



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 (CLEUD) 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 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. ten years.

Unlike planning applications, CLEUDs 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

On the 1 April 2012 the issue of deliberate concealment was introduced.

This means if the Local Planning Authority consider a development has been deliberately concealed they can apply to the Court for an order giving them authority to have the breach of planning control 'immediately' rectified (i.e. in the case of the creation of a new dwelling, demolition will commence). This means extra care must be taken with cases.

Until deliberate concealment is established through case law, it is difficult to ascertain exactly what will be considered 'deliberately concealed' although the Government has indicated it is only intended to remedy the most extreme cases (e.g. the Supreme Court case *Secretary of State for Communities and Local Government and Another v Welwyn Hatfield Borough Council* where a house was built inside a hay barn).



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 the LPA was received informing him that he did not have planning permission and 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 in detail. The client provided substantial evidence, including dated photographs, receipts and invoices for car parts covering the period of the use. Acorus also assisted in facilitating statutory declarations and preparing a full supporting statement.

After two meetings with the planning officer a submission was made and Acorus successfully obtained a CLEUD. 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 Factsheet 14 - Agricultural 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 derived from healthcare.

It was obvious that the tie/condition had been breached since the house was built but Acorus had to help the owner 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 CLEUD, probably increasing the value of the dwelling by over £200,000.

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MIDLANDS & WALES

Pendeford House
Pendeford Business Park
Wobaston Road
Wolverhampton
WV9 5AP
T: 01902 625 024

EAST & SOUTH EAST

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

SOUTH WEST

Addlepool Business Centre
Woodbury Road
Clyst St George
Exeter, Devon
EX3 0NR
T: 01392 873 900

NORTH

T: 01524 793 900

SCOTLAND

T: 0845 65 88 907