



## A&R. English Wine

### Guide to Buying or Selling a Vineyard

English wine growing is not a new phenomenon. The Romans introduced it into England and at the time of the Domesday Book there were 40 recorded vineyards in England, mostly producing communion wine. When Henry VIII succeeded to the throne there were 139 vineyards recorded, eleven of which were Royal vineyards.

After various vagaries of disease and the abolition of import tax, it was not until the 1930s that vines were once again planted in the South of England but the real growth and investment has taken place in the last thirty years. There are currently some 448 commercial vineyards in England and Wales and a further 89 are classified as “hobby vineyards” as their production is not sold or recorded.

Whilst there is no doubt that farming is hardwork and running a vineyard is no exception, many prospective owners are attracted to this type of farming because it doesn't involve livestock, they are less reliant on supermarkets who can drive down prices and to be honest there is a certain amount of sophistication and glamour associated with a vineyard. I'm sure we have all driven through parts of France and been seduced by the lifestyle.....

Vineyards and land suitable for growing vines are not in short supply but they do not often come up for sale on the open market. Depending on their location, when they do, they can attract significant interest, particularly along the south coast where investment in recent years has not just been from UK buyers but also from overseas interests. Some of this speculative buying of land is rumoured to be the champagne houses of France hedging their bets against global warming but the majority of buyers are looking commercially to produce wine as soon as possible.

Once established, production volumes can vary considerably thanks to the delightfully unpredictable British weather. 2012 saw the lowest volume of English wine produced since 1997 with reports of entire crops being scrapped by some vineyards. 2010 recorded the highest production of English wine of four 4 million bottles.

In any event, investment in a commercial vineyard by purchasing an established business or by buying farmland and starting from scratch or is a costly affair and certainly not an investment for the faint hearted.

Given the upfront costs and the fact that by starting from scratch you may have to wait four or five years before commercial wine production can begin it, makes sense to look at buying an existing vineyard with a view to increasing its production over time. The benefit of buying such an established vineyard is the same as buying any established business. Someone has already done a lot of the hard work and the infrastructure including the vines will be in place. This means that you can begin production the following harvest or sell existing stock to provide an income.

Your accountant and solicitor will go through the process of due diligence in the same way as when purchasing any business and will advise you on the accounts, the assets of the business, supplier agreements, employment contracts and other matters associated with the business. An existing business will also have an identifiable name and may have its own market either locally or nationally and many existing vineyards are on the tourist trail for passing trade. The downside is that for the foreseeable future you have to live with the varieties which are already planted and the previous growing systems and processes. You will also have to make do with the existing site. Buildings may already be there but may be too small to accommodate your longer term ambitions or the whole operation may not be laid out as you would prefer.

An alternative is to buy an existing farm or estate and plant your own vines, although you will have to be prepared to wait several years to find out if the grapes you are growing will produce anything half decent. Once you have identified a suitable site work can begin in earnest and costs will start building up. With the cost of arable land currently at an all time high, the purchase of the land will be not insignificant, and adding to this will be the cost of soil analysis, environmental impact assessments, planning consent and the building of processing plants/bottling plants, visitor centres and accommodation for both permanent and seasonal staff and it is easy to see why the cost of setting up a vineyard from scratch can be astronomical.

Your solicitor should approach the purchase in the same way that he would approach the purchase of any farm or agricultural estate but taking into account the unique nature of growing vines, not forgetting that viticulture is classed as agriculture.

The usual searches and investigations should be carried out and in the context of growing grapes and these can throw up some quirks, which in the ordinary course of buying a farm would not raise an eyebrow. For example, the author recently acted for a client who bought several hundred acres of the south of England with the aim of establishing one of the largest vineyards in the Country, but part of it was subject to restrictive covenants limiting the use of land on some of the all important south facing slopes to grassland for the grazing of sheep and cattle. Normally in the context of buying a stock farm this restriction on land that is too steep to take a combine would not have warranted a second thought but it was vital to have this restriction lifted for the long-term future of the vineyard and the business. Happily, a solution was found to everyone's satisfaction.

One of the major hurdles for any rural business is the planning process. It is important to ensure that the correct planning consent is in place for any buildings and that their use is not restricted in a way which is not compatible with the process of growing vines and producing wine. If the buildings are listed or the farm is in a conservation area, national park, area of outstanding beauty or site of special scientific interest there will be tougher rules on planning, building and the impact the proposed business may have on the area and these will all have to be borne in mind. If that attractive range of flint faced traditional buildings which would make an ideal visitor centre is listed, then this may severely curtail the plans you had in mind for them. Rest assured that any initial time scale given for carrying out an extensive building programme will in all likelihood probably be exceeded as will initial cost estimates although these can be minimised by employing an experienced surveyor to oversee the project.

There may be issues relating to site access, which need to be addressed relating both to access by the visiting public and deliveries etc. Traffic on rural roads can often generate bad feelings between local residents and the business operator and these may be taken into account when after a few years flushed with success you seek to expand the business.

It is also essential to check what rights the public may have over the farm you are considering buying. A footpath across a field of wheat is seldom an issue but through a vineyard is a different story. It can be difficult and costly to re-route a public right of way and if part of the farm is classified as “access land” under the “right to roam” provisions of the Countryside and Rights of Way Act 2000 will you really appreciate members of the public having the right to enter and remain on your vineyard for recreational purposes? If part of the property is common land you must ensure that your activities do not in any way interfere with commoners’ rights.

Particular attention should be paid to utilities, which may cross the land. Wayleave agreements or easements may allow the growing of arable crops on the easement strip, but does that agreement for the underground line which runs slap bang through the middle of the vineyard allow deep rooting vines to be planted or trellising posts to be put in?

Consideration should also be given as to the nature in which the vineyard will be owned – whether as a partnership, limited company or other such vehicle and as with all such transactions, specialist tax advice should be sought at the outset.

There is no doubt there is a real passion for English wine and the producers I represent are the most passionate of all. English sparkling wines continue to win prestigious awards, consistently beating well known French champagne houses, yet the sales of English and Welsh wines combined still only account for about 1% of the domestic market.

There is ample scope for production to increase therefore strong demand for suitable land for vineyards looks set to continue, but the end price of the bottle of wine with a consistent quality needs to be able to compete commercially and this is often the challenge. Before embarking on the significant expenditure that is required, make sure you do your own homework and take specialist expert legal advice which should always be sought before buying any property or land.

This article is not intended to be a full summary of the law and advice should be sought on all issues.

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