# Appeal Decision

Site visit made on 4 January 2021

**by Nicola Davies BA DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 January 2021**

**Appeal Ref: APP/B1930/W/20/3257834**
**Maynes Farm, Gorhambury, St Albans AL3 6AF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Lord Verulam against the decision of St Albans City & District Council.
- The application Ref 5/2020/0984, dated 30 April 2020, was refused by notice dated 24 June 2020.
- The development proposed is installation of solar panels.

## Decision

1. The appeal is allowed and prior approval is not required under the provisions of Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for installation of solar panels at Maynes Farm, Gorhambury, St Albans AL3 6AF in accordance with the application Ref 5/2020/0984 made on 30 April 2020, and the details submitted with it including plan numbers SK1, SK2, SK3 and SK5, pursuant to Article 3(1) and Schedule 2, Part 14, Class J, and is subject to the conditions, limitations or restitutions applicable to development permitted by Class A.

## Preliminary Matters

2. I have taken the description of the proposed development from the Council's decision notice as it is more concise to that provided on the planning application form.

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) grants planning permission for certain classes of development, described as permitted development (PD). Under Schedule 2, Part 14, Class J of the GPDO, planning permission is granted for installation or alteration etc of solar equipment on non-domestic premises. To amount to PD, it is necessary for proposals to accord fully with the limitations relevant to the development concerned, as set out in the GPDO.

4. In this case, having regard to the Council's reason for refusal, the proposal fails to comply with Class J.1(f) as the Prior Notification appeal proposal appears to be within the curtilage of listed buildings.

## Main Issue

5. The main issue is whether the solar panels would comply with the limitations under Schedule 2, Part 14, Class J.1(f) of the GPDO.

## Reasons

6. Class J.1(f) sets out the limitation that the proposed development would not be PD if "*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*". The GPDO does not define what the curtilage of a listed building would be.

7. The Council notes that the question at the heart of the appeal is whether or not the building is within the curtilage of a listed building as per the GPDO, not whether or not the building would be considered curtilage listed in terms of section (1)(5)(b) of the Planning (Listed Building and Conservation Area) Act.

8. Maynes Farm comprises a collection of buildings/structures that forms an isolated complex surrounded by open countryside. This collection includes a non listed cattle shed upon which the solar panels are proposed to be installed. The isolated nature of the complex creates a defined edge to this group of buildings.

9. There are three listed buildings within the Maynes Farm complex, Maynes Farm House, Timber Framed Barn and Aisled Barn. Maynes Farm House sits within a defined boundary separated from the farmyard by an enclosed garden. The cattle shed upon which the solar panels would be installed would not form part of the curtilage of that particular listed building. There is a continuous hardsurface that runs throughout the complex. Whilst there are no gates or enclosures that would separate the cattle shed from the other buildings within the complex when walking through the farmyard complex, the Timber Frame Barn and Aisled Barn are some 40m and 60m distance respectively from the cattle shed.

10. The appellant's case does not explicitly state what the current or historic use of either of the listed barns are. Plans held by the Council relating to applications made in 2006, 2007 and 2008 suggest that the Aisled Barn was only accessible from the farmyard. This suggest that Aisled Barn relates to the farmyard rather than to Maynes Farmhouse and appears to still be in agricultural use. However, those plans were submitted to support different applications and do not provide a definitive use of buildings or land within the complex, which may be a consideration when deciding whether or not the building would be considered curtilage listed. In any event on the information before me there is no substantive evidence that would lead me to the clear conclusion that the use of the listed barns and the modern cattle shed have been intrinsically linked, even if they are within the same ownership.

11. The isolated nature of the farmyard identifies the group of buildings as one complex. Nonetheless, the cattle shed, as noted above, is some distance from the listed barns and is separated by intervening farmyard buildings. I do not consider that the cattle shed would be so intimately associated with the listed barns as to be considered a building within the curtilage of either of the listed barn buildings. In my judgement the cattle shed and listed barns would not be closely associated with one another despite forming parts of the same farmyard complex and being connected by a continuous hard surface. Consequently, in

this case I find that the solar panels would not be installed on a building within the curtilage of a listed building.

12. The appellant has referred to various case law which the Council has generally regarded not to be applicable to this case. I have had regard to the cases cited however, in view of my above findings I do not consider it necessary to examine these cases in detail.

13. The Council has assessed the Prior Notification application against the other criteria set out in Class J and has concluded the proposal to be acceptable when assessed against those criteria. I conclude that the solar panel installation would meet the criterion set out under Class J.1(f), therefore, the solar panel installation would benefit from PD rights.

## Conclusion

14. For the reasons given above, I conclude that prior approval is not required and the appeal is allowed.

*Nicola Davies*

INSPECTOR