

Recommendation Report for Planning Permission

REF NO: LY/19/17/PL

LOCATION: Arundel Vineyard
Church Lane
Lyminster

PROPOSAL: Change of use from Vinery at Arundel Vineyard to garden amenity area serving Macushia House. This application is a Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposal is to alter the vineyard to a garden area to serve the agricultural dwelling which was approved in 2000 under LY/16/02 and which replaced an earlier agricultural dwelling dating back to 1977. The application is retrospective.
SITE AREA	1 hectare
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	To field post and rail fencing and hedging to approx. 1.5m. To south evergreen hedging to approx. 2.5m
SITE CHARACTERISTICS	The site is accessed from Church Lane via a gate which displays a sign referring to Arundel Vineyards. The access drive sweeps along the site boundary. The area opposite which comprises the application site is grassed and contains only a few vines adjacent to the access. Barn style building at entrance to site is within the red edge.
CHARACTER OF LOCALITY	Predominantly rural. The site is accessed via Church Lane which is designated as a Conservation Area and comprises a mix of mainly detached dwellings of varying age and design with flint walls defining many boundaries. The application is surrounded by fields and rural style buildings/barns to the west, east and north.

RELEVANT SITE HISTORY

LY/19/17/PL

LY/15/88	Change of use of barn for retail sale of English Wine in accordance with license recently granted and vineyard tours. On-site parking for visitors cars.	Refused 07-09-1988
LY/16/02/	Replacement of existing agricultural dwelling.	ApproveConditionally 12-02-2003
LY/3/04/	Modifications to house type previously approved under planning permission LY/16/02	ApproveConditionally 13-04-2004
LY/12/10/	New conservatory extension	ApproveConditionally 09-09-2010
LY/21/75	Caravan (agricultural)	ApproveConditionally 29-01-1976
LY/26/76	Renewal of temporary planning permission for agricultural caravan (mobile home)	ApproveConditionally 03-02-1977
LY/7/77	Outline application for a detached single storey residence with double garage	ApproveConditionally 12-09-1977
LY/9/77	Detached single storey residence with double garage	ApproveConditionally 16-11-1977
LY/24/78	Renewal of temporary permission for agricultural caravan (mobile home)	ApproveConditionally 10-01-1979
LY/4/84	Single storey extension and conversion of existing garage to form 2 bedrooms	ApproveConditionally 04-05-1984

REPRESENTATIONS

Representations received:

Lyminster & Crossbush Parish Council

Objection - there are significant policy implications to this application and the accompanying application LY/20/17/PL.

The land covered by this application sits within a Strategic Gap between Settlements, adjacent to the Lyminster Conservation area, and adjacent to a Biodiversity Opportunity Area. It's designation as agricultural land is, in all likelihood, the reason why it was not included within the Conservation Area when it was designated in 1998. The Parish Council believes that it is vital to protect the settlement at Lyminster from residential development, and that this application risks being the precursor to future development on land which would have been protected by designation as part of the Conservation Area had it not had an agricultural designation in 1998.

Furthermore we are concerned that the re-designation of this land as residential endangers the "agricultural basis of the settlement" noted by the Conservation Area Designation, and also has the potential to damage the "fine, long distance views to Arundel Castle and Park". I

also understand from a previous owner of the land that Covenants are in existence on the land which specify that it must remain agricultural, though I have not had sight of these Covenants.

4 Objections -

This detracts from the character and the setting of the Lyminster Conservation area against the principles of the planning rules and the rural setting.

Contrary to the statement made on the application at 13b, the land is adjacent to a site designated as a Biodiversity Opportunity Area.

At the time of designation of the Conservation Area the land was agricultural land, and so the residential area of Lyminster ended at what is now the north boundary of the conservation area.

Now to allow this to be designated as a residential amenity with the implied possibility of future development on the site, would be to subvert the Council's designation.

Dragon House abuts onto the main access drive to Macushla House and so would be seriously impacted by any change in use if this were to involve any further housing. These impacts include loss of privacy, traffic noise and associated pollution amongst others.

This should remain agricultural land, the original small bungalow was an agricultural dwelling, and the large house that replaced it was also built as an agricultural dwelling.

The land is outside the Village Curtilage and Conservation Area. The land is adjacent to a Listed Building therefore its change of use will affect this building. Making the land residential will imply it is available for development, again affecting the Listed Building.

Comments on Representations received:

Generally agreed. Covenants are a private matter, but the original dwelling was the subject of a legal agreement restricting occupation to an agricultural employee.

It is not considered that the proposal would have an adverse impact on the setting of the listed building. The application does not relate to additional future housing and therefore the impact of further housing cannot be considered at this time .

CONSULTATIONS

Consultations responses received:

None

Comments on Consultation responses:

None

POLICY CONTEXT

Designation applicable to site:
Outside Built Up Area Boundary
On boundary with Conservation Area

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

GEN2
AREA2
GEN3

Built-up Area Boundary
Conservation Areas
Protection of the Countryside

[Publication Version of the Local Plan \(October 2014\):](#)

GEN7

The Form of New Development
HER DM3 Conservation Areas
C SP1 Countryside
SD SP1 Sustainable Development
SD SP2 Built-Up Area Boundary
SD SP3 Gaps Between Settlements
D DM1 Aspects of Form and Design Quality

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation and is a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taken place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification. The examination was completed in September 2017.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement

is less than 2 years old

- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Lyminster does not have an adopted neighborhood plan.

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 conflict with relevant Development Plan policies in that it would have a materially adverse effect on the visual amenities of the locality and 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

PRINCIPLE

The site lies outside the built up area boundary where in accordance with policy GEN3 of Arun District Local Plan the countryside will be safeguarded for its own sake and development in principle is not permitted unless it is necessary for agriculture or forestry, quiet informal recreation or diversification of the rural economy. None of these criteria apply to the proposal.

PLANNING HISTORY

From the planning history it appears that the vinery was developed from a salad nursery at some point between 1977 and 1989. The applicants acquired the vinery site known as Arundel Vineyards in 2000. This followed a refused application in 1988 for wine tours and retail sales in a building. The use was therefore clearly functioning fully at that time. In 2002 the applicants submitted an application LY/16/02 for a replacement agricultural dwelling. This was approved on the basis of the agricultural justification provided at that time. The application form referred to 0.3 hectares of grapes being in production and the agent's supporting letter stated the previous owners had bad health and the vinery had become rundown and neglected for the 4-5 years leading up to submission of the application. The vines were disease ridden and the supporting framework had deteriorated beyond repair. The applicants, who are also the applicants, for this application had invested thousands of pounds in eradicating the disease and re-investing in the installation of new support framework and purchasing of appropriate equipment. The applicant had also completed a wine growing course. Wine would therefore be produced in 2000 which could provide in the region of £35,000 in its existing condition. With further investment it was expected this would double in the next year to £70,000.

The submitted application contains statements from the applicants that they have never grown grapes on the site for commercial reasons which is clearly contrary to the information submitted in support of application LY16/02.

JUSTIFICATION FOR THE APPLICATION

The agent has advised that the vinery use was not viable or sustainable and has submitted no evidence to support this claim. Many commercial vineries operate on small sites, some less than 1 acre and most given their rural locations would be accessed by road and car. Indeed a successful vinery has clearly operated from this site in the past. The agent refers to Parkgate Barn which was used during the operation of the commercial vineyard as a refreshment area serving visitors to the vineyard which again indicates that the vineyard operated successfully and was viable. It is difficult to understand how a change in ownership has resulted in the site not being capable of returning a profit from use as a vineyard.

It is also stated that the site stopped being used as a vinery before 2000 which starkly contrasts with the justification given in the 2002 application. The applicants also state that they grew some grapes which were bottled off site for their own use between 2003 and 2010. If this was the case why is the site still clearly named Arundel Vineyards to this day and where did the significant investment in the business and equipment go? No details have been submitted to explain why the applicant's projected profitable business did not materialise and why/if the business did progress/exist up to 2003. From the street naming register it is apparent that the premises are still known as Arundel Vineyards and the property name 'Macushia House' referred to by the agent is not recognised.

The dwelling is the subject of an agricultural tie and if the land has never at any time been used by the applicants as a vinery, unless they previously worked in horticulture/agriculture elsewhere, they have been residing in the dwelling in breach of that condition from the time they purchased the vinery. Had the Local Planning Authority been aware that this was the case they would have pursued enforcement action.

It is suggested that the change from a dilapidated vinery to residential curtilage has been a visual enhancement. However, an overgrown field in the countryside is not considered a visual intrusion in this location.

The agent states that the applicants have created a garden appropriate in size to the dwelling. It is considered that the garden area is excessive to serve an agricultural dwelling. Indeed it would be significantly larger than the garden areas serving adjoining large detached dwellings. It is argued that the use would provide an area for quiet informal recreation by the owners. This type of use would not meet the requirements of policy GEN3 of Arun District Local Plan.

The agent also refers to the National Planning Policy Framework (NPPF) Paragraph 17 which states planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives. However, it goes on to say that planning should take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. The proposal would detract from the beauty of the countryside by visually formalising and domesticating the appearance of the vineyard. At paragraph 28 of the NPPF 'Supporting a Prosperous Rural Economy' it states that planning policies should support economic

growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. The loss of the vineyard/agricultural land negatively impacts on the economic growth of this rural area by reducing the availability and opportunities available for commercial use.

IMPACT ON VISUAL AMENITY AND CHARACTER OF THE AREA

The site is also located in what was formerly a strategic gap and is designated as a settlement gap in the emerging local plan. Whilst it is noted that the application only relates to the use of the land and does not include any additional structures or built form of development its inclusion as garden area would in the future lead to the presence of domestic paraphernalia which would alter the appearance of the land and result in an urbanising effect. The area is significant in size and would not have the effect of rounding off an irregular plot. It would project beyond the established boundary of the settlement (which is the boundary of the Conservation Area) envelope to the north. It is considered that the creation of a formal garden area would not be in keeping with the rural character and visual amenities of the locality in conflict with policy GEN7 of Arun District Local Plan and policy AREA2 in terms of its negative impact on the setting of the adjacent conservation area.

CONCLUSION

it is recommended that the application is refused for the following reason

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

REFUSE

- 1 The site lies in a rural area and the proposal, being unrelated to the needs of agriculture, forestry, recreation, the extraction of minerals or disposal of waste, conflicts with policies GEN2, GEN3 of the Arun District Local Plan which seeks to protect the countryside, safeguard agricultural land, and ensure that the amount of land taken for development is kept to a minimum, consistent with the provision of high quality and adequate space within the built environment and to resist the consolidation of linear or sporadic development.
- 2 Given the position and size of the garden and its domestic nature and formalised appearance it would appear as an urbanising feature in the landscape and would constitute an alien intrusion in the countryside which would be out of keeping with and detrimental to the rural character of the locality and the setting of the adjacent conservation area in conflict with policies GEN2, GEN3, GEN7, AREA2 of the Arun District Local Plan and the National Planning Policy Framework.
- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.