



Certificate of Lawful Existing Use or Development (CLEUD)

WHAT IS A CLEUD AND WHY DO I NEED ONE?

A Certificate of Lawful Existing Use or Development is a certificate which can be obtained from the Local Planning Authority and will prevent enforcement by that Authority against any breach of planning policy or conditions.

Constructing a building for any use or using a site for anything other than forestry or agriculture will require planning permission, unless it is exempt under the General Permitted Development Order (GPDO). However, it is not illegal to do so until such time as the Local Planning Authority decide to take enforcement action. The local authority must however take this action within certain time periods. If however these periods have already passed, you can legitimise the development in planning terms by submitting a Certificate of Lawful Existing Use or Development (CLEUD).

There are minimum time periods for eligibility depending on the type of development, which are important to be aware of if consideration is being made to apply for a CLEUD. The breach of planning must be continuous and current. The time periods are:-

- Four years for the construction of a new building or structure;
- Four years for the change of use of a building to a single dwelling;
- Ten years for the change of use of a building or land to any use other than a single dwelling.

It should also be noted that the siting of a mobile home is always considered a change of use rather than a use as a single dwelling i.e. 10 years.

Unlike planning applications, Certificates of Lawful Existing Use or Development are decided on the facts of the case and evidence should be provided to prove to the council, on the balance of probability,

that the development complies with the minimum time periods stated above.

Evidence can be anything which helps the case, but can include:-

- Photographs
- Accounts
- Statutory declarations
- Utility bills
- Wage slips
- Receipts for materials
- Leases

EXAMPLES

Continuation of use as a vehicle repair workshop

Acorus have acted in numerous situations which required a CLEUD submission to the Local Planning Authority.

At a site near Wakefield a farmer's son had decided in the early 1990s that he would set up his own business as a mechanic repairing cars and vehicles. His father had a barn which was under utilised and the obvious place to start work was in it.



Over the years the business grew and a car ramp was installed, the building re-clad and the height of one of the repair bays increased. In 2007 an enforcement notice from Leeds City Council was received informing him that he did not have planning permission and that action would be taken against him unless the issue was resolved.

The father and son contacted Acorus and we promptly arranged to meet them on site to discuss in detail its history. The client provided a lot of evidence, including: dated photographs, receipts and invoices for car parts covering the period of the use. Acorus also assisted in facilitating statutory declarations from clients and preparing a full supporting statement.

After two meetings with the planning officer a submission was made and Acorus successfully obtained a Certificate of Lawful Existing Use or Development from Leeds City Council. This means that the business can continue to provide excellent service to its clients and a secure future for the proprietor and his young family.

Agricultural Tie on a Dwelling

There are two methods of dealing with a tie on a dwelling, either prove that it is no longer relevant (See information leaflet entitled 'Properties Subject



to Agricultural Ties/Occupancy Conditions) or, if appropriate, apply for a CLEUD. This was the case with a dwelling set in 30 acres near Sheffield. The owner had built the house in the 1970s and it was subject to an agricultural occupancy condition. Although he ran a few cattle and sheep, these were always only a hobby as his main income came from being a National Health doctor and subsequently a senior partner in a local surgery.

It was obvious that the tie/condition had been breached since the house was built but Acorus had to help the doctor to prove it. We used his farm and business accounts to show how small the farm income was as a percentage of his overall income and drafted statutory declarations for family, neighbours and business partners to sign as well as his accountant. These were counter signed by his solicitor.

A site plan and photographs were produced and submitted with a planning statement prepared by Acorus. The Local Planning Authority agreed with the submission and duly issued a certificate of lawfulness, probably increasing the value of the dwelling by over £200,000.



EQUINE • AGRICULTURAL DWELLINGS • SMALL HOLDINGS • RURAL RE-DEVELOPMENT

SOUTH & EAST

Old Market Office
10 Risbygate Street
Bury St Edmunds
IP33 3AA
T: 01284 753 271

MIDLANDS

Woodthorne
Wergs Road
Wolverhampton
WV6 8TQ
T: 01902 693 213

SOUTH WEST

Mamhead Castle
Mamhead
Exeter
EX6 8HD
T: 01626 892 638

NORTH

Paddock House
Elder Road
Northallerton, North Yorkshire
DL6 1NH
T: 01609 773 206