# Wiltshire Council Planning Consultation Response

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**Application No:** **PL/2023/.8085**

Prior approval Part 14 Class J: Installation or alteration etc of solar equipment on non-domestic premises. The installation of 166No. roof mounted solar PV panels
Stowford Manor Farm, Farleigh Road, Wingfield, Trowbridge

Please find following comments in respect of the above application(s).

**Recommendations:**

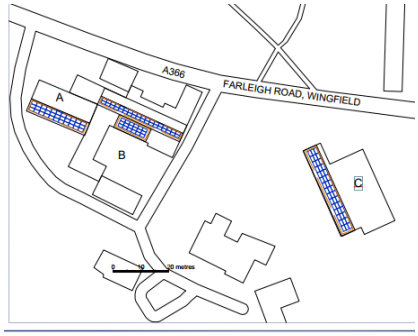
| | |
|---|---|
| X | Comment |
| | Support in principle subject to amendments to the scheme (as set out below) |
| | Support subject to conditions (as set out below) |
| | Object (for reasons set out below) |
| | No objections |

**Scope of comments**: the following comments relate to the built historic environment.

**Proposal**: in this case the application relates to a proposal for the installation of roof mounted solar PV panels on buildings at the above property under permitted development rights contained within Part 14 Class J. The relevant question is whether, for the buildings in question:
(f) the solar PV equipment or solar thermal equipment would be installed on a listed building or on a building within the curtilage of a listed building.

**Assessment**:
I note the comments submitted in support of the currently enquiry, which explore the assertion that the buildings in question should not be considered to be listed buildings or within the curtilage of a listed building. In response, I am in agreement that the Mill, Mill House and Cottage and Stable and Coach House to Stowford Manor are not directly relevant and the principal building under consideration is Stowford Manor, which is listed at Grade II*. I note that the author of the comments has not visited the site and does not appear to have had any detailed evidence relating to the building available.

For ease, as the considerations are different, I have considered the buildings separately as annotated on the following snip from the site plan.




**Supporting statement**: The determination of the extent of the curtilage for the purposes of interpreting listed building legislation is a tricky area. The supporting comments are based on a rather cursory and selective consideration of the huge amount of case law, policy and guidance which exist on this topic. However, whilst the standard tests which have been established via case law are well known, attempting to extrapolate directly from specific examples in guidance or case law (as within the submitted comments) can be misleading as the layout and historic circumstances of every site will be unique. As Historic England note in their guidance (quoted within the enquiry) "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 supporting comment provided also relies heavily on the rigid and rather artificial interpretation promoted in Egerton where building uses are always clear cut and segregated – however, the Historic England guidance itself acknowledges that when historic sites are being considered, these do not always fit within clear cut categories, noting that "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."

Various case law is cited, with Morris [2003] and Egerton [2008] being relied on particularly. However, Morris does not appear to be directly relevant as, whilst the buildings in question in that case had been historically associated as a farmyard, they were not functionally related at the time of listing as they were tenanted and occupied or used by different, and unrelated, parties. I am not aware that this is being argued here.

Egerton was examined in guidance produced by the IHBC (Advice Note on the Curtilage Rule – An interpretation of the Taunton Deane judgment GN2019/2 v.March2019) which was drawn up in collaboration with the respected legal commentators Charles Mynors and Nigel Hewitson. This notes that the distinction between domestic buildings and associated non-domestic farm buildings is, "not always cut and dried" and there will "often be cases where barns and other working buildings of a farmstead are geographically related to a farmhouse, and their use ancillary to its use, such that they will be found to be within its curtilage."

**Main historic courtyard B:** The principal tests as to whether an object or structure is within the curtilage of a listed building relate to the physical layout of the land surrounding the listed building at the date of the statutory listing and the relationship of the structures on the surrounding land to each other. The Courts have held that for a structure or building within the curtilage of a listed

building to be part of a listed building it must be ancillary to the principal building, that is it must have served the purposes of the principal building at the date of listing, or at a recent time before the date of listing, in a necessary or reasonably useful way and must not be historically an independent building. The structures or buildings involved must still form part of the land.

Various considerations have been held to be of assistance to local planning authorities in reaching a view on the extent of listing, and to explore these in turn in respect of these buildings:

- the historical independence of the buildings – in this case Stowford Manor (which mapping evidence and the listing description suggest was known as Stowford Farm until the later C20) is listed as a farmhouse dating from the late C15 and C16 with additions and alterations from the C17 and C19. The main stone courtyard of farm buildings were present by the time of the mid C19 tithe map and the tithe award covers the house and farmstead within a single entry, referring to 'Stowford Farmhouse, yard and garden' and the buildings at that time were in single ownership and tenancy. It seems reasonable to assume that the farm buildings were constructed to serve an ancillary function to the farmhouse for a single purpose i.e. farming. They are intimately connected historically and remained interdependent at the time of listing in 1962 and in 1969 when the law which relates to curtilage came into effect;

- the physical layout of the principal building and other buildings – the buildings form a connected and close-knit group accessed and opening into a single historic entrance point leading from the road. Whilst the gardens are separated from the farmyard by a wall (and different areas of the garden are also separated) this is usual, for practical reasons of stock control, in the same way that the areas within yard itself are often subdivided;

- the ownership of the buildings now and at the time of listing – as I understand it the buildings (which were historically in single ownership) remained in one ownership as a single farm in farming use both in 1962 at the time of listing and in 1969, and there appears to be no dispute over this;

- whether the structures formed part of the land in 1948 – map evidence is clear that the main courtyard of buildings to the west of the site are historic and formed part of the same holding in both 1948 and in 1962 at the time of listing and there appears to be no dispute over this;

- the use and function of the buildings, and whether a building is ancillary or subordinate to the principal building – as noted above, the farm buildings were constructed to serve the purposes of the farmhouse with a single overall purpose, the farming of the surrounding land. The house is principal in also providing the residence of the farmer and the farm buildings were ancillary and subordinate to the house as elements of the single farmstead listed on the tithe award and shown in later mapping.

On this basis, it is Wiltshire Council's opinion that, in the case of Stowford Farm, the main stone built courtyard of associated pre-1948 agricultural buildings to the west of the site should be considered to form part of the listed building as defined by Section 1 (5) of the Act. In our opinion in this case, therefore, Part 14 Class J does not apply and planning permission would be required for the installation of the proposed panels. An application would need to be supported by assessment of the visual impact of the panels and their impact on the significance of both the buildings themselves and the setting of Stowford Manor. As this building is listed at Grade II* Historic England would be a statutory consultee. The applicants may wish to explore the opportunities directly with HE via pre-application engagement with them.

However, if the applicants are concerned with regard to the Council's opinion on the extent of the listing and wish to seek to clarify the situation by the amendment/revision of the list description specifically for this complex of buildings Historic England make provision by advising that:

"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/. A re-appraised listing would set out clearly and with certainty what structures are protected by the listing and exclude those parts of the site which do not merit protection."

**Buildings A and C:** Building A is assumed in the report as being pre-1948. However, no detailed assessment is made. Having considered the evidence further there appears to be some doubt about this. It appears at some point on the mapping in the mid C20 between mapping epochs which suggest a date of between c.1933 and 1952. Its brickwork, proportions and windows etc. are mid-century in appearance. Whilst perhaps nominally attached to the more traditional stone yard to the east of it, it appears rather to be a later, free-standing, structure. On this basis, I do think that there is an element of doubt as to whether it meets the date criterium for inclusion as 'part' of a listed building under Section 1 (5) – on balance, the use of a traditional brick bond suggests it is pre-war but it may potentially date to around the 1948 cut off.

Building C similarly appears at a mid C20 date between the same mapping epochs. Dutch barns can be relatively early but are not easily dated from their construction, which uses fairly standard components. The construction of two buildings at a similar time suggests a considerable investment and the applicants may have more information about a potential date as this is within living memory. There was considerable nervousness around investment in the immediate pre-war period but, similarly, often a lack of resource immediately following so history does not assist with reaching a conclusion.

However, having concluded that evidence for inclusion on a date basis is uncertain in both cases, it is also required to consider the siting of the buildings and whether the fall within the 'curtilage' of Stowford Manor. In both cases, the buildings fall outside the main historic working area of the farmstead. Building A is outside the main courtyard, which faces inward and Building C is rather out on a limb. In each case, therefore, I am content to conclude that the buildings lie outside the curtilage of the listed Stowford Manor and therefore do not form 'part of the listed building' for the purposes of Section 1 (5).

On this basis I think a pragmatic response given the element of uncertainty would be to accept that Part 14 Class J applies. In my opinion we would not wish to object on design or visual impact grounds in principle to the installation of solar panels in either case. In note that the Conditions to Class J require J.4— (1) Class J development is permitted subject to the following conditions— (a) the solar PV equipment or solar thermal equipment must, so far as practicable, be sited so as to minimise its effect on the external appearance of the building and the amenity of the area; and provided that the panels are of the more discreet type (ie fairly flush and ideally without the metallic silver edging etc.), any impact on the setting of Stowford Manor should be minimised. If these details have not been clarified you may wish to request further details or apply conditions to this end.