

## Certificates of Lawfulness of Existing Use or Development

Due to the way that equestrian properties evolve, many do not have the requisite planning permission as people assume incorrectly that all equestrian activities are agricultural.

When purchasing equestrian property and to pre-empt problems on a sale, it is essential to ascertain whether there are any problems with the planning title. Due to the passage of time many can be dealt with by obtaining a Certificate of Lawfulness of Existing Use or Development (CLEUD).

The time limits for enforcement action are as follows:

1. **Operational development** – no enforcement action can be taken after a period of 4 years since completion of the development
2. **Use as a single dwelling-house** – no enforcement action can be taken if the use has continued uninterrupted for a period of at least four years
3. **Any other breach of planning control** – no enforcement action can be taken after a period of 10 years if the breach has continued uninterrupted for that period. This will include a change of use or breach of condition which does not relate to use as a single dwelling-house

It may therefore be possible to apply for a CLEUD in these circumstances but note that this will not be possible where the breach is in respect of a planning agreement rather than a planning condition.

You will need to provide evidence supporting the application. This is by way of statutory declaration from the owner and any other person who can support the claim stating when the use commenced or development was completed. Further evidence for example photographs or receipts for building work or copies of accounts in the case of a livery yard or riding school should be included. In the case of a breach of an occupancy condition evidence of earnings other than from agriculture will need to be provided, eg payslips or accounts. It is up to the applicant to prove the lawfulness on the 'balance of probabilities'. The applicant must therefore make out a clear case, which does not need to be corroborated, but the fuller the evidence the greater likelihood that the test will be met and the certificate granted.

One of the most essential parts when dealing with a change of use is to show that use as being continuous. Any period of a different use will start the clock running again. Also a chain of different uses will not amount to a period of non-compliance. You must also be aware that any non-compliance once a certificate has been granted (ie change of use) in the future brings the condition back into operation.

An incomplete or defective application can result in the certificate not being issued that, in turn, has the unfortunate effect of notifying the local authority to the planning breaches, resulting in enforcement action against you. Not the desired outcome!

### Contact

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