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Assessment of the Planning Status of a Barn at Barnes Lea Farm, Rushton Spencer.

Barnes Lea Farm, Cliffe Park
Rushton Spencer,
Macclesfield,
Staffordshire,
England,
SK11 0QZ

Produced by:

Planning & Design Practice Ltd
3 Woburn House, Vernon Gate. Derby, DE1 1UL
www.planningdesign.co.uk

Document Control Sheet

Project Name	Barnes Lea Farm, Reacliffe Road, Rudyard, Staffordshire, SK11 0QZ
Client	Mr Julian Goodwin
Project Reference	3789
Team Members	Ruth Gray (RG)
Project Manager	Jon Millhouse (JM)

1 INTRODUCTION

1.1 We have been instructed by Mr Julian Goodwin to provide a professional opinion as to whether a barn at Barnes Lea Farm, Rushton Spencer, should be considered curtilage listed, in order to ascertain whether the building should benefit from Permitted Development Rights for conversion to a dwelling under schedule 2, Part 3, Class Q of the GPDO.

1.2 The barn is a modern, steel portal frame structure clad in cement fibre sheeting and timber, situated to the east of Barnes Lea farmhouse.

1.3 I (Jon Millhouse) visited the site on the 16th of December 2021. I am a Charted Town Planner and member of the Institute of Historic Building Conservation.

2 ASSESSMENT

2.1 There are two pertinent questions: firstly, whether the barn should be considered a 'listed building' and secondly, whether it is in the curtilage of Barnes Lea Farmhouse. Each is addressed in turn below:

2.2 **Question 1**: Whether the barn should be considered a 'listed building'?

2.3 Barnes Lea Farmhouse was listed Grade II on the 20th of November 1987 the listing description states the following:

> *List Entry Number: 1374781. Farmhouse. Early to mid-C19 retaining C17 wing and late C19 additions. Coursed and dressed rubble stone; tile roof; verge parapets and C17 work brick end stacks. 'U'-plan of C19 frontage with late C19 and C17 wings to rear. 2-storey, 3-window garden front of two 3-lights to left and 2-light to right, block mullioned casement windows; corbelled eaves brackets. Main range returned to rear at right with lower single-storey gabled C17 wing extended to east. 3-light chamfer mullioned window to first floor and 2-light to ground (or cellar) floor set just above ground level of gable end; late C19 wing to left and entrance set in rear of main range between wings.*

2.4 This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



Fig.1 *Barnes Lea Farmhouse image taken onsite 16/12/21.*

2.5 The barn is understood to have been constructed in the late 1980's, although the exact date is not known.



Fig.2. The Modern Barn image taken onsite 16/12/21.

2.6 Section 1 (5) of the Town and Country Planning (Listed Building and Conservation Areas Act) 1990 states that any freestanding structure within the curtilage of a listed building forms part of the listing unless erected thereafter 1st July 1948.

2.7 The Act states:

In this Act "listed building" means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act—

(a)any object or structure fixed to the building;

(b)any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before lst July 1948, shall be treated as part of the building.[1]

2.8 Given that the barn was constructed after 1948 it cannot, by definition be considered a 'listed building'. It may have even been constructed after the date of the listing.

Schedule 2, Part 3, Class Q of the GPDO states:

Class Q – agricultural buildings to dwellinghouses

Permitted development

Q. Development consisting of—

(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and

[1] Section 1 (5) of the Town and Country Planning (Listed Building and Conservation Areas Act) 1990 Available online: https://www.legislation.gov.uk/ukpga/1990/9/section/1/enacted

(b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted

Q.1. Development is not permitted by Class Q if-

(m) the building is a listed building.[2]

2.9 Given that the barn is not a 'listed building' it is eligible for Class Q conversion, provided it meets the other relevant criteria.

2.10 **Question 2:** Whether the barn is within the curtilage of Barnes Lea Farmhouse?

2.11 Given the answer to question 1, question 2 is rather a moot point in terms of eligibility for Class Q conversion, however the matter is considered below for completeness. The Oxford English Dictionary defines the word curtilage as follows:

"A small court, yard, garth or piece of land attached to a dwellinghouse, and forming one enclosure with it, or so regarded by the law: the area attached to and containing a dwellinghouse and its outbuildings".

2.12 The Courts have also established several definitions of curtilage.

"The Court of Appeal case Dyer v Dorset D.C. 1988 defined a curtilage as a small area forming part or parcel with the house or building which it contained onto which it was attached. It was a matter of fact and degree.[3]

[2] Schedule 2, Part 3, Class Q of the GPDO. Available online: https://www.legislation.gov.uk/uksi/2015/596/schedule/2/made

[3] Read more online: Dyer v Dorset D.C. http://selfbuildtimberframe.com/news-dyer-v-dorset-cc-court-of-appeal-civil-division/

In The Hon. David McAlpine v SOS & Another 14/11/94, the High Court identified three relevant characteristics of a curtilage. First, it was confined to a small area about a building; second, an intimate association with land which was undoubtedly within the curtilage was required; third, it was not necessary for there to be physical enclosure of that land which was within the curtilage but the land in question needed to be regarded in law as part of one enclosure with the house/"

2.13 The farmhouse and other ancillary stone buildings are clearly enclosed (and separated from the barn) by a traditional stone wall. Two access drives also exist between the farmhouse and barn. The wall, in my view, defines the curtilage of the farmhouse.



Fig.3. *The wall and access drives dividing the farmhouse from the barn. Image taken onsite 16/12/21.*



Fig.4. *Aerial view of the farmhouse and barn showing the wall and access drives. (Google maps)*

2.14 In Attorney-General ex.rel. Sutcliffe, Rouse & Hughes v Calderdale BC 1983 the Court of Appeal accepted that three factors had to be taken into account in determining what constituted a curtilage:

a) the physical layout of the building and structure,

b) ownership past and present, and c) use and function past and present.

2.15 There is a clear distinction between the mostly domestic nature of the farmhouse and the agricultural business-related function of the barn-as per the 'Jews Farmhouse Case (RV Taunton Deane Borough Council 2008)[4] and as per example 2.1 of Historic England Advice note 10.[5]

2.16 In my view, the barn should not therefore be considered part of the curtilage by virtue of its use.

[4] Read more online: https://vlex.co.uk/vid/r-egerton-v-taunton-792644725
[5] Historic England. Listed Buildings and Curtilage. https://historicengland.org.uk/images-books/publications/listed-buildings-and-curtilage-advice-note-10/heag125-listed-buildings-and-curtilage/

3 CONCLUSION

3.1 The barn is not a listed building, and in my professional opinion it is not curtilage listed for the reasons identified above.

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Planning & Design Practice Limited

www.planningdesign.co.uk

info@planningdesign.co.uk

Tel: 01332 347371

Derby
3 Woburn House
Vernon Gate
Derby
Derbyshire
DE1 1UL

Matlock
Cromford Creative
Cromford Mills
Mill Lane, Cromford
Matlock
DE4 3RQ

Macclesfield
Waters Green House
Waters Green
Macclesfield
Cheshire
SK11 6LF

Sheffield
The Workstation,
15 Paternoster Row,
Sheffield
South Yorkshire
S1 2BX