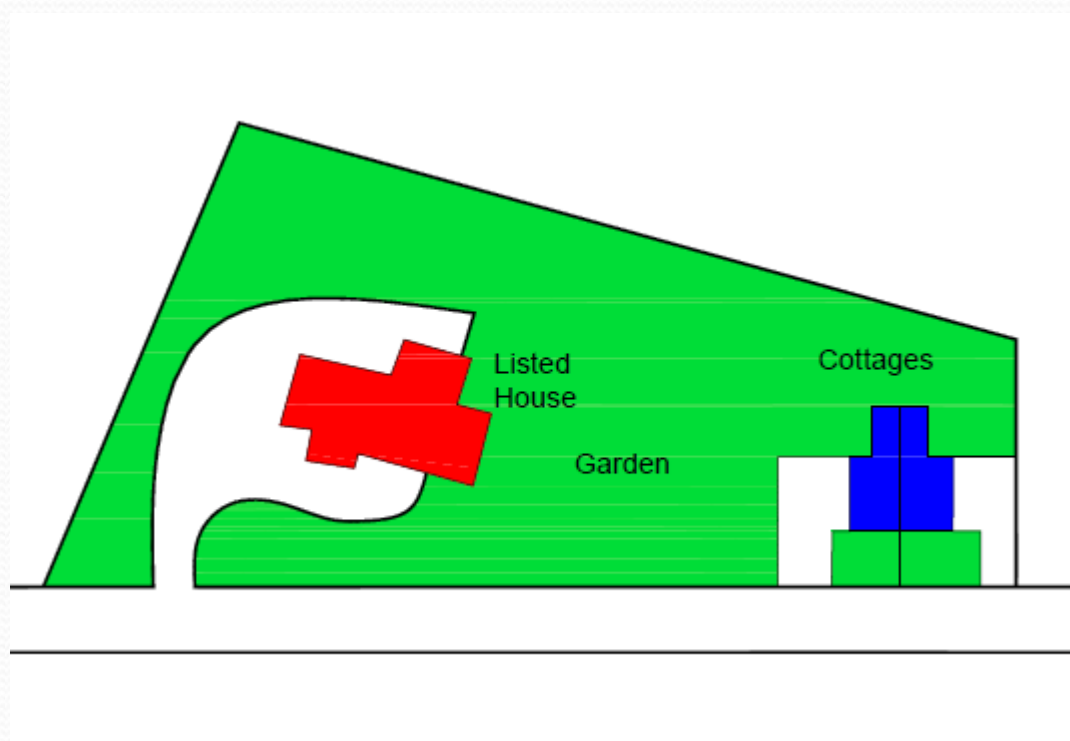
- C18th house with C19th stables and early C20th coach house;
- Detached buildings have provided storage & garaging for the house since 1930s;
- Date of listing: 1975;
- Layout: The detached buildings are within the large garden of the house;
- Ownership: All buildings have been in the same ownership; and
- Previous & current uses: the former coach house & stables have historic & current uses related to the house.

Curtilage Listing



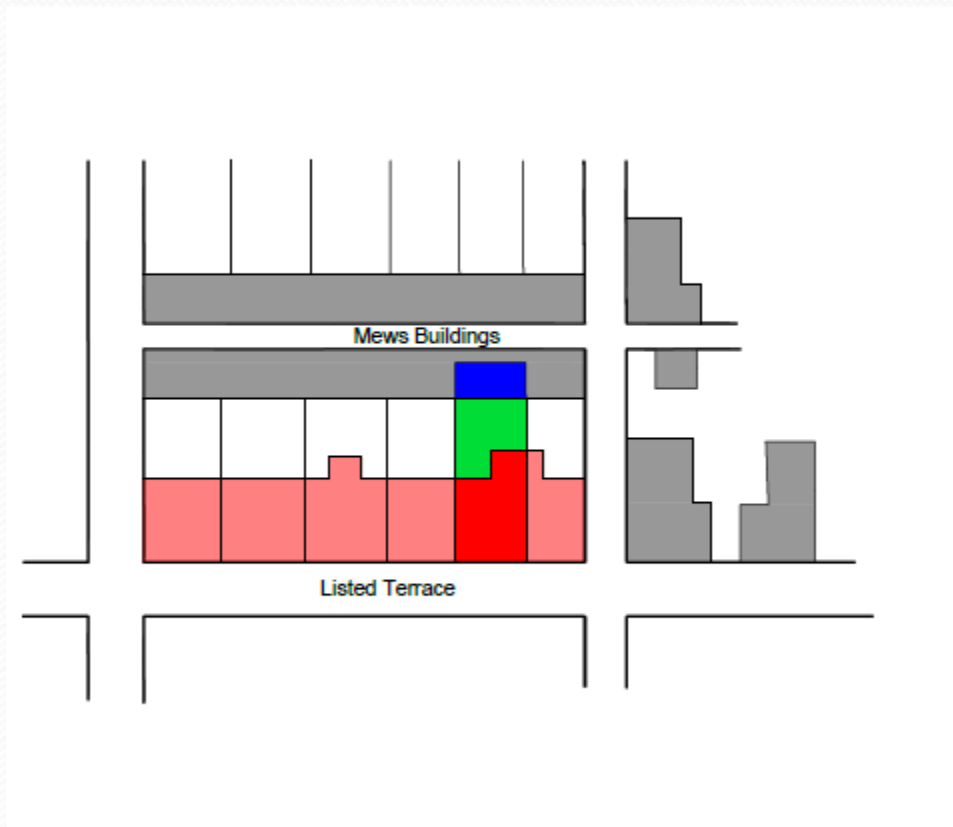
- C16th pub and early C19th former stable, having historically provided stabling for the pub;
- Date of listing: 1985;
- Ownership: The former stable is in the same ownership of the pub; and
- Previous & current uses: The former stable has been used since the 1970s as a games room and for guest accommodation for the pub.

Curtilage Listing



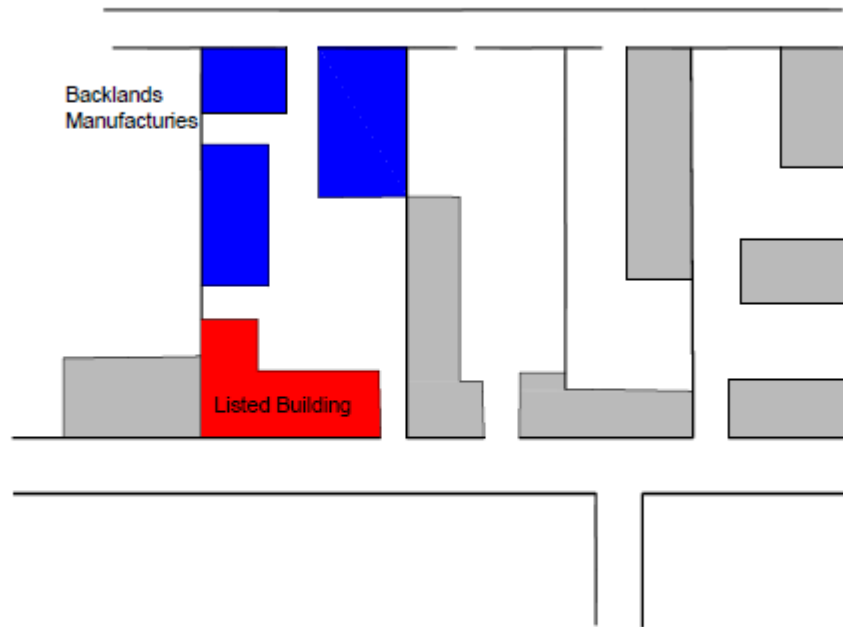
- C18th house with C19th domestic service & gardener's cottages;
- Date of listing: 1982;
- Layout: The cottages are within the large garden of the house;
- Ownership: All buildings have always been in the same ownership; and
- Previous & current uses: the former cottages were historically used to accommodate domestic servants. They were rented out to private tenants from the 1970s.

Curtilage Listing



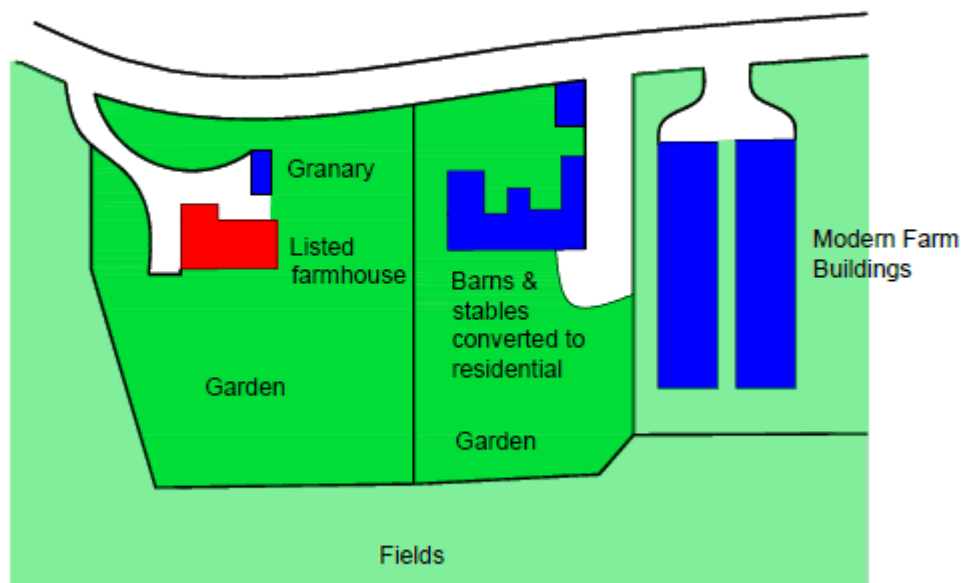
- 1822 terrace with mews buildings;
- Date of listing: 1973;
- Ownership: the mews building is in the same ownership as the listed terraced house; and
- Previous & current uses: at the date of listing, the mews building was domestic accommodation related to the house; it is currently used as a 'granny annexe'.

Curtilage Listing



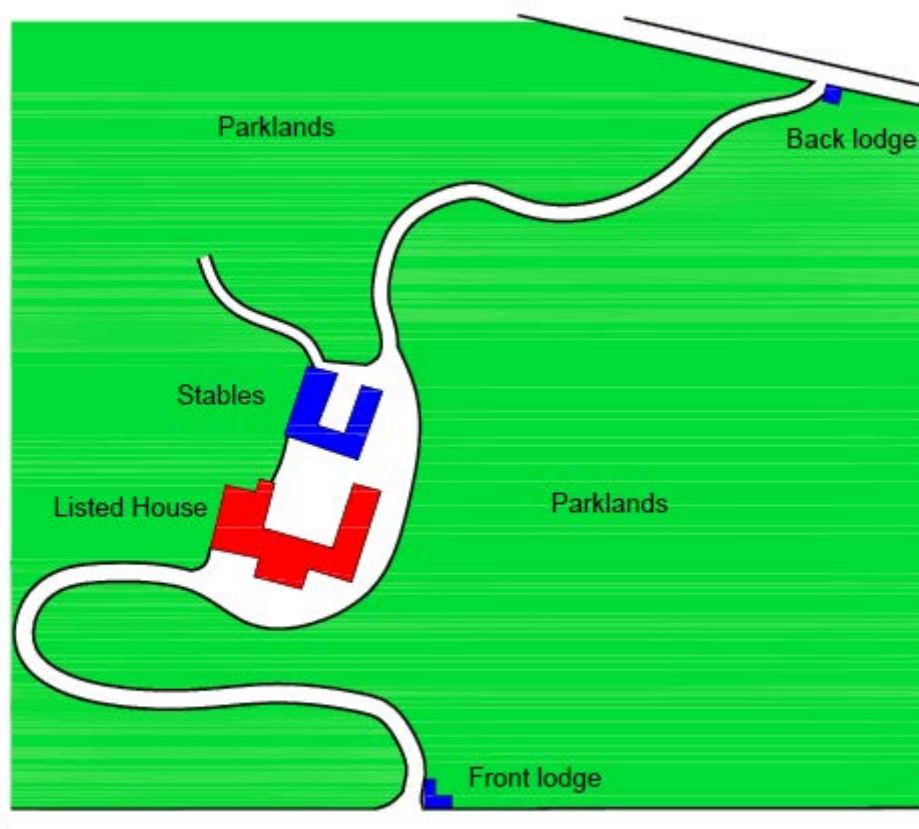
- C18th house with later C18th, C19th and C20th workshops within former rear garden;
- Date of listing: 1985;
- Layout: The detached buildings are within the former garden of the house;
- Ownership: All buildings have been in the same ownership; and
- Previous & current uses: the house was originally residential, but became offices and 'shopping' in the C19th. All buildings are engaged in the jewellery manufacturing trade.

Curtilage Listing



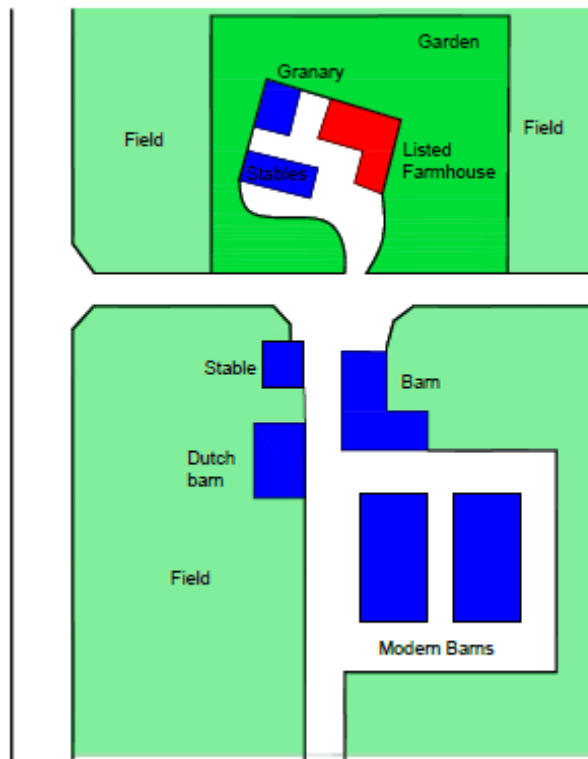
- C16th house with late C18th granary and early C19th farm buildings (cart sheds, barns & byres, now in residential use) and later C20th poultry sheds;
- Date of listing: 1965;
- Ownership: All buildings have been in the same ownership until the farmhouse & granary came into separate ownership in 1980; and
- Previous & current uses: the granary now provides garaging for the farmhouse. The C19th farm buildings were converted to residential use in 1971. The poultry sheds have been derelict since 2014.

Curtilage Listing



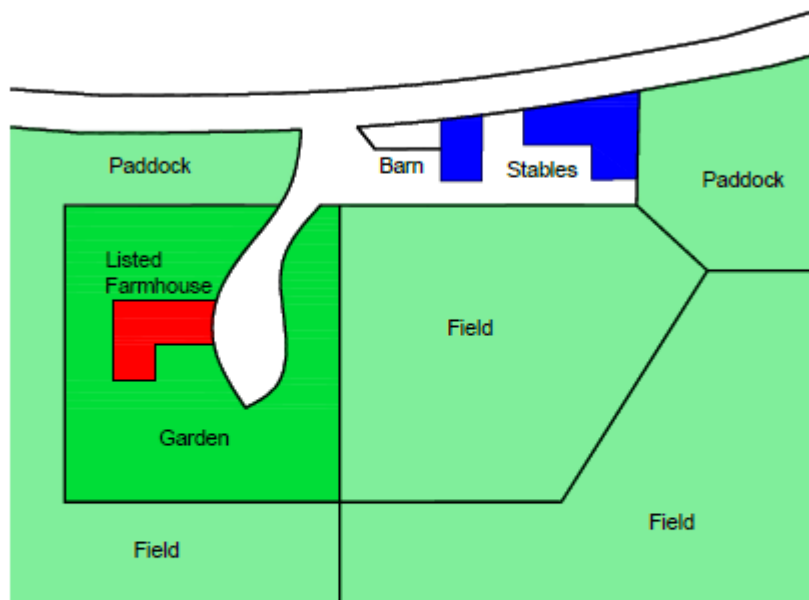
- C16th to C19th house with C18th stables and C19th lodges;
- Detached buildings have provided storage & garaging for the house since 1930s;
- Date of listing: 1975;
- Layout: The back lodge is over one mile from the house;
- Ownership: All buildings have been and are in the same ownership;
- Previous & current uses: the buildings are all in variations of their original uses. The lodges remain in staff accommodation. The stables are used for horses and garaging by the owners of the house.

Curtilage Listing



- C19th farmhouse with buildings of a similar date other than the later C20th barns;
- Date of listing: 1973;
- All farm buildings have been altered with changing farming practice, but remain in agricultural use. The granary and stables, with the farmhouse are separated from the other buildings by a wall and farm road;
- Ownership: All buildings have been in the same ownership since the C19th;
- Previous & current uses: The farmhouse includes the farm office. The granary & stables are in domestic uses relating to the farmhouse. All other buildings are in agricultural use.

Curtilage Listing



- C18th farmhouse and farm buildings;
- Date of listing: 1987;
- The farmhouse stands in its own garden within a wall and the farm buildings are beyond this within their own yard;
- Ownership: All buildings were in the same ownership at the time of listing, but the farmhouse is now in separate ownership;
- Previous & current uses: At the date of listing the farmhouse was in use as the farmer's dwelling. It is now a separate dwelling with no connection to the farm. The other buildings remain in agricultural use.

Curtilage Listing

Egerton v Taunton Deane BC

[2008] EWHC 2752

Jews Farm, Wiveliscombe, Somerset

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Jews Farm, Wiveliscombe, Somerset

- All buildings in same ownership when listed;
- Farmhouse 'turned back on' the farm buildings and separated by wall;

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Egerton v Taunton Deane BC

[2008] EWHC 2752

Jews Farm, Wiveliscombe, Somerset

- All buildings in same ownership when listed;
- Farmhouse 'turned back on' the farm buildings and separated by wall;
- Not curtilage listed;

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Egerton v Taunton Deane BC

[2008] EWHC 2752

Jews Farm, Wiveliscombe, Somerset

- All buildings in same ownership when listed;
- Farmhouse 'turned back on' the farm buildings and separated by wall;
- Not curtilage listed;
- No mention of the Calderdale or Debenhams judgements.

Curtilage Listing

Taunton Deane

“The primary use of the farmhouse was as a house. The farm, as a whole, was not listed, the farmhouse was listed; and its curtilage, as a house, was clearly defined by the wall which separated the residential use within the wall from the agricultural use that was being carried out in the agricultural buildings”. Sullivan J.

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IHBC Advice Note on the Curtilage Rule – an interpretation of the Taunton Deane judgement *GN2019/2 v.March 2019*

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