

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: LY/11/18/CLE

LOCATION: Arundel Vineyard
Church Lane
Lyminster

PROPOSAL: Lawful development certificate for the existing use of land as ancillary to the residential property of Arundel Vineyard & not as a commercial vineyard.

DESCRIPTION OF APPLICATION

The application seeks to demonstrate that the land in question has been used ancillary to the residential property known as Arundel Vineyard and not as a commercial vineyard for the last 10 years

DESCRIPTION OF SITE AND SURROUNDINGS

The application site is referred to as Arundel Vineyard and is the site of a former vineyard.

RELEVANT SITE HISTORY

There is no planning history specifically related to the area of the Vineyard which is material to the determination of this application.

REPRESENTATIONS

Representations received:

Lyminster & Crossbush Parish Council

6 representations have been received. Many of the comments relate to the accompanying application for planning permission.

However, the following comments are germane to this application.

There to have been commercial production of wine more recently than claimed by the applicant. Having received wine from the applicant as a gift it was clearly packaged and presented for something other than personal use.

Vines have been grown at the property until 2015 - not 2010 as stated in the application.

Comments on Representations received:

The points raised are covered in the conclusions below.

CONSULTATIONS

Conservation Officer

Consultations responses received:

The Parish Council has made 2 responses. However, the majority relate to the accompanying application which seeks planning permission for the proposed use. The only comment deemed

relevant to this CLE application is:

The application hinges on a formal statement that no grape vines have been grown at the property since 2010. This statement is factually incorrect and evidence suggesting the presence of vines in 2015 is provided to Arun District Council.

Comments on Consultation responses:

The point raised is covered in the conclusions below.

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

CONCLUSIONS

In order for a CLE to be approved for the use of land it must be shown that the use has probably existed for at least the last ten years prior to the applications submission. In this case this would be from at least May 2008.

The applicant has provided a planning statement which states that the vineyard was never used commercially from the time they bought the property in 2000. The statement goes on to add that the vines were for personal use only and were finally removed from the site in 2010 (referenced in a sworn affidavit) at which time the land was laid out as residential garden area. Other documentation is provided which primarily is focused on the issue of why no commercial wine growing took place.

Correspondence has also been provided from Plumpton College who made the wine on behalf of the applicants for domestic use only. The records show the number of bottles produced from 2005 was 475; 2006 - 650 bottles; 2007 - 2005 bottles; 2008 - 220 bottles; 2009 - 880 bottles; 2010 - 500 bottles.

Aerial photographs have been checked which show rows of vines on a substantial part of the site in June and December 2012.

Enquiries were made of the records held by the Wine Standards Inspector of the Food Standards Authority which revealed the following.

"Arundel Vineyard was visited a total of 6 times during this period (incidentally this is all the visits it has recorded on our system). Here are the dates:

6 Aug 2002

16 Aug 2004

25 Aug 2006

26 Jan 2009

02 Sep 2013

05 Feb 2016 (telephone call)

The entries for 2004 and 2006 indicate the wine was made under contract by another winery and that the wine was produced for personal consumption only. All indications point to this vineyard as a hobby rather than a commercial enterprise and the planted area corroborates this as 3/4 of an acre would be difficult to produce enough wine for viable commercial volumes.

In short, FSA Wine Standards visited 6 times during this period and there is no indication that the vineyard was ever commercial during this period."

From the evidence available it would appear that the vines were still producing wine in 2010. The growing of vines is an agricultural use regardless of who is intended to consume the end product. The growing of vines was still the principle activity on this site until sometime between 2010 and 2013. Any use of the land as a garden area was secondary to this primary use. Therefore, it has not been shown that the primary use of the land was as a garden area from 2008 to date.

RECOMMENDATION

REFUSE

REASONS FOR REFUSAL OR INFORMATIVE(S)

- 1 The Council is not satisfied that the evidence submitted when considered with other information the Council has been able to collate, demonstrates that the land has been used primarily as a garden area for the property known as 'Arundel Vineyard' for the last 10 years as required to satisfy the issue of Certificate of Lawfulness under Section 171B (3) of the Town and Country Planning Act 1990.