

PLANNING STATEMENT – Certificate of Lawfulness of an Existing Use

TOWN AND PLANNING ACT 1990 (AS AMENDED) COUNTRY

Arundel Vineyard, Church Lane, Lyminster
PLANNING STATEMENT

Application Site:

Arundel Vineyard, Church Lane, Lyminster BN17 7QJ

**Application for Certificate of Lawfulness of an Existing Use for the land
ceasing to be commercial vineyard and used as ancillary to the
residential use of the dwelling at Arundel Vineyard, Church Lane,
Lyminster.**

On behalf of: Mr & Mrs Byrne
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1.0 Introduction and Background

- 1.1 Neame Sutton Limited, Chartered Town Planners, are instructed by Mr & Mrs Byrne ("the Applicants") to prepare and submit this application for a Certificate of Lawfulness of an Existing Use that the commercial vineyard has not been operational since prior to 31st May 2000 when the Applicants purchased the site, and has been used as ancillary to the residential dwelling and for no other purpose.
- 1.2 The site was abandoned for the commercial growing of vines by 31st May 2000. The site was left in a dilapidated state and not commercially operative, prior to the applicant's purchase of the site. Vines were retained for personal use between 2003 and 2010 when the current owners had wine bottled off site. Evidence of this is provided.
- 1.3 On purchasing the site, the applicants have used the land as ancillary to the residential use and for no other purpose.
- 1.4 The last remaining vines were removed from the site in October 2010 and the land laid out to garden area comprising of lawn and flower/shrub borders.

2.0 Town and Country Planning Act 1990 section 191

- 2.1 This application for a Certificate of Lawfulness of an Existing Use or Development (CLEUD) is made under section 191 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- 2.2 Section 191 of the 1990 Act provides for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying the lawfulness, for planning purposes, of an existing operation on, or use of land, or some activity being carried out in breach of a planning condition.
- 2.3 in this case an application under section 191, the lawfulness, for planning purposes, of the existing use of the land.
- 2.4 This application is made on the grounds that the use of the land ceased being a commercial vineyard more than 10 years prior to the date of this application.
- 2.5 The development should be deemed lawful by virtue of the passage of time and therefore immune from enforcement action.
- 2.6 The onus of proof is on the applicant and will be determined upon the test of "the balance of probability."
- 2.7 The evidence shall be precise and unambiguous to grant a certificate "on the balance of probability."

3.0 The Evidence

- 3.1 Mr & Mrs Byrne are the owners of the land which consists of a former vineyard with a dwelling on site. This was granted consent as an agricultural workers dwelling. The evidence so provided is that the applicants have never been employed in agriculture and that the use of the land has always been for personal use ancillary to the use of the dwelling as a residence and not for any commercial reason. Some vines were planted on site to replace the dead vines and these were used for personal use, and finally removed from the site in 2010 when the land was laid out as residential garden area.

3.2 (i) List of Evidence

Description	Date
Financial Statement	From 2005
Plumpton College Contract winemaking showing that he use is exclusively for domestic consumption	2007, 2008, 2009, 2010
Photos taken when site purchased in 2000 showing original house and state of the land	2000
Statutory Declaration	6 th September 2017

(ii) Other Evidence

Description	Date
Support letter of Anthony Greenwood	February 2003 and 2004
Strutt Parker – How easy is it to plant my own vineyard	03/04/2018
Tinwood Vineyard which has 110 ha of which 25ha grow vines, they also diversify with tourist accommodation, tours and other activities	

- 3.3 The support letter from Anthony Greenwood of 10th January 2003 is correct in that it demonstrates the site was rundown and neglected when the applicants purchased the site in at the end of May in 2000 and it was not operating commercially. The vines were diseased and the supporting framework had deteriorated beyond repair. It was the intention of the applicants to produce wine commercially and Mr Byrne had attended a wine maker's course at Plumpton College. The statement said that the clients were "optimistic" that the vineyard could produce in the region of £35,000 income, which the financial statement demonstrates that this was not achieved, and that the clients were in fact over optimistic. The applicants did not take over a commercially viable business, and did not have sufficient capacity to produce wine that would be financially viable to produce commercially.
- 3.4 The site is only 0.672ha or 1.66 acres, the Strutt Parker evidence states that "if you hope to establish a profitable business, the minimum size you need is 5 acres".
- 3.5 The second letter from Anthony Greenwood stated that "the vineyard is in full production thereby placing urgent need upon the replacement dwelling", as stated above it was the intention to produce wine commercially, but neither of the applicants had been employed in wine making or any agricultural endeavour and were naïve about what was required to produce wine commercially. They had intended to produce wine commercially but could not produce sufficient wine to substantiate this expectation. This is supported by the financial statement submitted with this application. All wine produced was for personal consumption only. Anthony Greenwood's statement was that of good intention, but unsupported with any financial statement.
- 3.6 There are successful commercial vineyards in West Sussex and to demonstrate what is required to be commercially viable, the case of Tinwood Vineyard is a good example of the size of land required. Tinwood grows on 25 hectares of land for growing vines, and in addition they add value to the product by diversifying into tourist accommodation, tours, weddings and other activities to support the viability.

4.0 Summary and Conclusions

- 4.1 The evidence provided by way of documents and plans, plus statutory declarations, provides sufficient evidence that on the balance of probability the land has ceased being a commercial vineyard for in excess of 10 years continuously in accordance with section 191 of the Town and Country Planning Act 1990 as amended, to enable the development to be immune from enforcement action and allow the grant of a Certificate of Lawfulness of an Existing Use.