

Re: 31 Crosland Edge, Meltham, Huddersfield HD9 5RS

Please accept the following clarification and comment regarding the above planning permission.

1. The host property was granted planning permission in 2000 for conversion of the existing agricultural building to a residential property. Since that date, the property, including the proposed facility's site, has been used exclusively as a residential home and garden; it hasn't been used as an agricultural facility. Recently the applicant has planted vines to the garden area (as an apparent hobby) and extended into the neighbouring fields.
2. For its proposed location (next to existing residential properties), the facility is excessive in size and for its primary purpose (hospitably) is both too close and inappropriate. The design and size of the building is not given over to that whose primary purpose is agricultural, rather it is given over to serving the demands of the proposed wine tours and tastings i.e. dwelling within an attractive building with facilities for hospitality rather than a utilitarian building being wholly for the purposes of agriculture.
3. The National Planning Policy Framework (NPPF), June 2021, is a material consideration.
 - Paragraph 137 of the NPPF indicates that the Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their *"openness and their permanence"*.
 - Paragraph 147 of the NPPF states that *'inappropriate development'* is, by definition, harmful to the Green Belt and should not be approved except in *very special circumstances*.
 - Paragraph 148 of the NPPF advises that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. *"Very special circumstances"* will not exist unless the potential harm to the Green Belt is outweighed by other considerations.

4 Key issues regarding the application

4.1 Is the proposed development appropriate in the Green Belt?

Kirklees Local Plan identifies that development in the Green Belt will only be supported where it is compatible with national policies for protecting the Green Belt and policies in Kirklees Local Plan.

Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate within the green belt unless it relates to buildings for agricultural purposes.

Section 336(1) of the Town and Country Planning Act 1990 (as amended) provides the following definition of agriculture:

"agriculture" includes horticulture and fruit growing.... where that use is ancillary to farming land for other agricultural purposes, and "agricultural" shall be construed accordingly.

In assessing whether the proposed building and site would constitute appropriate development within the Green Belt, it is necessary to consider whether these activities would be defined as being agricultural or ancillary to agricultural use.

The case of *Millington v SSE* is often considered an important consideration. This case is summarised by Martin Goodall (a specialist planning lawyer from Keystone Law) in his book *"The Essential Guide to The Use Of Land And Buildings Under The Planning Acts"* (2017) describes as follows:

Millington v SSE [2000] J.P.L. 297 established that some processing of the product (in this case, wine-making) is, in principle, capable of being ancillary to the primary agricultural use of the planning unit.

In this case, the Court of Appeal had to consider whether winemaking could be regarded as ordinarily incidental to the growing of grapes. If so, it would be ancillary to normal farming activities, reasonably necessary to make the product marketable or disposable for profit. In the alternative, the court had to consider whether the process had come to the stage where those operations could not reasonably be said to be consequential on the agricultural operation of producing the crop, in which case it could not be regarded as being ancillary to that agricultural activity.

There are overlapping concepts, and they involve some evaluation of facts, but the view of the Court of Appeal was that the making of wine, cider or apple juice on the scale with which the court was concerned in that case is a perfectly normal activity for a farmer engaged in growing grapes or apples.

Considering the judgement in *Millington v SSE*, it can be concluded that the *processing, bottling and storage* activities described above can be defined as “reasonably necessary to make the product marketable or disposable for profit”. In this respect, they would be defined as agricultural or ancillary to agriculture. However, this doesn’t apply to circumstances where the principal purpose of the building is not wholly for agriculture ie the proposal at 31 Harrsion Lane.

The view of principle purpose has recently been used by Medway Council (June 2021) to refuse a planning request to build out a new processing, wine tasting and tour facility. The refusal was subsequently taken to appeal, and the original refusal was upheld by the HM planning inspector (March 2023) (on appeal). Comments from the planning inspector included:

- Good design in the wrong location (regardless of size) is still inappropriate.
- Neither UK Govt planning policy nor (in this case) Kirklees Local Plan identify the wine industry as a priority which may outweigh national and local planning policy.
- As the property is within the greenbelt and the property is not wholly agricultural in nature there is a presumption that the development should be refused except in very special circumstances, when considering need and economic value, costs and impacts on the environment and neighbours these do not exist.

The proposal and design at 31 Crosland Edge suggest the primary and principal use of the proposed building (based on size, dimensions and design) is for wine tours and tasting and the management of the administration relating to this hospitality business only; the Design and Access Statement accompanying the application indicates that the facility centre would include the following:

- Vineyard Tours and Wine Tastings,
- Though not articulated, corporate events and private functions form an important part of the wine growing industry and, in established vineyards, account for 30% of sales; what are the future expansion plans, and how is this influencing the design?
- Wine tasting area with the facility to serve food (via the kitchen, why is this needed in an agriculture facility?) and space for 20 visitors/covers indoors with an additional unstated number outdoors via the canopy and flat terrace in front of the building.
- Wines will be available on-site to enable tour customers to taste and buy wine.

The submitted Design and Access Statement also provides the following additional information concerning these activities:

- Wine tours and tastings will be held daily, all year round. The proposed two to three tours EVERY day seems excessive with the number of tours of much larger, established vineyards in Kent and East Anglia which tend to hold up to 2 wine tours daily.
- Each tour will take approximately 1.5 hours and end with a wine-tasting session.
- Each tour will have an average of 8 visitors, though it may increase to 20 visitors at a time (the submission states up to 20 people per day, i.e. the option to amalgamate feels to be the intention if preferred).
- The statement seeks to reduce the impact of local traffic through minibuses, which will bring visitors to the winery by minibus. Each minibus can seat approximately 15 people.
- The office space would be used to manage the appointment booking rather than the agricultural aspects.
- The building design is not what is typically found in agricultural buildings in the Valleys and is clearly designed to support wine tasting and tours in an attractive setting, with the option to evolve the hospitality aspect further.

The building design and use are not wholly given to agriculture as defined by the Millington Case; its primary and principal purpose is hospitality and wholly not given over to the “*processing, bottling and storage*” and, as such should not be approved within the Green Belt.

4.2 Are the proposed facility and associated facilities/activities would be defined as agricultural or ancillary to agriculture?

In accordance with the judgement in *Millington v SSE*, it is necessary to consider whether the building use would “*be ancillary to normal farming activities, being reasonably necessary to make the product marketable or disposable for profit*” or whether it “*had come to the stage where those operations could not reasonably be said to be consequential on the agricultural operation of producing the crop, in which case it could not be regarded as being ancillary to that agricultural activity*”.

The tours and associated facilities form a significant element of the proposed development both in terms of the floor area they occupy and the nature of the proposed building use, they are not “*ancillary to normal farming activities*”. The Design and Access statement accompanying the application recognises the importance of the visitor centre in terms of the success of the overall business proposal, with the applicant perceiving an increased demand for wine tours and wine tasting, which dictate the need for the artfully designed building.

It is fairly easy for any application to be supported by statements of what they will do or, indeed, evidence of processing equipment on site, but the site design and quality of build tend to be a good indication of what the actual use of the property will be. A high specification of design and features such as the canopy are designed to enhance the experience of customers, not support the processing and storing of the product; the building is for hospitality, not wholly agricultural purposes.

As a comparator, planning permission was granted for a New Winery and Visitor Centre for Domaine Evremond Winery by Ashford Borough Council in the Kent Downs AONB in July 2020. The total area of the floorspace given over to tours is 5.2% of the floor space; the proportion of the property given over to non-agricultural activities is much greater in this proposal.

The recent history of the site and the vines does not support the idea of the proposed building being wholly agricultural. To date, the applicant has managed the site, with occasional help, from his existing residential property, there is little opportunity to extend the current area under cultivation

any further. As such, the need for the proposed development (including parking) is not related to an expansion of the vineyard (agricultural) activities; rather, it is specifically to cater for the tours and tastings or hospitality; it is not an agricultural need.

Considering the above considerations, the proposed building cannot be considered to fall within an entirely agricultural use and so doesn't comprise one of the excepted forms of development within the Green Belt as defined in paragraph 149 of the NPPF.

The proposal must, therefore, be considered "*inappropriate development*" and by definition, harmful to the Green Belt. Any "*very special circumstances*" haven't been demonstrated.

4.3 Impact on the open character of the Green Belt

Paragraph 137 of the NPPF refers to the open character of Green Belts. If this proposal comprised an entirely agricultural use, the impact on the open character of the Green Belt would not be a consideration, as per paragraph 149 of the NPPF.

However, for the reasons set out above, this proposal does not comprise an entirely agricultural use and so an assessment of the impact of the proposal upon the open character of the Green Belt.

The courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects.
- the duration of the development, and its state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

Given the size of the footprint, volume and height of the proposed building, it would certainly impact on the openness of the Green Belt. This would comprise a significant development located within an area that is predominantly undeveloped but co-located with an established residential area and very close to neighbouring buildings that will lose amenities.

Furthermore, the proposal would introduce an increase in activity levels, including the volume of traffic generated by the development both by visible parking and increased traffic; the busiest times for Harrison Lane are school pick up/drop off and weekends, and the key times for the proposed tours. This would further diminish the open character of the Green Belt.

In light of these considerations, it must be concluded that the proposal would fail to maintain the openness of the Green Belt.

4.4 Economic and Tourism Benefits

The existing NPPF planning policy provides strong but caveated support for business proposals which benefit the local economy, but only insofar as this is compatible with the national and local Green Belt policy. On their own, any perceived economic benefits do not presume approval.

The vineyard business was incorporated in November 2023. To date, the applicant has managed the vines, with occasional help, and from his existing residential property. The proposed facility and expansion from a manageable hobby is based on hosting tours and wine tasting, which, as discussed above, are not ancillary to the production of wine.

The access and method statement provides insufficient evidence of how, what is a start-up business, will provide direct or indirect benefit to the local economy; there are no "*very special circumstances*".

Kirklees Local Plan is also clear it will not approve planning permission for new agricultural buildings within the Green Belt where agriculture is not the applicant's main income, so called "hobby business". The business being incorporated in November 2023, clearly doesn't meet this threshold.

4.5 Design and visual impact.

At a national and local level, good design is a central requirement of the NPPF and Kirklees Local Plan. The design and materials are not those found in the Holme Valley

The proposed location is a sensitive site, being visible from a conservation village, many footpaths and the public highway. In its immediate setting, being co-located with family homes, it is inappropriate and will result in a loss of amenity for local residents enjoying what is a tranquil and sensitive area. The immediate location, together with the number and occurrence of tours and wine tasting, will generate noise and nuisance to the neighbouring properties.

The design of the canopy increases its footprint and will encourage people to dwell increasing the nuisance. If, the purpose of the canopy is for shading, why not a brise solieu which will have the same outcome, with a smaller footprint and will not encourage outside dwelling.

4.6 Impact on residential amenity

Paragraph 130 of the NPPF requires planning decisions to, among other things, *provide "a high standard of amenity for existing and future users"*. In addition, Kirklees Local Plan requires new development to be located, designed and constructed to *"minimise the impact on the residential amenity of future and neighbouring occupiers, through maintaining privacy and daylight"*.

Because of the facility's size, location (next to established residential homes) and the nature of its actual use (tours, wine tasting and hospitality), it has an impact. It will result in the loss of amenity and introduce statutory nuisances including:

- Plant and machinery
- Vehicles, e.g. traffic, visitors, works vehicles, deliveries, etc.
- Events (if relevant), e.g. amplified sound/music and behavioural noise
- Maintenance operations
- Expected tours and wine-tasting operations
- Anti-social behaviour

The access and method statement outlines the number and size of proposed tours, these will clearly impact on local residents.

5.7 Very special circumstances

For the reasons above, this proposal is considered inappropriate development in the Green Belt and in accordance with paragraph 147 of the NPPF such development should only be approved in *"very special circumstances"*.

Paragraph 148 states that very special circumstances *"will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is outweighed by other considerations"*.

6. Comments both supporting and raising concerns have been received regarding the proposal. The majority of these comments are from residents who are NOT located near the proposed facility. I trust that extra weight will be given to those comments from those who will experience the loss of amenity and have material concerns regarding the site and its operation.