### 13.813 Sales of processed or adapted produce

Another legal difficulty occurs when, although produce sold at a farm shop may be indigenous to a farm or holding, it may have to be processed, adapted or packaged in such a way as to make it suitable for retail sale. The line of reasoning here is that the direct ancillary linkage between the growing or rearing of farm produce has been broken by the intervention of an industrial process. Such a view was taken in Monmouth 20/10/1995 DCS No 100-032-968. Clearly, where meat or poultry is sold which has been reared at a farm there will have been slaughtering, butchering (or plucking and dressing in the case of poultry), and possibly freezing. Linkages to a farm may be further weakened as any animal slaughtering, to comply with current regulations, must be sent away to specialist abattoirs.

However, the Court of Appeal case Millington v SoS & Another 25/6/99 (which quashed the appeal decision in Shrewsbury and Atcham 05/03/1998 DCS No 031-061-722, has shown that where farm processing is not on a large scale it could be considered ancillary to agriculture. The conclusion may be drawn that the sales of "adapted" farm produce in a related farm shop does not necessarily detract from the 'ancillary to agriculture' status of that shop.

The Millington case was concerned with a situation where a farmer planted vines on approximately a third of his farm. Wine was produced and members of the public could visit the site and buy wine. A council enforced against the alleged change of use stating that the sale of wine and light refreshments and visits by fee-paying members of the public was material. The Court of Appeal stated that the correct approach was to consider the activities of the appellant and whether they were incidental to the growing of grapes, ancillary to normal farming activities and reasonably necessary to make the product marketable. It was held that the production of wine (or cider) on the scale of the appellant's business was found to be perfectly normal.

The influence of the Millington case may be seen in the Caerphilly decision described previously at 13.812, which shows that the thrust of the judgment may be extended to meat sales from animals reared at a particular farm. The judgment in Salvatore Cumbo v SoS & Dacorum D.C. 16/5/91 where the making of cheese from sheep and goats at a farm was not held to be an agricultural activity, is also undermined.

The Millington case was also used in see Caerphilly 25/05/2000 DCS No 042-354-263 where an LDC was sought for the sale of meat products produced on the holding plus not more than 10% of imported frozen chickens and bacon. The Authority alleged the sale of meat products which are prepared and adapted for sale by processes which are undertaken elsewhere, were not ancillary to agriculture. An inspector held that the carrying out of a use incidental to a lawful primary use did not normally involve development, quoting the Millington court case which stated that the processing of a crop to produce an identifiably different product after it had been removed from the soil could be regarded as part of the agricultural use. The sale of produce involving animals reared on the holding was lawful.