



Historic England

Listed Buildings and Curtilage

Historic England Advice Note 10





Summary

The law provides that buildings and other structures that pre-date July 1948 and are within the curtilage of a listed building are to be treated as part of the listed building. Working out whether a building has a curtilage and the extent of that curtilage can be difficult. It is important because altering or demolishing such curtilage structures may require listed building consent and carrying out works without having obtained listed building consent when it is needed is a criminal offence. It is therefore important to assess the extent of the curtilage of a listed building with confidence. This advice note gives hypothetical examples to assist in that assessment. It is based on the current legislative provision in the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(S. 1\[5\]\)](#) and consideration of listed buildings and curtilage in legal cases.

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1

Introduction

A listed building is commonly identified in the National Heritage List for England by an address only, although more recent entries contain a plan showing a blue line around the principal listed building. In either case, unless the list entry explicitly says otherwise, the law (section 1(5) of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)) says that the listed building also includes any ancillary object or structure within the curtilage of the building, which forms part of the land and has done so since before 1st July, 1948.

This part of listed building law is one which frequently causes practical problems of how to interpret the curtilage in a given set of facts. Historic England has therefore prepared this note to help in understanding how to judge whether a building is within the curtilage of a listed building or not.

Any ancillary object or structure **fixed** to a listed building is also treated as part of the building, again unless it is otherwise explicitly excluded in the list entry. That can itself raise difficult questions. This note covers only the issue of structures within the curtilage.

1.1 Curtilage structures

The curtilage of a building (the principal building) is in general terms any area of land and other buildings that is around and associated with that principal building.

The courts have considered the definition of ‘curtilage’ in the context of planning on several occasions. In these cases, they have stressed that defining the curtilage of any building is highly-case specific. In assessing whether a structure or object is within the curtilage of a listed building, the following three factors were considered, though whilst a good starting point, they are not an exhaustive list:

- the physical layout of the listed building and the structure;
- their ownership, both historically and at the date of listing; and

- the use or function of the relevant buildings, again both historically and at the date of listing (these were first proposed in the Attorney-General ex rel. Sutcliffe and Others v. Calderdale BC, 1982.

Not all buildings will have a curtilage. A town-centre building with no garden or yard may have no curtilage whatsoever. With those that do there will be cases where the extent of the curtilage will be clear, such as where there is an obvious garden boundary which has never changed. In other cases, it can be very difficult to distinguish the boundary with confidence.

Buildings listed before 1969

The law that refers to curtilage only came into effect on 1 January, 1969. Although there is no case law to confirm the matter, it would appear that the most logical way of dealing with buildings listed before 1969 would be to consider the position at 1 January, 1969, and apply the above three-part assessment of the facts to that situation.

The date of listing of a listed building is given in the list entry summary for each listed building in the [National Heritage List for England](#).

1.2 Why does this matter?

Listed building consent is needed, in short, for works that affect the character of a building listed as a building of special architectural or historic interest. A building within the curtilage may have its own special architectural or historic interest or may contribute to the special interest in the principal building as part of the group. A failure to apply for listed building consent before works that require it are carried out is a criminal offence and the local planning authority may issue an enforcement notice to have them reversed.

So it is obviously important to understand whether a curtilage building is protected in principle and what special interest it holds, on its own or together with the principal building. It is possible, of course, that it holds no special interest and so, even if it is within the curtilage, works to it and even its demolition will require no consent. The advice of the local planning authority should be sought given the serious implications of a misjudgement.

1.3 Review and revision of list entries

Where there is doubt about what is and what is not protected, clarity can be obtained through review and revision of a list entry so as specifically to include or exclude certain elements if appropriate. Historic England can reappraise the listing status of buildings and their boundaries. Further information on listing can be found at HistoricEngland.org.uk/listing/apply-for-listing/.

Historic England also offers a paid-for Listing Enhancement service - see HistoricEngland.org.uk/services-skills/our-planning-services/enhanced-advisory-services/listing-enhancement/.

1.4 Planning permission

It is important to appreciate that there may be planning permission requirements that will factor in heritage interest whether the building is protected by listing or not:

- Planning permission for works to a building within the setting of a listed building will need to take account of the contribution that building makes to the heritage significance of the listed building (see *The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning: 3*).
- Although not formally part of the listed building, a building may have sufficient interest to be classified as a non-designated heritage asset, particularly if it has been included by the local planning authority in the list of buildings of local interest (see *Local Heritage Listing: Identifying and Conserving Local Heritage: Historic England Advice Note 7 (2nd edition)*).
- The building may be within a conservation area, so that its demolition will need planning permission and its alteration will require careful consideration (see *Conservation Area Appraisal, Designation and Management: Historic England Advice Note 1 (2nd edition)*).

1.5 Curtilage examples

The following hypothetical examples outline how curtilage may be understood, particularly in the kinds of cases on which Historic England is commonly consulted. They show how, in each case, changes to the facts – physical layout; ownership, past and present; and use, past and present (in particular whether the building in question was ancillary to the listed building) – can, through their interplay, change the conclusions that should be drawn. As stated in the introduction, other factors may also be relevant to deciding the extent of curtilage.

We would emphasise that understanding curtilage rests on the particular facts of each case. It will be for the local planning authority to reach a conclusion as to whether or not buildings are within a particular curtilage, and ultimately a matter for the court to determine if that decision is thought unreasonable.

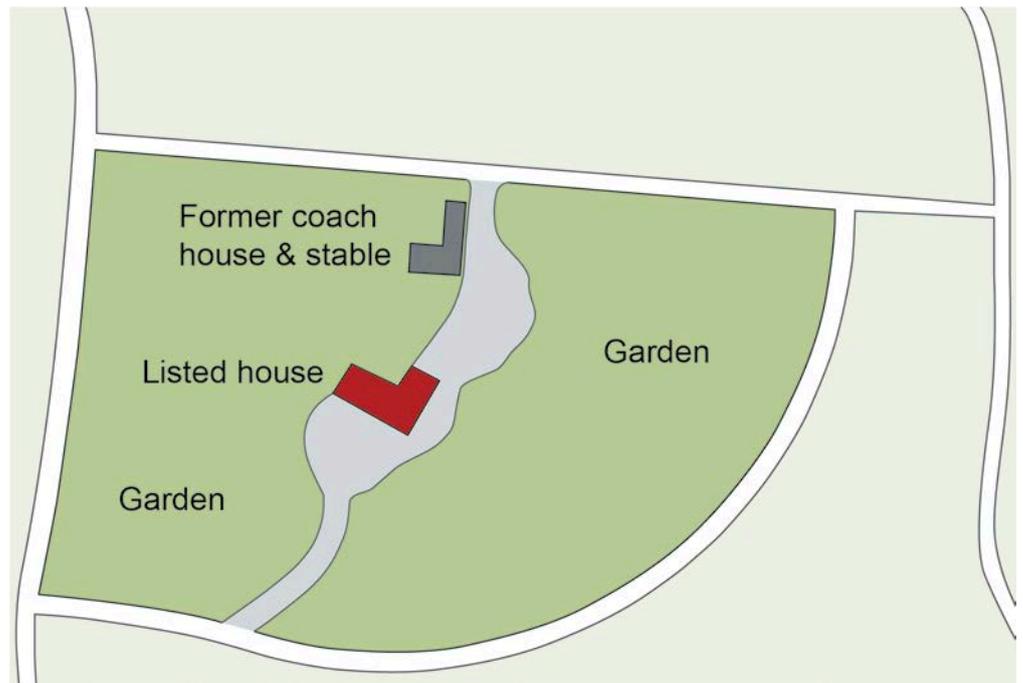
The following simplified examples are given in order to help the analysis of real-life situations. The facts in a particular case may be similar to those in an example below, but that does not mean that the example provides a definitive answer. There will very likely be some additional facts or a factual distinction, and that could be important and decisive.

Please note that the plans are not to scale and that public roads are shown in white whilst private drives and farm tracks are shown in grey.

2

Domestic

2.1 House (Grade II) with former coach house and stable



House and detached former coach house and stable used as garages and for storage of domestic items, standing in large garden. The stables are 60 metres away from the house, off the back drive.

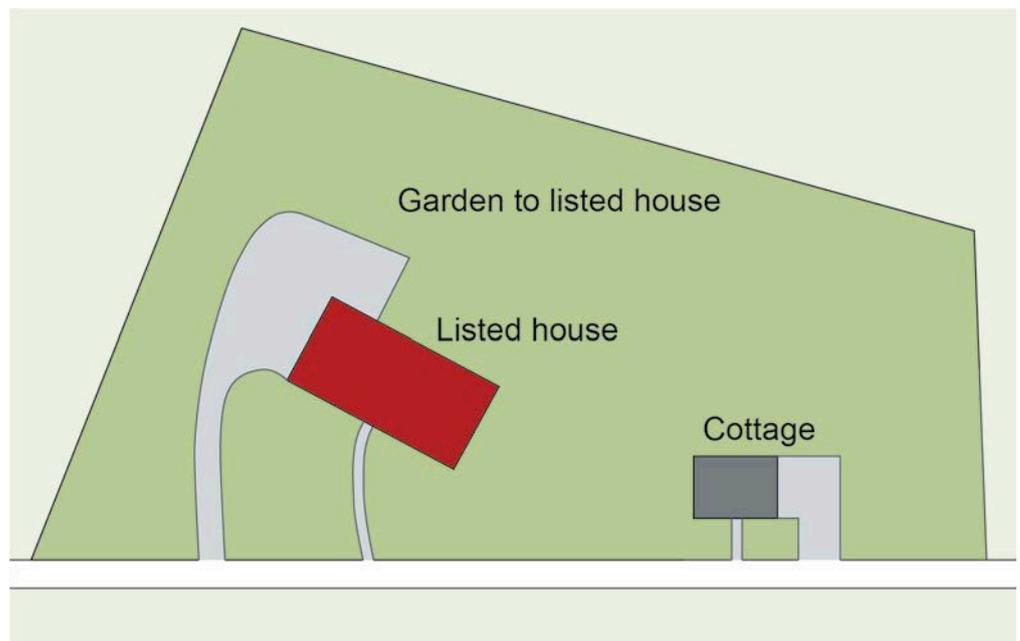
- Date of buildings: late 17th century house with 18th century stable, extended to provide a coach house in the early 19th century. The stable and coach house have since the 1930s provided garaging and storage for the listed house and the current owner continues to use them in this way.
- Date of listing of principal building: 1974.
- Physical layout: see plan. The detached former coach house and stable stand within the large garden of the listed house.
- Past and present ownership: all the buildings have always been in the same ownership as the listed house.
- Previous and current uses: the former coach house and stable have uses ancillary to the listed house.

Q: Are the former coach house and stable within the curtilage of the listed house and should they therefore be treated as part of the listed building?

A: In all likelihood the garden boundary defines the curtilage in which the listed house and the former coach house and stable stand. The coach house and stable date from before 1948. They each continue to be used for purposes subordinate to and dependent on the domestic use of the listed house and have been in such use since before the date of listing. The coach house and stable are therefore within the curtilage of the principal listed building and are to be treated as part of the listed building.

The conclusion might change if the coach house and stable had been transferred into a separate ownership and/or use before the date of listing. If instead of an 18th century stable and coach house building there was a garage from the 1960s, that would not be treated as part of the listed building even though it was clearly within its curtilage at the date of listing, because of the pre-1948 requirement.

2.2 House (Grade II) with detached cottage in its garden



Single detached cottage in garden of detached listed house.

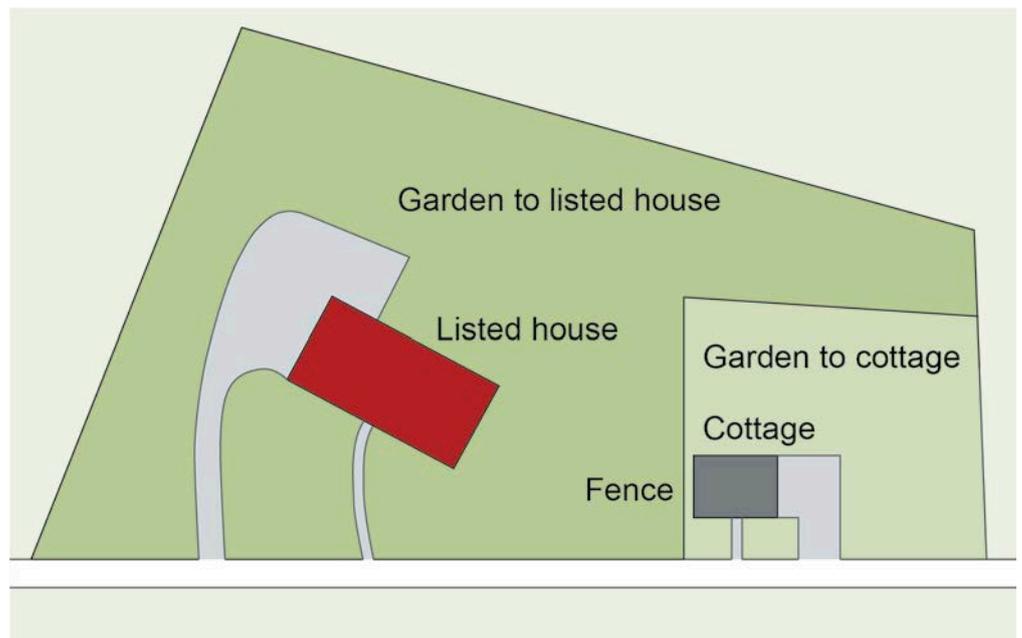
- Date of buildings: house dates from the early 17th century, the cottage from the late 18th.
- Date of listing of principal building: 1986.
- Physical layout: see plan.

- Past and present ownership: cottage, used by the gardener/ domestic staff to the main house, has always been in the same ownership as the listed house.
- Previous and current uses: the cottage currently is and appears always to have been occupied by domestic staff employed by the owner of the listed house.

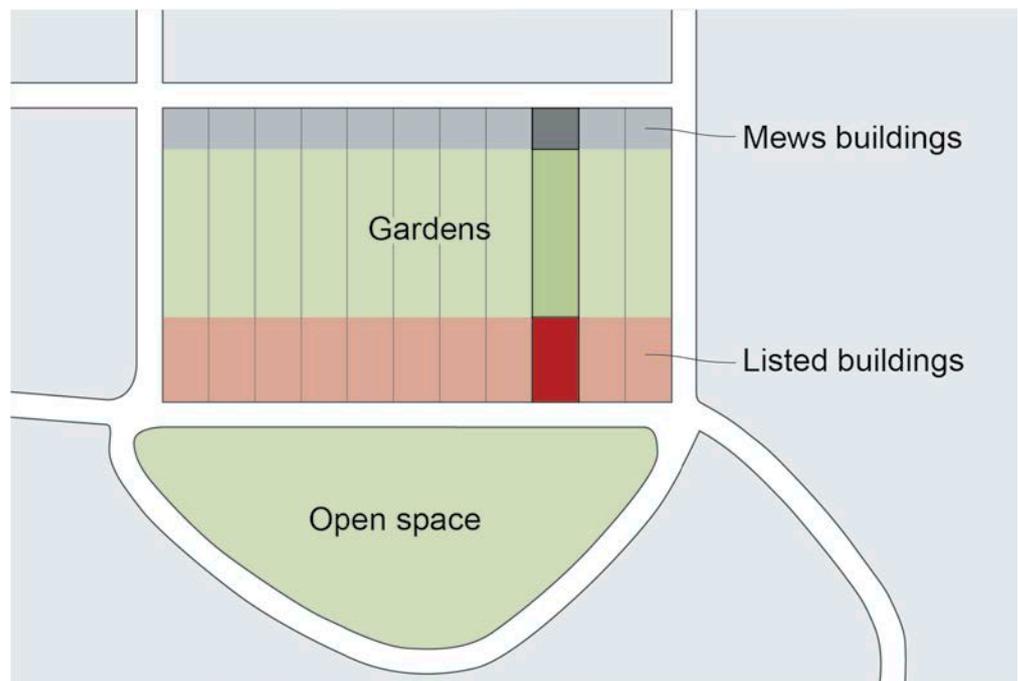
Q: Is the cottage within the curtilage of the listed house and should it therefore be treated as part of the listed building?

A: The cottage has always been ancillary to the listed house, and is within its garden. There is little doubt it would therefore be considered to be within the curtilage, and therefore treated as part of the listed building.

If the cottage and its garden had been sold separately to the listed house during the 1970s – that is, before the house was listed – it would not have been ancillary to the house at the time of its listing and it would not therefore be treated as part of the listed building. However, were it to have been sold separate to the house after the date of listing, it would still be treated as part of the listed building, because it was ancillary at the date of listing and therefore formed part of the curtilage protection from that time onwards. Whilst the curtilage of a building can change over time, once a building is protected as a listed building only a change in the listing can alter the extent of protection (see plan below)



2.3 Terraced house (Grade II) with detached terraced mews building in a mews street behind



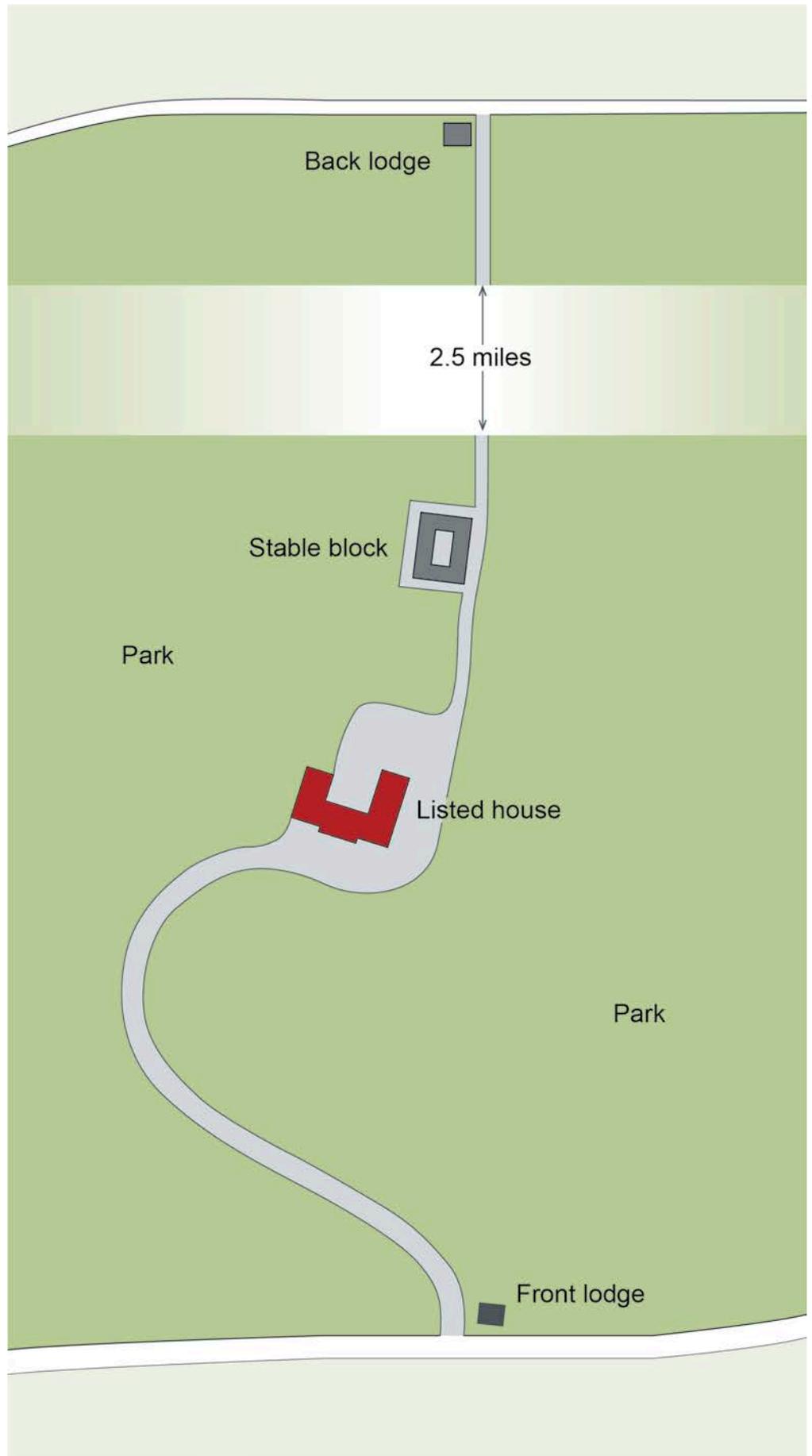
Terraced house, listed Grade II, with a subsidiary terraced mews cottage at the end of its garden. Although some of the adjacent mews cottages are in separate ownership from the front terraced houses, this one is in the same ownership.

- Date of building: 1822-28, both terrace and mews.
- Date of listing of principal building: 1973.
- Physical layout: see plan.
- Past and present ownership: the mews house is in the same ownership as the listed front building.
- Previous and current uses: at the date of listing, the mews cottage was domestic accommodation related to the listed house; it is currently used as a 'granny-annexe'.

Q: Is the mews cottage within the curtilage of the listed house and should it therefore be treated as part of the listed building?

A: The mews cottage predates 1948, it is within the same ownership as the listed terraced house and has always been used for purposes ancillary to the listed house. The mews would therefore be treated as part of the listed building. However, had the mews cottage been sold off prior to listing, this would have changed its relationship with the listed house to such an extent that it would not therefore be treated as part of the listed building.

2.4 Country house (Grade II*) with stable block and two lodges



The listed house is a large, handsome, stone building on rising ground. The stable block is set back a distance of 200 metres behind the house and is used partly as stables and partly as garaging. Lodges stand at the entrances to the front and back drives.

- Date of buildings: house 16th to 19th century, stable block 18th century and lodges later 19th.
- Date of listing of principal building: mid-1970s.
- Physical layout: see plan. Due to the layout of the park, the lodge on the back drive is over two and a half miles from the main house.
- Past and present ownership: all are within the same ownership.
- Previous and current uses: the buildings are all in variations of their original uses. At the date of listing, and ever since, the lodges have been used as ancillary staff accommodation to the main house. The stables are used partly as stables for recreational horse use and partly as garaging by the owners of the main house.

Q: Are the stable block and lodges within the curtilage of the listed house and should they therefore be treated as part of the listed building?

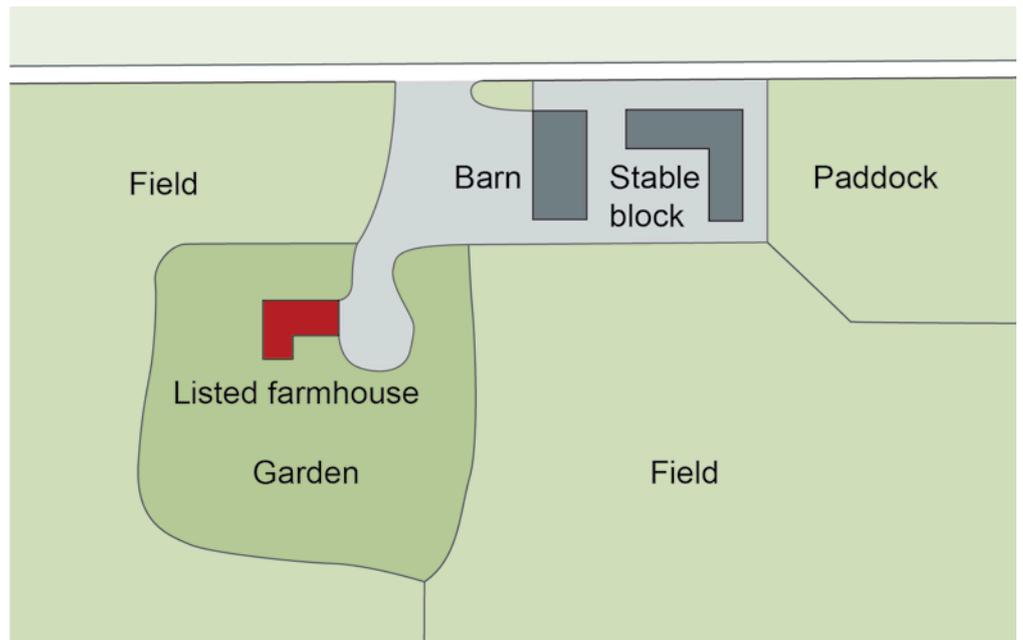
A: The curtilage is not easy to define here because the park is large. However, all the buildings are ancillary in use to the main, listed, house, including the further lodge, though that is at some distance from the listed house. Because of this, though it would appear that the stables and the lodges should be treated as being part of the listed building, it is more arguable when it comes to the back lodge because the distance from the principal listed building is so much greater.

The curtilage of a property is not always a small area, but the test of connection through ancillary use is likely to be more important as distance increases. The nature of the landscape between the buildings would also be important. If the land between the house and the back lodge is purely agricultural, rather than part of the designed landscape park which surrounds the house, this would point to its being more likely to be outside the curtilage.

3

Farms

3.1 Farmhouse (Grade II) with two detached farm buildings



Stone-built farmhouse with two detached farm buildings; one a small barn, the other a stable block, both in agricultural use.

- Date of buildings: early 18th century farmhouse and ancillary farm buildings.
- Date of listing of principal building: 1987.
- Physical layout: see plan. The farmhouse stands in its own garden and the farm buildings are outside, to the north-west.
- Past and present ownership: the barn and the stable block were in the same ownership as the farmhouse when it was listed, but the farmhouse is now in separate ownership.

- Previous and current uses of the land and buildings: at the date of listing the farmhouse was in use as the farmer's dwelling, but it is now used as a separate dwelling by a family with no connection to the farm; the other buildings were and are in working agricultural use, with the stables being used to store tractors.

Q: Are the farm buildings within the curtilage of the listed house and should they therefore be treated as part of the listed building?

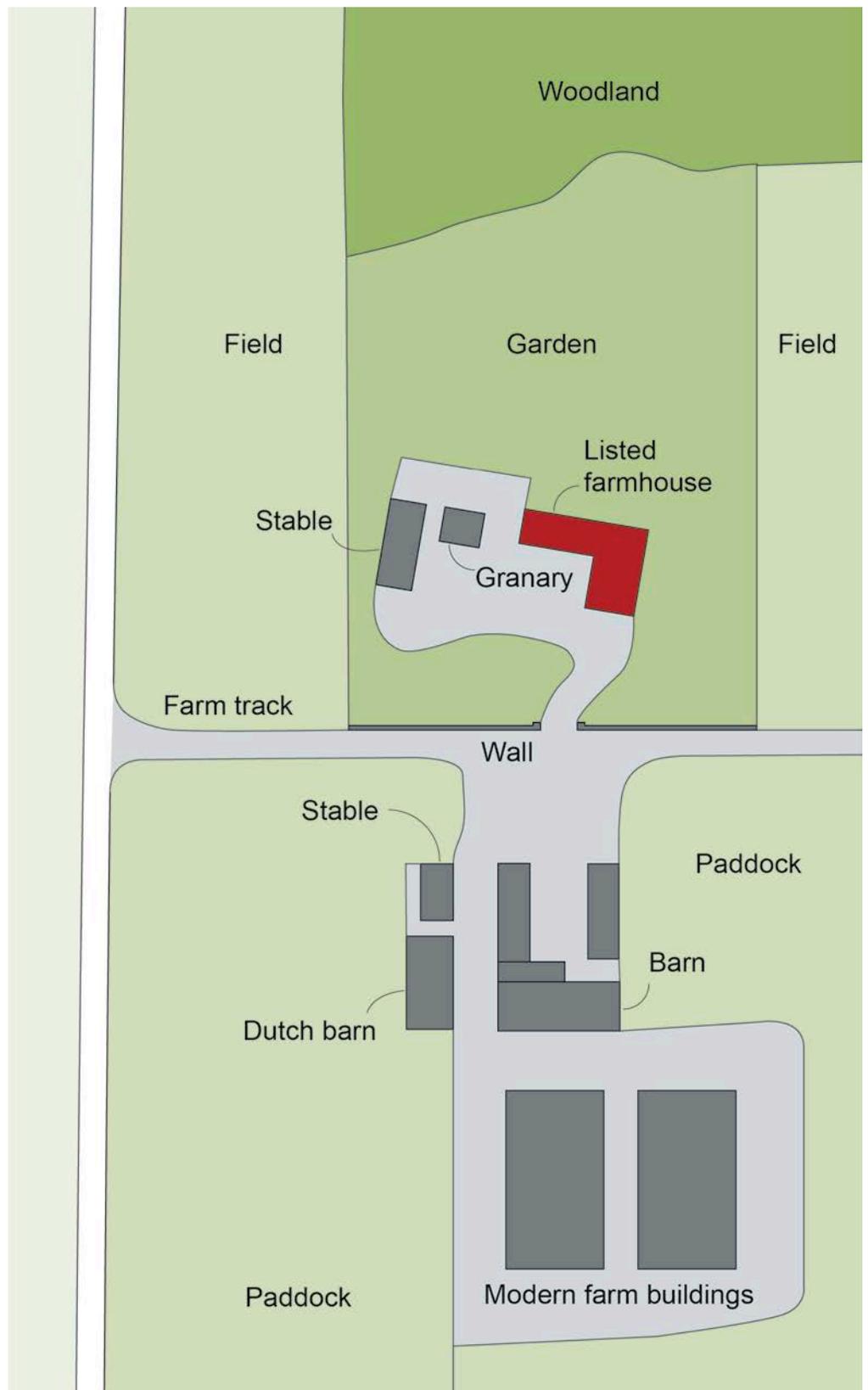
A: In this case, in our view, the physical separation of the unlisted farm buildings from the listed farmhouse when combined with the distinction between the mostly domestic nature of the farmhouse and the business-related function of the barn and stable block are likely to mean that they would be considered to be outside its curtilage.

The answer in farm cases in particular depends on the degree of physical separation and the distinction in use. In the 'Jews Farmhouse' case [R v Taunton Deane Borough Council, 2008] the High Court decided that a barn in farm business use was not within the curtilage of the listed farmhouse nearby. The physical separation was a factor, and so was the fact that the barn was being used purely for farm business purposes, in contrast to the principally domestic nature of the farmhouse, even though business administration was conducted in the farmhouse too.

That decision contrasts with comments made by the House of Lords in the Debenhams case where it was suggested that a farm 'steading' (the buildings forming a farm other than the farmhouse itself) comprised buildings in sufficiently close relationship with a farmhouse to be within its curtilage. However, the Debenhams case concerned a retail store (Hamley's in London), rather than the particular facts of a real farm.

The facts in each case will always need to be considered carefully. A closer physical relationship, as in [example 2.4](#), or a closer relationship in use may be more the sort of 'steading' that the House of Lords was thinking about in the Debenhams case, and outbuildings of that type in that arrangement may well fall within the curtilage of a farmhouse.

3.2 Farmhouse (Grade II) with various detached farm buildings



Farmhouse standing in its own garden, with a granary and a small domestic stable building nearby. The main farmyard is to the south, separated by a wall and a farm track from the farmhouse, with a barn, various outhouses and open-fronted cart sheds around a rectangular

yard. A Dutch barn and a stable building originally for farm horses are set to the west of the yard, and two large Atcost-type sheds beyond the yard to the south.

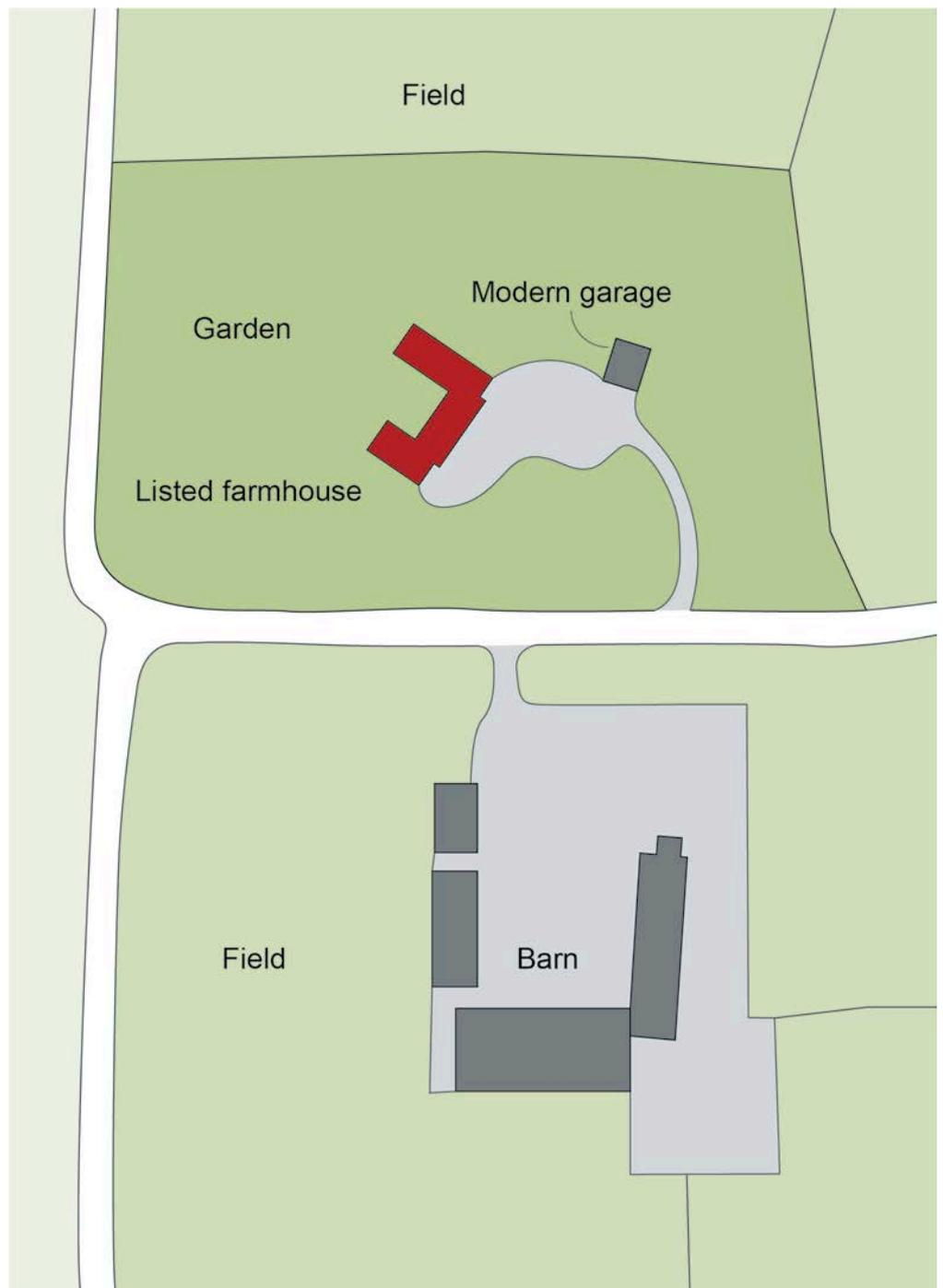
- Date of listing of principal building: 1972.
- Date of buildings: early 19th century farmhouse, with farm buildings generally of similar date (other than the modern sheds). All the farm buildings have been altered as agricultural uses have developed but they remain in agricultural uses; the two modern sheds were erected in the 1990s.
- Physical layout: see plan. The farmhouse, the small stable and the granary lie within the garden of the farmhouse, which is separated by an old wall and the farm track from the yard around which the main farm buildings are grouped. These farm buildings are therefore outside the walled garden.
- Past and present ownership: the house and the buildings shown on the plan are all in the ownership of the farm and have been so since the nineteenth century at least.
- Previous and current uses of the land and buildings: at the date of listing the house was in domestic use, with one small room used as an office from which the agricultural business was managed; these uses have not changed. The rest of the historic farm buildings were, and remain, in various kinds of agricultural uses, except for the granary and stable adjacent to the house, which at the date of listing were in use ancillary to the domestic use of the house. The Atcost sheds are also in agricultural use.

Q: Are any of the farm buildings within the curtilage of the listed house and therefore treated as part of the listed building?

A: The granary and the stable building in the garden are almost certainly to be treated as within the curtilage and therefore part of the listed building given their domestic use at the date of listing and their location.

Following on from the example above, the farm buildings and the farmhouse are further separated and both their agricultural business use and the clear physical separation between the farmhouse garden and the other buildings means they are quite unlikely to be considered as falling within the curtilage. The modern Atcost buildings were built after 1948 so could never be treated as part of the listed building in any event, even if they were within the curtilage.

3.3 Listed former farmhouse (Grade II) separated by road from farm buildings



Listed former farmhouse, now no longer related to the farm buildings in use or ownership, standing on the west side of the lane, with a 1990s detached garage building nearby, and with a variety of farm buildings on the other side of the lane.

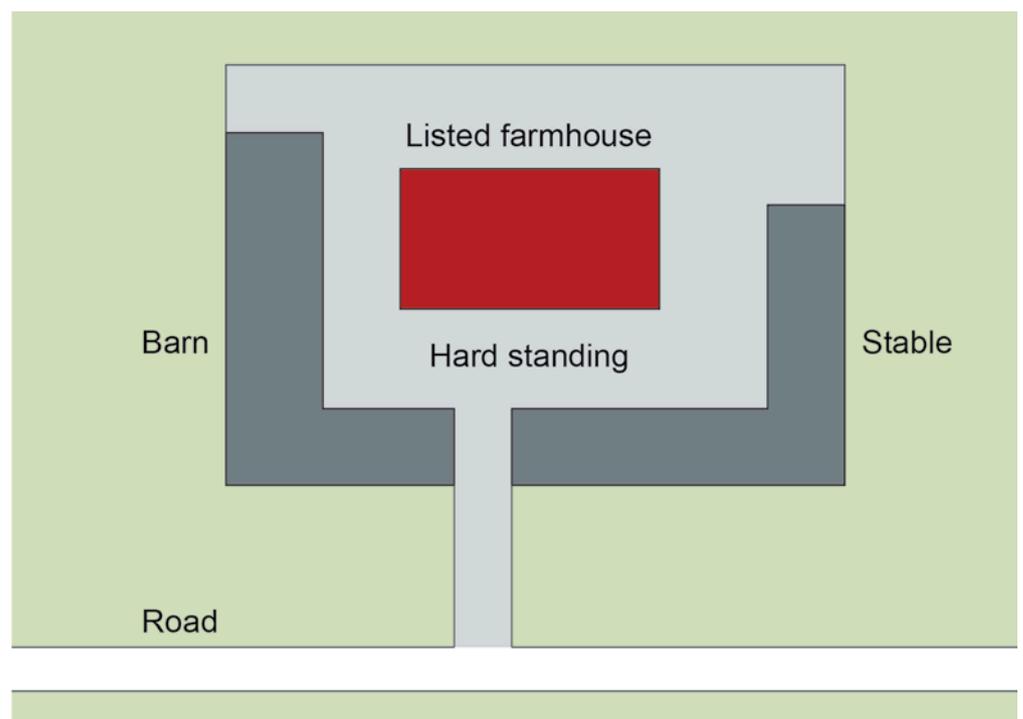
- Date of listing of principal building: 2008.
- Date of buildings: medieval former farmhouse with 1990s detached garage; 18th century and later farm buildings.

- Physical layout: see plan. The farm buildings and the former farmhouse are separated by a public road.
- Past and present ownership: the farm buildings are all in the ownership of the farm and have been since the nineteenth century, at least. The former farmhouse and garage were sold away from the farm in the late 1990s.
- Previous and current uses of the land and buildings: the former farmhouse is in domestic use, and the garage is ancillary to the farmhouse. The rest of the farm buildings are in various kinds of agricultural uses.

Q: Are the farm buildings within the curtilage of the listed house and should they therefore be treated as part of the listed building?

A: Here again the farm buildings and the farmhouse are even more clearly separated. At the date of listing the farm buildings were not in the same ownership as the farmhouse and therefore the farm buildings could not be said to have been ancillary to the farmhouse on any basis. The grounds in which they sit, moreover, are not only outside the walled area of the former farmhouse's garden, but are also separated by a public road. The farm buildings are therefore clearly not within the curtilage of the former farmhouse. The garage is in the curtilage, but was built in the 1990s and therefore would not be treated as part of the listed building.

3.4 Farmhouse (Grade II) with two detached farm buildings



Brick-built farmhouse standing between the arms of two farm buildings, one a barn, one a stable.

- Date of buildings: All three buildings date from the early C19.
- Date of listing of principal building: 1985.
- Physical layout: see plan. The farmhouse faces into the small inner farmyard and is surrounded by hard standing. It has no garden.
- Past and present ownership: the barn and the stable were in the same ownership as the farmhouse when it was listed, and remain in that same ownership.
- Previous and current uses of the land and buildings: at the date of listing the farmhouse was in use as the farmer's dwelling, with some use of the house for administrative functions relating to the farm, and the stable and the barn were in agricultural and household storage use. These uses have not changed.

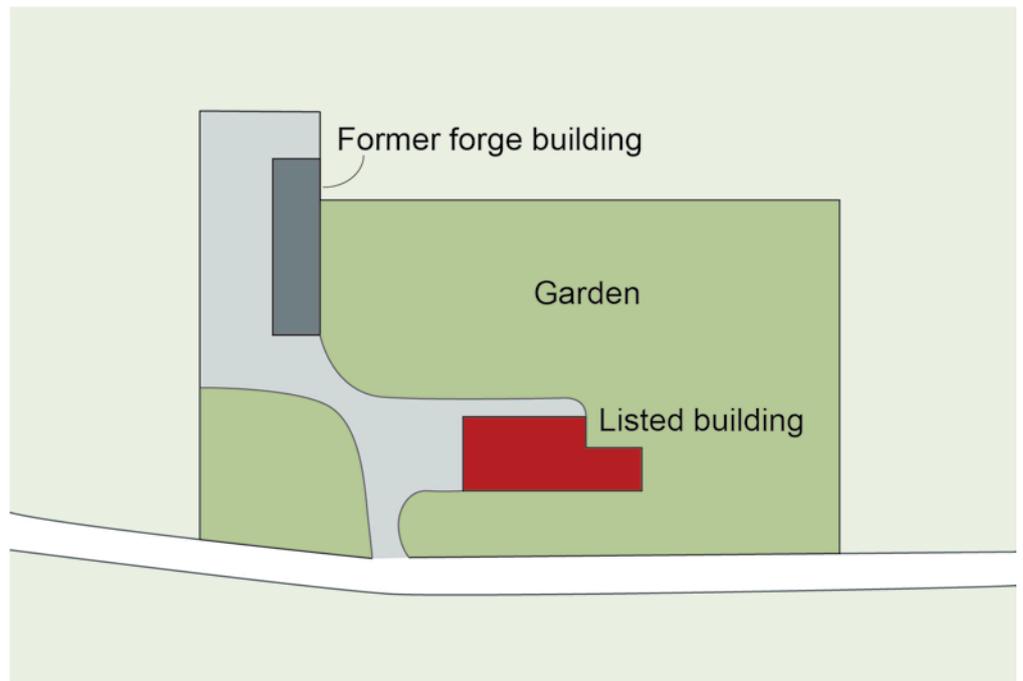
Q: Are the barn and stable in the curtilage of the listed farmhouse and should they therefore be treated as part of the listed building.

A: Of all these farm examples, this is the one where the stable and barn are most likely to be within the curtilage notwithstanding their part-agricultural business use. The designed relationship and close proximity point toward the 'steading' example in the Debenhams case. The reasoning in the Jews Farm case means that there must still be doubt about those buildings not in domestic use. Where there is real doubt a revised listing would provide the necessary clarification as to what is genuinely worthy of protection.

4

Commercial and industrial premises

4.1 Domestic house (Grade II) with detached workshop building in rear yard/garden



Early 18th century house with single-storey former forge building in rear yard/garden.

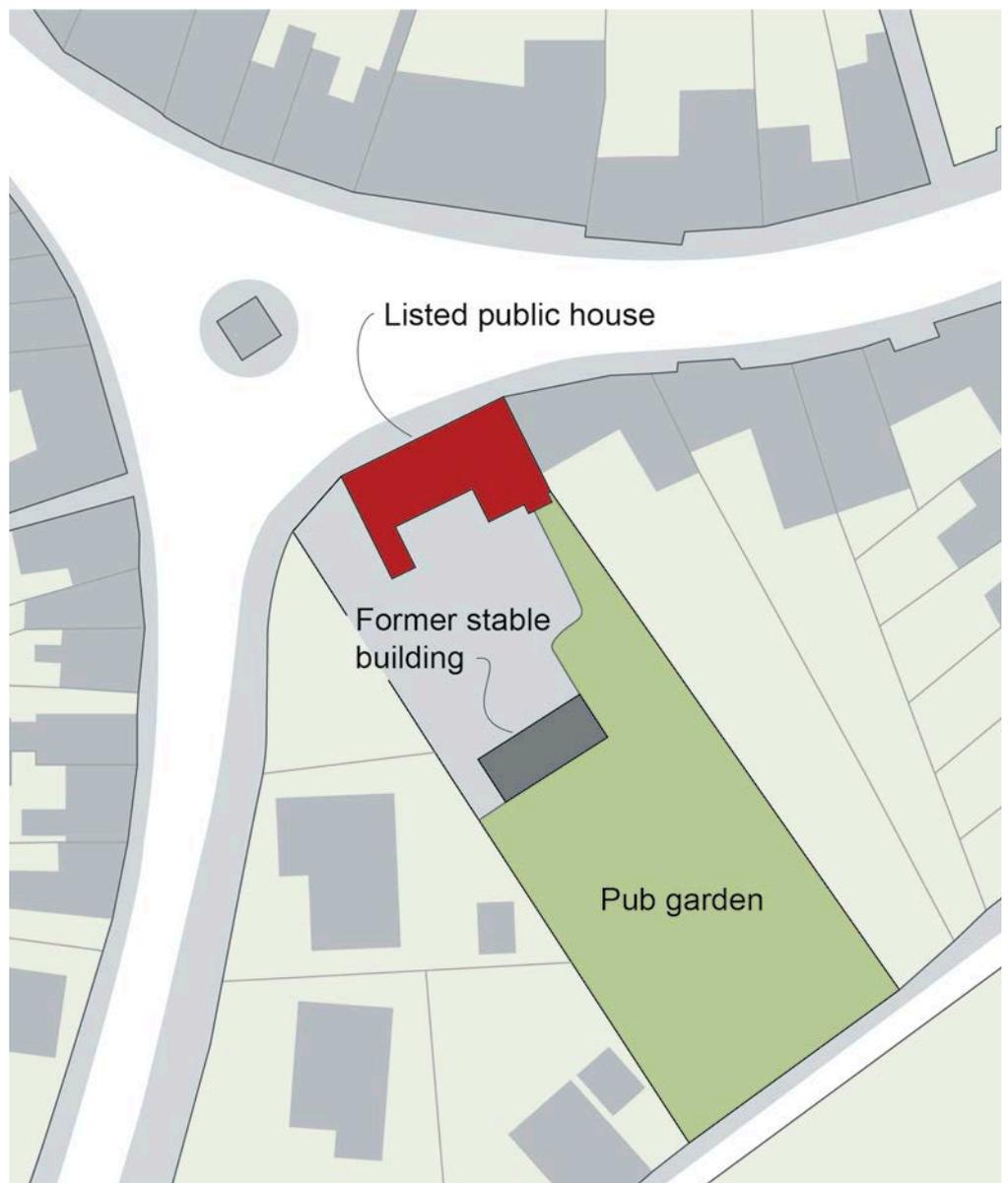
- Date of buildings: early 18th century house with early 19th century forge in garden.
- Date of listing of principal building: 1984.
- Physical layout: see plan.
- Past and present ownership: the house and forge building seem to have always been in the same ownership.
- Previous and current uses of the land and buildings: house always used as residential building, with forge in light industrial use until it closed in 1974, since when it has been used as storage and garaging for the house.

Q: Is the former forge building within the curtilage of the listed house and should it therefore be treated as part of the listed building?

A: The former forge building has been in a different use from the house prior to the listing of the house, but its use was ancillary to the house at the date of listing and it stands within the same garden area as the house. It is therefore within the curtilage and should be treated as part of the listed building.

If it had still been used as a forge when the house was listed it would not, in our view, be part of the listed building.

4.2 Public house (Grade II) with detached stable building



Public house, early 16th century in origin, with a mid-18th century former stable, now used as a games room and accommodation by guests of the public house.

- Date of buildings: early 16th century pub and mid-18th century former stable, the latter in ancillary use since before 1948.
- Date of listing of principal building: 1985.
- Physical layout: see plan.
- Past and present ownership: the former stable is in the same ownership as the public house.
- Previous and current uses of the land and buildings: public house with former stable building ancillary to the public house. The stable has been used since the 1970s as games room and for guest accommodation by the public house.

Q: Is the former stable building within the curtilage of the listed house and should it therefore be treated as part of the listed building?

A: The stable building has always had a use ancillary to the use of the public house as a pub and is therefore to be treated as part of the listed building.

5

Where to get advice

Contact Historic England

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