

Is planning permission required?

Equestrian properties often throw up planning problems because the keeping of horses appears similar to agriculture and many people (wrongly) assume that they are an agricultural activity. This is not usually the case and care needs to be taken to ensure that the necessary planning consents are obtained.

We need to look at the definition of agriculture to ascertain whether the use or proposed use falls within that definition and so will not require a planning consent. If the land is used for the purposes of agriculture it does not involve development. The term 'agriculture' is defined in as follows:

Agriculture includes horticulture, fruit growing, seed growing, dairy farming, **the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land) the use of land as grazing land meadow land**, osier land, market gardens and nursery grounds and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes and 'agricultural' shall be construed accordingly

In interpreting this planning law throws up no less than 6 types of horse:

- **the 'working horse'** – livestock bred or kept for the purpose of its use on the farm – agricultural
- **the 'racehorse'** – these are not livestock kept for the agricultural production – not agricultural, but it may be a grazing horse
- **the 'recreational horse'** – keeping them is not an agricultural use of land - again may be grazing
- **the 'grazing horse'** – the use of land as grazing land is an agricultural use so that the use of land for the grazing of any of the types of horse mentioned is agricultural, but not the keeping of them
- **the 'residentially incidental horse'** - the keeping of a horse within the curtilage of a dwelling-house may, though not an agricultural use, be incidental to the enjoyment of a dwelling-house and thus not require planning permission
- **'horsemeat'** – breeding and keeping for food production is agricultural

Once we have established what the use will be we need to ascertain whether any development rights are conferred by the Town and Country Planning General Permitted Development Order 1995 for any proposed or future development. Consultation with the local authority is required to ascertain if these rights have been withdrawn or modified.

In respect of the residentially incidental horse, further additional permitted development rights are available permitting the provision of buildings and enclosures for "a purpose incidental to the enjoyment of the dwelling-house" which includes the keeping of livestock for the personal enjoyment of the occupants of the dwelling-house

If planning permission is required you will need to consult the Local Plan or the Local Development Documents in the relevant local authority's Local Development Scheme to ascertain that local authority's stance on the particular proposed development or use. They should have policies in place that deal with rural diversification and equestrian activities.

Planning Policy Statement 7 contains a section on equestrian-related activities encouraging local authorities to set out their policies supporting equine enterprises whilst maintaining environmental quality and countryside character. It encourages re-use of farm buildings for small-scale horse-enterprises (up to ten horses). So there is movement in planning terms towards equestrian development

Consultation with the local authority is advisable prior to commencing development or use. We can assist with any difficulties encountered in determining whether planning permission is required. We suggest that you also check your title deeds before taking any further steps as restrictive covenants may have been imposed preventing the development or change of use in question.

Contact

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