

Recommendation Report for Planning Permission

REF NO: LY/8/18/PL

LOCATION: Arundel Vineyard
Church Lane
Lyminster
BN17 7QJ

PROPOSAL: Change of use from Vineyard to garden amenity area serving Arundel Vineyard (resubmission following LY/19/17/PL).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal seeks planning permission to change the use of a vineyard to garden area. The applicants allege this use commenced in 2010. However, an accompanying CLE application has just been refused.
SITE AREA	0.67 hectares
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	To the south the site is bordered by the access drive to the house. To the north by a fence with agricultural land beyond. The house is to the east and a separate property but within the same ownership lies to the west.
SITE CHARACTERISTICS	The area of land is currently laid out as a lawn.
CHARACTER OF LOCALITY	The site is on the northern edge of the settlement of Lyminster. The locality is characterised by large detached houses in substantial private grounds.

RELEVANT SITE HISTORY

LY/19/17/PL	Change of use from Vinery at Arundel Vineyard to garden amenity area serving Macushia House. This application is a Departure from the Development Plan.	Refused 21-11-17
LY/12/10/	New conservatory extension	ApproveConditionally 09-09-10
LY/3/04/	Modifications to house type previously approved under planning permission LY/16/02	ApproveConditionally 13-04-04

LY/16/02/

Replacement of existing agricultural dwelling.

ApproveConditionally
12-02-03

The CLE application was refused on the basis that it couldn't be shown that the garden use had the primary use for the last 10 years.

It has been noted that on application LY/16/02 this area is shown separate from the curtilage of the house. The same applies in LY/12/10.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Lyminster & Crossbush Parish Council

A total of 5 representations have been received raising the following key points.

- The application is clearly at odds with the Local Plan that is submitted and awaiting approval. If we are to allow such deviation from the Local Plan at this stage, then it begs the question - what is the point of a local plan?
- Allowing this application would effectively introduce an alternate land use between the Lyminster Conservation Area and the designated Agricultural Land of the Arun Valley. This would set an unacceptable precedent for future residential development of the subject site and indeed elsewhere in the District.
- The planning application entirely fails to consider (or present any form of mitigation for) impact upon the adjacent Listed Building - Lyminster House.
- The planning application entirely fails to consider (or present any form of mitigation for) impact upon the adjacent Lyminster Conservation Area.
- The economic argument presented with regard to this application does not constitute grounds for the Planning Authority to grant permission to the application. It is not for the Planning Authority to provide redress to individuals' economic circumstances through the planning process.
- 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.
- There are errors with the red line boundary.
- Concerned about any approval encouraging the future residential use of this land.
- the land is adjacent to a site designated as a biodiversity opportunity area.
- concerned about the increased "urbanisation" of this substantial swathe of agricultural land and its impact and encroachment on the Conservation Area. Erosion of the planning rules could encourage further more substantial development to the detriment of this tranquil part of Lyminster village.

COMMENTS ON REPRESENTATIONS RECEIVED:

A number of the comments relate to what might happen as opposed to being germane to the determination of this particular application. Relevant considerations have been assessed as part of the determination of this application.

The issue regarding the boundary line has not been referred to the applicants representative as the application is recommended for refusal.

CONSULTATIONS

Conservation Officer

CONSULTATION RESPONSES RECEIVED:

Parish Council:

As Chair of Lyminster and Crossbush Parish Council and on behalf of the council, I wish to lodge an objection to both of these planning applications for reasons that apply to both. I believe that there are significant strategic reasons why the applications ought to be rejected and I have received representations from several residents of the Parish to this end.

At the last Parish Council meeting a vote was made of 5 against the applications with 2 abstentions (for reasons of conflicting interest as adjacent property owners).

The house and land covered by these applications sits within a Strategic Gap between Settlements, adjacent to the Lyminster Conservation area, and adjacent to a Biodiversity Opportunity Area. Its 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 designation of the Strategic Gap between settlements that makes up a large part of the Parish, and we would be extremely concerned if the District Council were to endanger the character of the Parish and the long and distant views to Arundel Castle by allowing seemingly small transgressions at the edges of the designated areas.

The house replaced an existing residential property which was designated for agricultural use and consequently the Council imposed conditions upon the demolition and rebuilding of the property when consent was granted in 2002.

This condition, requiring that the house only be occupied by a resident solely or mainly employed in agriculture, was imposed because "the site lies in a rural area and Strategic Gap where development not needed for the essential needs of agriculture or forestry would not be permitted." There has been no subsequent change to the relevant planning policies or to the nature and character of the land which alters this reasoning. We note that the Local Plan submitted and awaiting approval retains the area pertaining to the planning applications as Agricultural Use.

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

The applicant's submission that they have not adhered to planning designations and conditions, imposed when they developed the land, must not be considered to have altered the character or legal designation of the land. That the District Council has not chosen to enforce its conditions laid out in consent LY/16/02 also cannot be used to negate the reasoning behind the condition which was rightly imposed.

It is noted that the applications present an economic argument that use of the land and building are untenable. It is not the role of the planning authority to address the economic misfortune or miscalculation of the applicant through granting either permission which would be contrary to the Local Plan.

COMMENTS ON CONSULTATION RESPONSES:

See conclusions below

POLICY CONTEXT

Countryside

Gap between Arundel and Littlehampton

DEVELOPMENT PLAN POLICES

SDSP1	SD SP1 Sustainable Development
CSP1	C SP1 Countryside
HERDM3	HER DM3 Conservation Areas
SDSP3	SD SP3 Gaps Between Settlements

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2018, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans. There is no Neighbourhood Plan for the Parish of Lyminster.

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."

CONCLUSIONS

The key issues in the consideration of this application is whether the proposed use would be harmful to the appearance and character of the countryside, the setting of the conservation area, the effectiveness of the strategic gap between Arundel and Littlehampton.

Appearance and character of the countryside

This land has traditionally been used as agricultural land, most recently for the growing of vines. It is still capable of an agricultural use. In recent years it has been laid out as a private garden area for the adjoining house which has an agricultural occupancy condition.

The site lies outside the built up area boundary where in accordance with policy C SP1 of Arun District Local Plan the countryside will be safeguarded for its own sake. Development is permitted in certain circumstances including for quiet informal recreation. The Council does not believe that the change of use of agricultural land to what would be the residential curtilage of a dwelling falls within this criterion and therefore cannot benefit from this permissive part of the policy.

The agent has advised that the vinery use was not viable or sustainable.

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 would not normally be 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 the dwelling, particularly one which is subject to an occupancy restriction. A garden of this proposed size would increase the value of the dwelling even further increasing the difficulty for finding future occupants who could satisfy the occupancy condition and afford to purchase the property. Indeed it would be significantly larger than the garden areas serving adjoining large detached dwellings.

It is also suggested that the location of the site which is not visible from the public highway would not cause any harm to the visual appearance of the locality.

Overall, the proposal is considered harmful to the objective of protecting the countryside for its own sake and there is insufficient justification given to override the identified policy conflict.

The setting of the Conservation Area

The Conservation Area is focused on the settlement of Lyminster which includes numerous listed buildings. Contrary to the conclusions drawn in the previous application for this scheme it is not considered that the proposed change of use would significantly harm the setting of the Conservation Area.

The effectiveness of the Strategic gap

The site is also located in what as a settlement gap in the local plan. The relevant policy seeks to protect the generally open and undeveloped nature of these areas. The granting of permission for this proposal without satisfying any of the permissive criteria which allows for some development would be contrary to the objectives of policy SD SP3.

Overall, the proposal is considered to be contrary to policies C SP1 and SD SP3 and there are no material consideration of sufficient weight to overcome the identified policy conflict.

HUMAN RIGHTS ACT

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 no impact has 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 proposal, if permitted would result in the loss of an area of land defined as countryside without an acceptable reasoned justification contrary to the aims and intentions of policy C SP1 of the Arun Local Plan 2018 which seeks to protect the countryside for its own sake.
- 2 The proposal, if permitted would result in the loss of an area of land which forms part of the defined gap between Arundel and Littlehampton and without an acceptable reasoned justification the proposal would be contrary to the aims and intentions of policy SD SP3 of the Arun Local Plan 2018 which seeks to protect the generally open and undeveloped nature of these areas.
- 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.