**Name**

Millington v Secretary of State for the Environment, Transport and the Regions

**Date**

[1999]

**Citation**

3 PLR 118

**Legislation**

Town and Country Planning Act 1990

**Keywords**

Planning control

**Summary**

The appellant farmer started making wine from his own grapes and selling it to the public. The local authority served an enforcement notice alleging that the sale of wine and visits by the public was a material change of use. The Secretary of State determined that the processing and bottling was an industrial process and so the sale of the wine produced by that process was not ancillary to agriculture. He granted planning permission for the making of wine but upheld the notice in respect of sales and visits by members of the public.

The Court of Appeal held that the Secretary had erred in law. Lord Justice Schiemann stated that the proper approach to the question was to consider whether what the farmer was doing could, having regard to ordinary and reasonable practice:

- be regarded as ordinarily incidental to the growing of grapes;
- be included in the general term agriculture;
- be regarded as ancillary to normal farming activities;
- be regarded as reasonably necessary to make the product marketable or disposable to profit; or
- be said to have come to the stage where the operations cannot reasonably be consequential on the agricultural operations of producing the crop.

The case was therefore remitted to the Secretary of State, but the Court was of the opinion that the making of wine or cider or apple juice on the scale in the case was perfectly normal for a farmer growing grapes or apples.

It was conceded by the Secretary of State that the grant of permission to make wine, while upholding the enforcement notice preventing it being sold, was irrational.