

PLANNING, DESIGN AND ACCESS STATEMENT

Arundel Vineyards, Church Lane, Lyminster BN17 7QJ

Application to remove condition 2 from planning approval LY/16/02,
condition 3 LY/3/04 and condition 3 LY/25/04.

"The occupancy of the dwelling shall be limited to a person solely or mainly employed or last employed in the locality in agriculture as defined by §336 (1) of the Town and Country Planning Act 1990 or in forestry including any dependents of such a person residing with him or her, or a widow or widower of such a person." This is a resubmission of application LY/20/17/PL.

On Behalf of: Mr & Mrs Byrne

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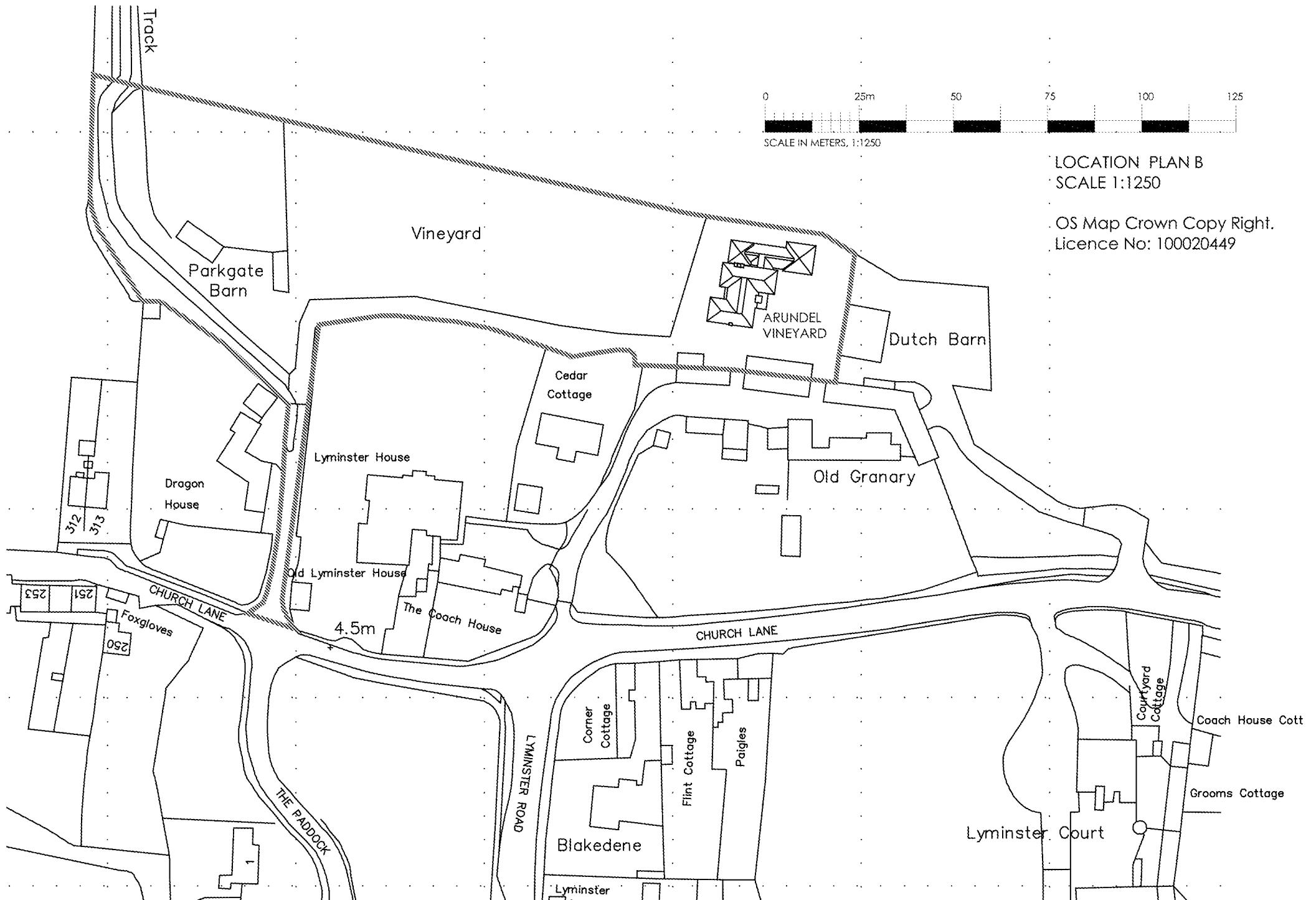
Introduction and Background

1.0 Introduction and Background

- 1.1 Neame Sutton Limited, Chartered Town Planners, are instructed by Mr & Mrs Byrne ("the Applicant") to prepare and submit this full detailed resubmission planning application to remove a condition at Arundel Vinery, Church Lane, Lyminster, West Sussex. The application follows the previous withdrawal of application LY/20/17/PL and is supported by a financial statement and recent Appeal Decision concerning a similar property.
- 1.2 This application is made in reference to Arun District Local Plan to remove a restricted agricultural workers occupancy condition from the dwelling, as this condition is no longer applicable or relevant to the residents or future potential residents or the site as a whole. The market value of the property is in excess of that considered to be an affordable dwelling.
- 1.3 When the current owners moved onto the site, they applied and were granted consent for a replacement dwelling reference LY/16/02 with condition 3 imposing an agricultural workers occupancy condition, as per the original dwelling. The scale and size of this replacement dwelling permitted far exceeds that of an average agricultural workers dwelling. The dwelling is not designed as an average agricultural workers dwelling. At the time it was the intention of the applicants to produce wine commercially. However, it was not commercially viable to do so. They vastly overestimated potential yields and income which has not been born out in the actual production levels as demonstrated in the financial statement.
- 1.4 Mr & Mrs Byrne have never been employed in agriculture. The site was abandoned for the growing of vines commercially in 2000 when the site was left in a dilapidated state prior to their purchase of the site. After cleaning up the site and planting an additional 200 vines in an attempt to commence a commercially viable concern, the output was insufficient to produce wine commercially and a few vines were retained for personal use between 2003 and 2010.
- 1.5 It was the intention of the Applicants to grow vines commercially and in good faith set about undertaking a wine growing course at Plumpton College, removing all dead vines, and erecting new growing supports, and adding 200 new vines. However, Mr Byrne, who was previously employed as an engineer in Littlehampton had been over optimistic as to what could commercially be achieved. The estimated £35,000 per annum as stated in the letter of Anthony Greenwood 13 January 2003 "our clients are optimistic that the vineyard can produce in the region of £35,000 income in its existing condition", was indeed optimistic. What the statement did not provide was a full financial assessment of projected profit and loss. Taking stock, maintenance, labour, processing, bottling and marketing, the projected income shown within the financial statement provided with this application, based on the actual yields, the evidence demonstrates that any commercial activity could not be viable. The vines, are labour intensive and suffer from disease and mould and need constant restocking in order to produce any sufficient supply. As the financial statement which accompanies this application demonstrates there was not the capacity to successfully produce wine to the scale required to be commercially viable.
- 1.6 The best that was achieved was enough grapes to bottle for personal use only. The vines were removed from the site in October 2010 and the land laid out to garden area with lawns and flower borders as exist today.
- 1.7 Therefore this application seeks to remove this agricultural workers occupancy condition as it has not been complied with since being built and the size of the dwelling approved is far greater than the average agricultural worker could afford and is not suitable to be offered as such accommodation. It can no longer be considered an affordable unit and the restrictive condition is unreasonable, unnecessary and unenforceable and does not meet the tests of Circular 11/95.

- 1.8 An average Grade III agricultural worker would earn £7.66 per hour or £15,932.80pa, or £19,552 pa for a Grade VI agricultural worker, which is insufficient income to enable an average farm worker to purchase this house. The market value of the house therefore far exceeds a realistic expectation that this house could be available to an agricultural worker in accordance with the condition.
- 1.9 To support the application, a marketing statement has been included from Clarkes Estate Agency which states that the house is valued at approximately £1.4m to £1.6m. Also a Financial statement, which demonstrates that the site is not a site which could be commercially viable.
- 1.10 The previous application was withdrawn as further information was identified concerning the good intentions of the Applicant to try to run a wine making business, which never actually got off the ground. Insufficient wine was produced, or could be produced to be commercially viable.
- 1.11 A recent appeal decision reference APP/L3815/W/17/3175066 Idolsfold House, Kirdford allowed the removal of an agricultural restrictive condition on a property with a similar value as Arundel Vinery, but on a larger agricultural unit of 12 acres as that was not considered viable, Arundel Vinery has a gross area of 1.66 acres.

- 1.12 The refusal of application LY/19/17/PL resulted in the withdrawal of the previous application, to address the reasons for refusal. The reasons stemmed from the previous statements made by the applicant that they intended to run a commercial business in good faith, however, in reality commercial wine growing on the site of this size is not viable. For comparison, the successful local business at Goodwood, Tinwood Vineyard should be referenced as this operates on a much larger economy of scale, owning 110 hectares, of which 25 hectares are for growing vines. The rest of the land is diversified into other supported elements such as wine tasting and holiday lodges. The application site cannot achieve this. The Strutt Parker paper regarding wine growing states that the minimum size of a site to be commercially viable is 5 acres, this site is only 1.66 acres. Strutt Parker are reputable land agents who know the business.





REAR ELEVATION (WEST)
SCALE 1:100



2.0 Description of the Site and Location

- 2.1 The site comprises 0.672 hectare.
- 2.2 Lyminster is a village that is the main settlement of Lyminster and Crossbush parish. It borders, to the south, the town of Littlehampton, which is 2 miles away.
- 2.3 The village is in a rural location and the settlement is around the parish church of Lyminster.
- 2.4 The site abuts the Lyminster Conservation Area but is not within it.
- 2.5 The site cannot be seen from either Church Lane of Lyminster Road. The site is surrounded.

(i) The Application Site

- 2.6 The application site is part of the Arundel Vineyard, and is accessed from Church Lane, Lyminster. The drive sweeps round to the house.
- 2.7 The site consists of a large house and garden. The vineyard has been abandoned since prior to 2000 and the land has been laid out and used as garden land since 2010.
- 2.8 Also within the site is Parkgate Barn which was brought to the site from the A279 at Lower Beeding prior to the applicant's purchase of the site. This was used during the operation of the commercial vineyard as a café without planning permission. The barn is currently used only for domestic use for the dwelling.

3.0 Site History

- 3.1 The relevant site history is as follows:

Application Number	Description	Decision
LY/15/88	Change of use of barn for retail sale Of English wine in accordance with license granted and vineyard tours. On-site parking for visitors cars.	Refused
LY/16/02	Replacement of existing agricultural dwelling	Approved Conditionally
LY/33/03	Modifications to house type previously approved under LY/16/02	Withdrawn
LY/3/04	Modifications to house type dwelling – amendment to planning permission LY/3/04	Approved Conditionally
LY/25/04	Alterations to roof of proposed dwelling – amendment to planning permission LY/3/04	Approved Conditionally
LY/15/05	Proposed demolition of existing wall and gate piers and construction of new wall, gate piers and new gate	Approved Conditionally
LY/12/10	New conservatory extension	Approved Conditionally
LY/19/17/PL	Change of Use from Vinery at Arundel Vineyard to garden amenity area servicing Macushia House.	Refuse
LY/20/17/PL	Application for Continuance of use without compliance with condition 2- occupation condition imposed under LY/16/02, condition 3 occupation imposed under LY/3/04 and condition 3 occupation imposed under LY/25/04.	Withdrawn



FRONT ELEVATION (EAST)
SCALE 1:100



Description of the Proposed Development

4.0 Description of the Proposed Development

- 4.1 This application seeks the removal of condition 3 of LY/16/02, condition 3 on LY/3/04 and condition 3 on LY/25/04 which states "The occupancy of the dwelling shall be limited to a person solely or mainly employed or last employed in the locality in agriculture as defined by S336 (i) of the Town and Country Planning Act 1990 or in forestry including any dependents of such a person residing with him or her, or a widow or widower of such a person."
- 4.2 The reason for re-submitting this application is that the applicants, who purchased the site in 2000, have never been employed in agriculture and the value of the house far exceeds that which could be reasonably purchased by an average agricultural worker. Recent appeal decision APP/L3815/W/17/3175066 at Idolsfold House, Kirdford, Billingshurst allowed a similar application for the removal of the restrictive agricultural condition on a house with a full market value of £1.5 to £1.6 million, before the agricultural discount. The Inspector concluded that "due to the market value of the property I do not consider that the proposal would be viable as an affordable dwelling, even with an appropriate discount". In the light of the above appeal decision this application is being submitted.

Planning Policy Framework

5.0 Planning Policy Framework

- 5.1 The relevant policy framework is the National Planning Policy Framework (NPPF), the Arun District Local Plan, and the Emerging Local Plan Publication Version October 2014.

National Planning Policy Framework

- 5.2 The overriding principle of this policy is the presumption in favour of sustainable development. Paragraph 14 states that local planning authorities should positively seek opportunities to meet the development needs of their area.
- 5.3 Paragraph 17 states that local authorities should take account of **market signals, such as land prices and housing affordability**.
- 5.4 Paragraph 19 states that planning should encourage and not act as an impediment to sustainable growth.
- 5.5 This application is in accordance with this policy in that the dwelling is considered to be too large and expensive to be within the affordability of the average agricultural workers, and the condition is therefore unreasonable. The design and scale of the house permitted far exceeds that normally considered acceptable as an agricultural workers dwelling. An Inspectors decision on a similar planning appeal, decided that such a dwelling was not viable as an affordable dwelling. The application is in accordance with the national policy.

The Local Development Plan

- 5.6 The current Development Plan comprises the saved policies of Arun District Local Plan and the emerging Local Plan Publication Version October 2014.

Arun District Council Emerging Local Plan Publication Version October 2014

Policy Dev 6 Agricultural Workers Dwelling

Outside the built-up area, planning permission may be granted for dwellings for agricultural or forestry workers, subject to the following criteria:

- (i) that an essential need exists, satisfying a functional test and, where appropriate, a financial test, which cannot be met by existing accommodation in the area;
- (ii) the accommodation is of a size and type appropriate to the needs of the holding and occupiers;
- (iii) the dwellings are not required to replace farm or nursery workers' dwellings which have been released for occupation by others.

Any planning permission granted will be subject to an occupancy condition, limiting occupation to a person solely or mainly employed, or last employed, in the locality in agriculture or forestry. Such conditions will only be removed if it can be demonstrated that the dwelling is no longer required for agricultural/forestry purposes and that reasonable attempts have been made to market the dwelling for that use.

Where appropriate, permission may be subject to a legal agreement preventing the future separation of the farmhouse and adjoining farm buildings/land.

5.7 This application is in accordance with this policy in that it seeks the removal of the condition which has never applied to the applicants as they have never been employed in agriculture. The dwelling is no longer required for agricultural or forestry purposes as no agricultural activity is taking place on the land, nor has done since before 2000. Further the estate agents letter states **"a typical tied property will be owned by a major land holder (such as the Duke of Norfolk) and will be a small terraced cottage with relatively low capital value. They are rarely for sale, but subject to their location, these cottages are likely to be in the region of £200,000 to £350,000, this being much more reflective of what the industry personnel and their employers are able to fund"**. This dwelling is valued at £1.4m to £1.6m. It is therefore not of an appropriate size or type for an agricultural holding.

5.8 The size of the dwelling is considered to be considerably larger than any agricultural worker or small holding could reasonably afford or substantiate. It would therefore be unreasonable to retain the dwelling with an agricultural restriction. Circular 11/95 in paragraph 2 states that conditions must meet the test of being necessary, reasonable, enforceable, precise and relevant. In this case the agricultural use as a vinery has ceased as it is not a viable option to produce wine other than for personal use, therefore the restrictive condition is no longer necessary, relevant, reasonable or enforceable.

Arun District Adopted Local Plan 2003

POLICY DEV 7 Agricultural Workers' Dwellings

Outside the built-up area, planning permission may be granted for dwellings for agricultural or forestry workers, subject to the following criteria:

- (i) **that an essential need exists, satisfying a functional test and, where appropriate, a financial test, which cannot be met by existing accommodation in the area;**
- (ii) **the accommodation is of a size and type appropriate to the needs of the holding and occupiers;**
- (iii) **the dwellings are not required to replace farm or nursery workers' dwellings which have been released for occupation by others.**

Any planning permission granted will be subject to an occupancy condition, limiting occupation to a person solely or mainly employed, or last employed, in the locality in agriculture or forestry. Such conditions will only be removed if it can be demonstrated that the dwelling is no longer required for agricultural/forestry purposes and that reasonable attempts have been made to market the dwelling for that use.

Where appropriate, permission may be subject to a legal agreement preventing the future separation of the farmhouse and adjoining farm buildings/land.

5.9 Whilst policy DEV 7 is not a saved policy, it was applicable at the time the condition was imposed.

5.10 The application demonstrates that the applicants cannot comply with this condition as they have never been employed in agriculture and the market value of the house is not within the income of the average agricultural workers, as supported by a Marketing Statement. The agricultural use has ceased as it was not viable and therefore the dwelling and land is no longer required for agricultural purposes.

6.0 The Reason that Planning Approval should be granted

(i) Reason that the Condition should be removed

- 6.1 The current occupiers and owners of the site have never been employed in agriculture.
- 6.2 The land ceased being used for commercial growing of grapes prior to 2000 when Mr & Mrs Byrne purchased the site. The land was in a dilapidated state when they took over the site and therefore not commercially viable at that time. There are no records which show if the site was viable before this time, but as it was left dilapidated, it can be reasonably assumed that the site was not viable as it was not operating commercially.
- 6.3 The applicant was at the time fully employed as an engineer at an engineering company in Littlehampton (now retired) but intended to restore the site back to a commercial vinery and attended a part time wine making course at Plumpton College. However, as the evidence submitted with this application demonstrates the applicant only grew wine for personal consumption and not for commercial purposes and that the produce would not have been commercially viable as the site is too small for commercial growing as supported by the details submitted of a paper concerning commercial wine growing by land agents Strutt Parker.
- 6.4 Between 2002 and 2010 the applicants made several successful applications to make amendments to the design of the house. The house has further been enlarged to provide a substantial family home which significantly exceeds the average market house or agricultural workers dwelling, and cannot be considered an affordable home.
- 6.5 After the purchase of the land the applicants replenished the dilapidated stocks and equipment, and added a further 200 new vines. However, the land did not yield sufficient grapes to produce wine on a commercial scale and the applicants retained a few vines for personal use, but these were finally removed in 2010 when the land was laid out as garden land.

- 6.6 Since before the year 2000 the agricultural use of the land has ceased and since that time no one has occupied the house who has been employed or last employed in agriculture.
- 6.7 The average house price in West Sussex is £350,000. The market value of the house exceeds an average house by 4 times the value, the house with a 30% reduction to reflect the agricultural tie would be £1,050,000 which does not come close to the average house price let alone an affordable dwelling. It is therefore no longer reasonable to retain this condition.

(ii) Appeal Decision APP/L3815/W/17/3175066

- 6.8 This appeal was for the removal an agricultural worker occupancy condition from Idolsfold House, Balls Cross Road, Kirdford, Billingshurst. The dwelling was valued at £1,500,000 to £1,600,000. The appeal was against a decision by Chichester District Council to refuse an application for noncompliance with an agricultural workers condition on the dwelling known as Idolsfold House.
- 6.9 The main issue was whether the condition was reasonable and necessary to meet the essential need for a rural worker to live permanently at or near their place of work.
- 6.10 The market price with the agricultural condition would be at 70% of the full market value, £1,050,000 - £1,120,000.
- 6.11 Idolsfold House is a 5 bedroom house with 16 acres, or 4.453 hectares.

- 6.12 The inspector found **"whilst I accept that there is a need for dwellings for rural workers in this locality, I have found that the appeal property is no longer one which could meet that need"**. As the market value demonstrates, and which has been verified by a land agent, the house cannot be considered to be an Affordable Home as defined by the NPPF:

Affordable housing is social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. From April 2012 affordable housing is defined in the National Planning Policy Framework.

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing. Homes that do not meet the above definition of affordable housing, such as 'low cost market' housing, may not be considered as affordable housing for planning purposes.

- 6.13 As stated affordable housing is determined with regard to local incomes and local house prices. In this case the average farm worker, who would be eligible for complying with the occupancy condition needs a 30% reduction from the market value of an average priced house, and as described this property far exceeds the average.
- 6.14 The recent appeal decision supports the applicants case that a dwelling valued at this price is not an affordable home and can no longer be supported to meet the need of the affordable homes for agricultural workers market.

- 6.15 The appeal also dealt with whether the appellant met the occupancy condition in that in 1999 he was involved with a bedding plant business and garden centre, but that for in excess of 10 years has not met the criteria at all. The Inspector was of the view that the matter does not fall within the remit of the appeal.

- 6.16 This application is similar in that the proposal which was to remove an agricultural condition restricting occupancy on a house with a similar market value as the application house has been valued at £1.400,000-£1.600,000.

(iii) Marketing

- 6.19 The applicants sought the marketing advice of Clarkes Estate Agents from Arundel with regards to the potential of selling the property to an agricultural worker. The advice received is as follows:

"It is in my view entirely certain that you will need to remove the agricultural tie before successfully selling Macushia House: not only will the agricultural tie severely limit the eligible purchasers who will qualify just to be able to make the purchase at all, it is unlikely that the property will be suitable for the typical agricultural tied worker.

I have zero expectation that a tied sale can be arranged at all.

Accordingly I recommend that you arrange for the removal of the agricultural tie before even considering bring the property to the market. You will appreciate that a typical tied worker or their employers will simply not consider Macshula House as a credible alternative."

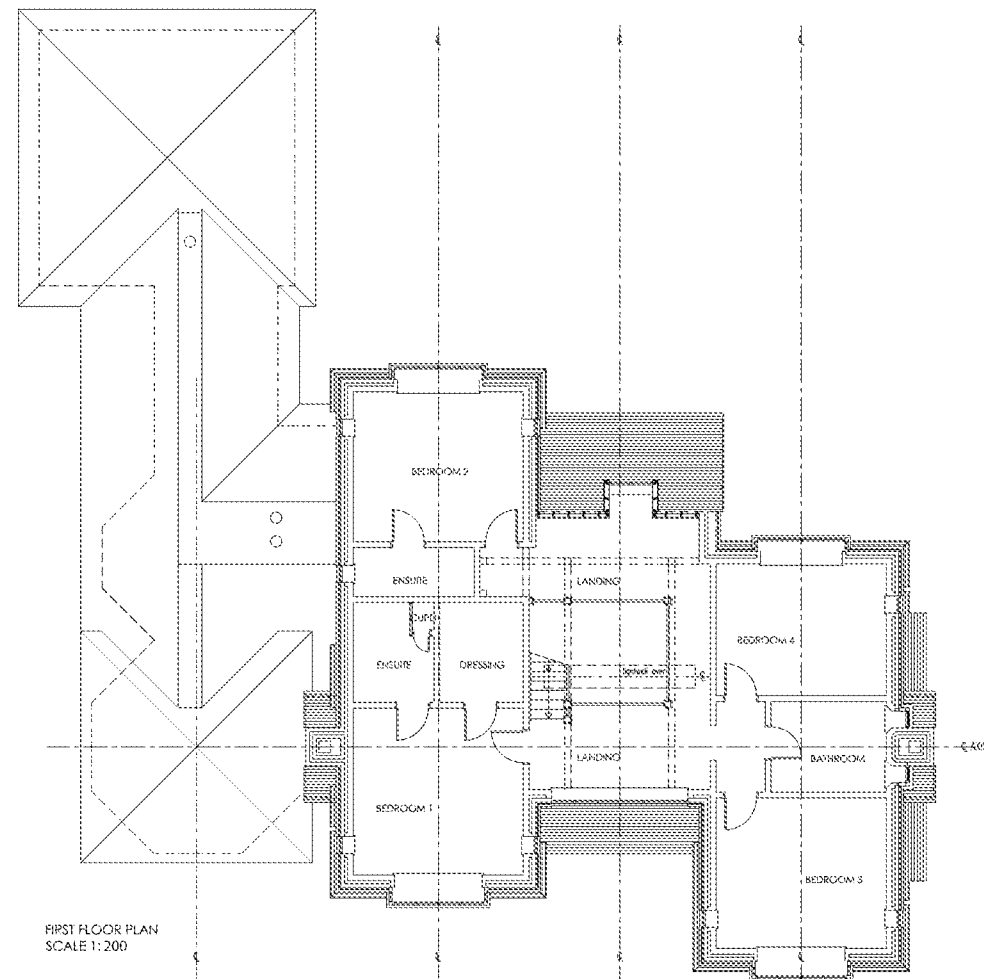
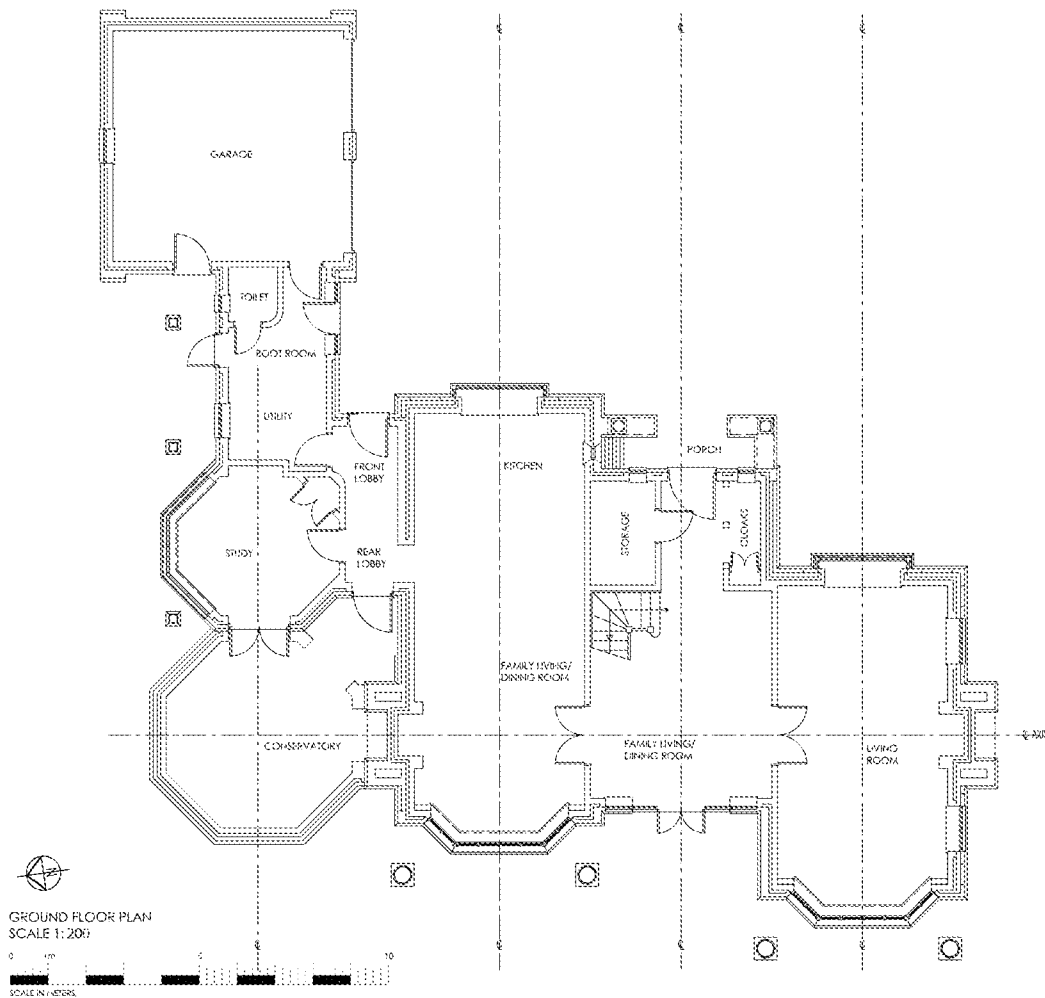
N.B. The applicant call the dwelling Macshula House, but for the purposes of planning is referred to as known locally as Arundel Vineyard.

6.20 This is pragmatic advice from the land agent who has experience in the marketing of such agricultural workers dwellings.

(iv) Compliance with the Agricultural Workers Condition

6.21 As stated above, the applicants have never been employed in agriculture, whilst it was their intention to do so, this did not prove to be commercially viable. The occupancy condition has therefore been breached in excess of 10 years. The only wine grown was small scale for personal consumption only.

6.22 The NPPF in paragraph 205 states, **"where obligations are being sought or revised, local planning authorities should take account of changes in market conditions to be permitted, enforceable, precise and reasonable in all other respects"** As stated above, the applicant is seeking to rectify a condition that could no longer be considered to be reasonable or necessary, given the current valuation of the house, which exceeds any average agricultural workers annual salary or ability to purchase the dwelling and is therefore no longer an Affordable Dwelling. Wine has not been grown commercially for in excess of 18 years and therefore this condition is unenforceable.



Summary and Conclusions

7.0 Summary and Conclusions

- 7.1 The occupants and owners of the house have never been employed in any agricultural activity, therefore they have been in breach of this condition for over 18 years. It is exempt from enforcement action. The applicant had intended to grow wine commercially and attended a part time wine making course at Plumpton College, however, as the evidence that accompanies this application demonstrates, it would not have been viable. When the applicant had made an application for alterations to the dwelling in 2004 the potential for the site was severely overestimated and lacked realism and the financial statement was extremely over optimistic and not supported by any projections. The financial statement which accompanies this application provides actual figures supported by Plumpton College.
- 7.2 The land ceased being used as a commercial vinery before its dilapidation when the applicant purchased the site in 2000. The vines have been removed and the land laid to garden. The garden has been laid out for the past 8 years and has not resulted in any complaints, or enforcement investigations, prior to the submission of the previous application. A separate application accompanies this application retrospectively to change the use of the land to a garden.
- 7.3 The house is far larger than an average agricultural workers dwelling and would market at a price which exceeds the average agricultural worker's income, and cannot be defined as an affordable house, the condition is therefore unreasonable and unnecessary.

- 7.4 A recent appeal decision in nearby Chichester District allowed a similar appeal on the grounds that whilst there may be a need for agricultural workers dwellings in the area, a dwelling of such market value could not meet that demand and that the condition was no longer necessary or reasonable.
- 7.4 It is therefore considered that the restrictive condition is no longer necessary or reasonable to be applied to this dwelling and consent should be granted to remove it.



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