

PLANNING APPLICATION REPORT

REF NO: FG/93/11/

LOCATION: Highdown Vineyard
Littlehampton Road
Ferring

PROPOSAL: Application for variation of condition 1 following a grant of planning permission FG/72/09/ relating to use of building for refreshment purposes

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal seeks to renew the temporary permission granted under FG/72/09/. The condition stated 'The use of the part of the building hereby permitted shall be discontinued permanently and restored to its former condition, or to a condition agreed in writing by the Local Planning Authority, on or before the expiration of the period ending on 12th August 2011. Reason: To enable the Local Planning Authority to monitor the effect of the proposal on traffic movements to and from the site in accordance with policy GEN7 of the Arun District Local Plan. The floor area relating to this application is within the central portion of the existing barn building and permission is sought on a permanent basis.
SITE AREA	5.5 hectares approximately
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat. Slopes upwards from south to north by approximately 1 metre.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Post and rail fencing surrounds the vineyard. 300mm high fencing and hedge and shrubs to frontage.
SITE CHARACTERISTICS	Active vineyard with vines adjacent to roadway. Central portion of existing barn style building is used for serving refreshments. Retail sales occupy a separate section of buildings.
CHARACTER OF LOCALITY	Predominantly rural. Nursery unit to west. Several small structures and detached chalet bungalow adjoining to east. Some residential and agricultural buildings within wider area.

RELEVANT SITE HISTORY

FG/119/99/	Erection of winery	Approve Cond 12-04-2000
FG/135/02/	Removal of condition no.5 imposed upon planning permission FG/119/99 requiring demolition of building within 12 months of cessation of use for agricultural or horticultural purposes.	Approve Cond 12-02-2003
FG/36/06/	Variation of condition no 5 of planning permission FG/135/02 - part use of ground floor for customer refreshment area.	Approve Cond 11-05-2006
FG/72/09/	Variation of condition no.5 of planning permission FG/135/02 - to use part of the premises as a refreshment area ancillary to Highdown Vineyard.	Approve Cond 12-08-2009
FG/29/11/	Application for variation of condition 5 of planning permission FG/72/09/ relating to opening hours	Approve Cond 26-05-2011

REPRESENTATIONS**Representations received:**

Ferring Parish Council

Objection : The Parish Council originally objected to the provision of refreshments at the site but ADC granted permission subject to various Conditions ensuring that such a use would be ancillary to the operation of the vineyard. The Conditions imposed under FG/72/09 are quite clear.

Subsequent changes to the licensing of the premises by ADC have not recognised the Planning Conditions and the use of the property appears to have been in contravention of the planning approvals for some time.

The Parish looks to the Planning Authority to retain and enforce the restrictions imposed under the above mentioned application and to refuse the current application to ensure that the protection of the area is maintained as intended.

Ferring Conservation Group

Objection : Group has previously objected to applications for the development of a restaurant, or bistro, on this site. It is one thing to have a refreshment room for customers visiting the Winery but quite another to have a fully developed restaurant on the site. The Vineyard regularly advertises restaurant facilities and promotions for barbecues and other events which can in no way be considered ancillary to the purposes of the vineyard.

The Conditions attached to the approval of Planning Application FG/72/09 were:

1. That the use of the part of the building hereby permitted shall be discontinued on or before 12th August 2011.

2. The premises shall be used as a refreshment area, ancillary to Highdown Vineyard only and for no other purpose whatsoever.

We ask you to note that the temporary permission has expired and that the use of the refreshment area has not conformed to Condition 2.

The area north of Littlehampton Road in Ferring is outside the built-up area but is continually subject to creeping commercial, industrial and residential development - mainly by unauthorised development, or change of use, which has gone unchallenged.

The Vineyard is absolutely consistent with the character of the southern slopes of Highdown Hill. A restaurant is not - and if it were applied for independently of the vineyard, would not be given approval.

The permanent establishment of a use which was not applied for should be resisted, and at the very least, attach clear conditions which prevent the continuation of the premises use as a general restaurant.

Comments on Representations received:

Comment on Parish Council Representation.

This proposal seeks permanent approval to the refreshment area of the building. It is proposed to reimpose the other Conditions which would limit hours of operation and nature and scale of use.

Comment on other Representations.

This application to vary Condition 1 was submitted before the expiration of the temporary permission. A Condition is suggested restricting use of the premises ancillary to the vineyard use of the site. Use as an independent restaurant is not being sought.

It is accepted that some visitors to the site only utilise the tea room/restaurant facilities at the premises and are not attending wine tasting or other winery associated uses, but the scale of the operation remains ancillary to the main vinery use of the site. When application FG/29/11 was considered the use for private bookings was discussed with the applicant and it was confirmed that only one private function, a wedding, had been undertaken. The applicant is aware that should this type of use occur it would require planning permission, since it would not be covered by the approved use.

CONSULTATIONS

WSCC Local Development Divis.
Environmental Health

Consultations responses received:

County Highways: No objections - No evidence of existing use causing highway issues therefore no objections to renewal.

Environmental Health: No renewal of complaints. No objection.

Comments on Consultation responses:

Comments noted. A further temporary permission has not been requested by County Highways.

POLICY CONTEXT

Designation applicable to site:

Outside Built-Up Area Boundary
Class A Road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN2	Built-up Area Boundary
	GEN3	Protection of the Countryside
	GEN7	The Form of New Development

PLANNING POLICY GUIDANCE

PPS1	Delivering Sustainable Development
PPS7	Sustainable development in rural areas
PPG13	Transport

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

BACKGROUND

This application relates to the temporary time limit Condition 1 imposed on application ref: FG/72/09.

FG/36/06 was given a temporary permission of 1 year to expire in May 2007. The reason for the temporary nature of this permission was in order to monitor the effect of the proposal on traffic movements.

FG/61/07 sought to remove the temporary permission and thus to make the customer refreshment area permanent. No objections to the proposal were raised by County Highways to the application. However, due to a legal situation, unrelated to the planning application, the application was withdrawn.

FG/72/09/ - Granted consent for the refreshment area on a temporary basis in order to monitor the effect of the proposal on traffic movements. The permission expired on 12th August 2011.

FG/29/11/ - Granted consent to vary opening hours to 10.00 - 22.30 Monday to Friday, 10.00 and 23.00 Saturday and 10.00 to 17.30 Sunday, but was subject to the temporary time limit of 12th August 2011.

EXTENT OF USE

Supporting information contained in FG/72/09/ from the then applicant stated that the planning application relates to the use of part of the existing winery for the provision of refreshments to clients and customers visiting the vineyard. The refreshment use is therefore ancillary to the vineyard and provides customers with an area in which they may take refreshments, particularly following guided tours of the vineyard which the applicants are now providing. Opening hours in terms of refreshment have previously been restricted to 10.00 am to 8.00 pm Mondays to Saturdays and from 10.00 am to 5.00 pm on Sundays. These hours were increased under FG/93/11/.

A temporary permission for one year was previously granted under Planning Permission FG/36/06 for one year and under Planning Permission FG/72/09/ for two years.

HIGHWAY SAFETY

The previous permission FG/72/09/ was granted on temporary basis at the request of County Highways to allow highway safety implications to be re-assessed after two years. County Highways now have no objection to renewal on highway grounds.

VISUAL AMENITY AND CHARACTER OF AREA

It is considered that the variation of Condition to change from a temporary use to permanent would be reasonable, provided it is restricted in connection with the winery and thus remains related to the agricultural/horticultural activities on the site. It is considered that this could be ensured through the use of conditions.

The proposal involves no external changes to the building and remains of a similar internal layout to that previously approved under ref: FG/119/99/ for the winery. Further, the proposed seating area is considered to be modest in size and would not, cause demonstrable harm to the character of the rural area in terms of its visual impact or the level of traffic movements generated to the site.

The vineyard is well established on the site and renewal of the permission would have no impact on the character or visual amenity of the locality.

RENEWAL OF TEMPORARY PLANNING PERMISSIONS

Government guidance is clear that temporary permissions should not be continually renewed on a temporary basis unless there are justified reasons for doing so. In this particular case the original reason for imposition of the condition has allowed an opportunity to monitor the traffic generated by the use and it is concluded that no problems have resulted. It would not therefore be

reasonable to reimpose a temporary condition.

RESIDENTIAL AMENITY

The site is relatively isolated with no nearby residential properties and therefore no adverse effect on residential amenity.

CONCLUSION

It is, therefore, recommended that planning permission should be granted, subject to the Conditions set out below.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby approved shall be carried out in accordance with the following approved plans site plan 1:2500 and floor plan .

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 2 The premises shall be used as a refreshment area, ancillary to Highdown Vinery only and for no other purposes whatsoever.

Reason : To control the use in the interest of the rural character of the locality in accordance with policy GEN7 of the Arun District Local Plan.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no first floor accommodation or mezzanine floors shall be provided unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: In the interests of the amenities of the locality in accordance with policy GEN7 of the Arun District Local Plan.

- 4 The proposed refreshment area shall be located within the area, as identified on the submitted floor plan only and for no other location unless agreed in writing by the Local Planning Authority in an application on that behalf.

Reason: To prevent the intensification of the use in the rural locality in accordance with policy GEN7 of the Arun District Local Plan.

- 5 The use hereby permitted shall not be operated at any time otherwise than between the hours of 10.00 and 22.30 Mondays to Fridays, 10.00 and 23.00 Saturdays and 10.00 to 17.30 on Sundays.

Reason: To safeguard the amenities of neighbouring properties in accordance with policy GEN7 of the Arun District Local Plan.

6 INFORMATIVE:

If food is being prepared, sold or distributed from your business there is a legal requirement to register with the Environmental Health Department as a food business at least 28 days before commencing business operations. Contact a member of the Food Safety Team on 01903 737755 or at Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF, in order to discuss any queries regarding compliance (including structural requirements) with the food hygiene regulations. It should be noted that the legal definition of food includes drinks (both soft and alcoholic).

7 INFORMATIVE: Summary of Reasons for Grant Article 22(1) General Development Procedure Order 1995

SUMMARY

This planning permission is granted because it complies with the policies listed below in that the development would not cause any material adverse effect on visual or residential amenity on the surrounding area and its character and there are no material considerations to indicate otherwise.

RELEVANT POLICIES

LOCAL PLAN: GEN2,GEN3,GEN7

SOUTH EAST PLAN: C4

NATIONAL POLICIES: PPS1,PPS7,PPG13

This is only a summary of reasons for granting to comply with Article 22 and full reasons appear in the Officer report.