

Information sheet from Carver Knowles Solicitors

Enforcement Action, time limits & planning conditions

Last month we looked at the time limits for Enforcement Action (<http://fts.carverknowles.co.uk/enforcement-action-and-how-to-avoid-it/>). This time Julie Branfield looks in more detail at those time limits and specifically how they relate to planning conditions and in particular Agricultural Occupancy Conditions.

What we discovered last time was that there are time limits for council taking enforcement action against breaches of planning control. This can include buildings erected without planning permission, change of use of a building or land and breaches of planning conditions.

So why is this relevant to an Agricultural Occupancy Condition?

An Agricultural Occupancy Conditions (AOC) is a planning condition placed on a property that would otherwise not have been given consent to be built in the open countryside. The condition, also referred to as Agricultural Tie or 'Ag Tie' restricts the occupation of the dwelling to those working in agriculture.

The wording most commonly used for the condition is:

"The occupation of the dwelling shall be restricted to those solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependants"

We learnt last time that where a condition has been breached continually for 10 years the planning condition becomes unenforceable, this is also the case for an AOC.

Where a property has been occupied by a person who does not comply with the wording of the condition then the condition has been breached. Provided the breach has been occurring continuously for 10 years, then the time limit for the Council to take enforcement action will have expired and the condition will become unenforceable.

What if I have breached the Agricultural Occupancy Condition?

To clarify that the condition is unenforceable and to confirm that anyone can now live in the property a Certificate of Lawful Existing Development or a CLEUD can be submitted to the Council.

A CLEUD application must contain sufficient evidence to show that the breach has been occurring for a continuous period in excess of 10 years and that the breach is still occurring at the date of the application. Evidence commonly used to support such an application includes statutory declarations from current and previous occupiers, letters from the occupier's employers, council tax certificates, utility bills, evidence from letting agents and third party statements. In applications of this type, the onus is on the applicant to prove that the property has been occupied in breach of the condition, so there is no such thing as too much evidence!

CLEUD applications can be refused, if at any point during the ten year period the breach of condition stops, i.e. the property is left vacant or occupied by someone who complies with the Tie. It is therefore important to ensure that the breach has been occurring for a continuous period in excess of 10 years, that the person occupying the property has not, at any point, been employed in agriculture or forestry (or retired from agriculture or forestry) and that the breach is still occurring when the application is submitted.

Applications for CLEUDs often involve technical legal points, so the Golden Rule is to **know your case law** or employ an agent such as Carver Knowles (<http://fts.carverknowles.co.uk/rural-planning-consultancy/>) who have the knowledge and experience (<http://fts.carverknowles.co.uk/agricultural-ties-removal-continued-success/>) to act on your behalf.

Can a Certificate of Lawful development apply in other circumstances?

Such applications are an extremely useful way of dealing with Ag Ties, however it should not be forgotten that this route does not remove the Ag Tie, merely confirms that the breach of condition is lawful and applicants should be aware that if, at some point in the future, a person who complies with Ag Tie occupies the property, the Ag Tie will be reactivated.

For further information relating to this topic or for any query regarding Agricultural Ties please contact Julie Branfield (JulieBranfield@fts.carverknowles.co.uk) via email or on 01684 853400 (tel:01684 853400)

([https://www.facebook.com/sharer/sharer.php?](https://www.facebook.com/sharer/sharer.php?u=https%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F)

[u=https%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F](https://www.facebook.com/sharer/sharer.php?u=https%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F))

([https://twitter.com/intent/tweet?](https://twitter.com/intent/tweet?text=Enforcement%20Action%2C%20time%20limits%20%26%20planning%20conditions&url=http%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F)

[text=Enforcement%20Action%2C%20time%20limits%20%26%20planning%20conditions&url=http%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F](https://twitter.com/intent/tweet?text=Enforcement%20Action%2C%20time%20limits%20%26%20planning%20conditions&url=http%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F))

([https://www.linkedin.com/shareArticle?](https://www.linkedin.com/shareArticle?mini=true&url=https%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F)

[mini=true&url=https%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F](https://www.linkedin.com/shareArticle?mini=true&url=https%3A%2F%2Fwww.carverknowles.co.uk%2Fenforcement-action-time-limits-planning-conditions%2F))