

Update

Your quarterly bulletin
on legal news and views
from Lanyon Bowdler

Planning permission and keeping horses

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In recent years development involving horses has become increasingly popular. Farm land and buildings are being sold or let to individuals hoping to use the land and buildings to keep their horses. What many individuals are unaware of is that this material change in use is likely to require planning permission.

So what is development and what is a material change in use?

Under the Town and Country Planning Act 1990 (TCPA 1990), planning permission is required for any development (section 57[1], TCPA 1990). Development is defined as the “carrying out of building, engineering, mining or other operations in, on, over or under the land or the making of any material change in the use of any buildings or other land” (section 55[1], TCPA 1990). As such, there is a basic requirement for planning permission to be obtained if there is a material change of use of any buildings or land. However, the term ‘material’ is not defined by the TCPA 1990 and there is a substantial amount of case law on what constitutes a material change in use and what does not.

Some examples of what would constitute a material change of use are set out below:

1. Use of land or buildings to keep horses for recreational use;
2. Use of land or buildings to keep horses for commercial use;
3. The erection of buildings to shelter horses or horseculture equipment;
4. The erection of buildings for the purpose of exercising horses.

Agricultural v. Recreational

The Court has held that the term in the statutory definition of agriculture referring to the breeding and keeping of livestock does not apply to the breeding and keeping of horses (except in connection with any farming use). Therefore, unless the horses are simply turned out to the land with a view to feeding them from the land, it is likely that planning permission will be required.

EU considers use of the herbicide glyphosate

On 10 January 2017, the European Commission decided to register a European Citizens’ Initiative (an “ECI”) relating to glyphosate. An ECI is a mechanism where EU citizens can, if appropriate thresholds are reached, approach the Commission and invite it to submit legal proposals. A citizens’ committee made up of residents of at least seven member states can require the Commission to register an ECI.

This ECI invites the Commission “to propose to Member States a ban on glyphosate, to reform the pesticide approval procedure, and to set EU-wide mandatory reduction targets for pesticide use”. Formal registration takes place on 25th January 2017. At this stage, registration simply means that the legal conditions or registration have been met. The Commission has not yet considered the substance of the proposal.

Following registration the citizens’ committee then has one year to collect statements of support from other interested EU citizens, either on paper or electronically. If – and only if – a registered ECI receives the signatures of one million validated statements of support from at least seven Member States, the Commission will then have three months to decide whether or not to follow the request of the ECI, but it must also explain the reasons for that choice.

In a related development, on 7 December 2016, the European Chemicals Agency (ECHA) began work on evaluating the safety of glyphosate, as required by Commission Implementing Regulation (EU) 2016/1056 amending Implementing Regulation (EU) 540/2011 as regards the extension of the approval period of the active substance glyphosate. Whether or not use of glyphosate will be allowed in the EU in the long term remains to be seen, and the full implications of this in the UK will, of course, depend on the detailed negotiations for Brexit.

“Very reliable, easy to contact and very professional.”

Mr & Mrs D Allsop, Much Wenlock

PLANNING PERMISSION AND KEEPING HORSES

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Example: You purchase a plot of land from a local farmer intending to keep the family horses on, but the field is currently used by the farmer to graze sheep. If you use the field to house, graze and exercise the horses, will you need to seek planning permission?

Answer: Yes. As the horses will be exercised on the land planning permission is required.

What happens if you do not obtain planning permission?

Failure to obtain planning permission is commonly known as a ‘planning breach’.

It is likely that a retrospective planning application will have to be submitted if a planning breach has occurred. If this retrospective application fails then the Council can serve an enforcement notice which requires you to put things back to the way they were.

How can we help?

To avoid the risk of enforcement action you should always seek advice before carrying out any change of use or development. At Lanyon Bowdler we have a team of experienced planning solicitors who would be happy to discuss your proposals and advise on any planning queries you may have.

Farm thefts by Brian Evans



In the run-up to Christmas I read about a number of audacious farm thefts, including the theft of 1,500 geese in Norfolk and the theft of £12,000 worth of meat and cheese from a farm shop in Cambridgeshire. One enterprising Shropshire farmer was reported to have used llamas to deter the theft of Christmas trees (burglar a-llamas?). NFU Mutual reported a spike in the theft of farm machinery in many parts of the UK in the autumn of 2016.

Farms are often an attractive target for thieves, especially where sheds and yards are some distance away from the farmhouse.

Farmers should ensure that they have adequate insurance cover, but there are lots of steps that can be taken to deter thieves.

- Keep gates to yards closed when possible, and restrict access to land with padlocked gates where appropriate.
- Security lighting and CCTV can deter thieves.
- Make sure that vehicles are locked and keys removed.
- Mark all valuable equipment and portable property with the name of your farm and the postcode.
- Fit immobilisers to tractors etc, consider tracking devices, and make sure that machinery serial numbers are recorded.
- Count your livestock regularly, and make sure they are marked.
- Remote gate alarms and hidden cameras can alert owners to unauthorised access.
- Consider joining a local farm watch scheme.

You might even think about getting some llamas!

1949 by Susan Shanahan

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The Royal Agricultural Show didn’t always take place at the Stoneleigh Park site in Warwickshire. Although the show had been in existence since 1840 it was not until 1963 that the first show took place on the Stoneleigh site.

Prior to 1963 the show used to take place at a different venue around the country each year and in 1914 and 1949 it came to Shrewsbury (See image top of page 3).

In 1914 King George V attended the show, and in 1949 the show was attended by Princess Elizabeth (later Queen Elizabeth II) and Prince Philip Duke of Edinburgh.

The 1949 show was particularly important to my grandfather as he and his business partner were exhibiting and promoting their most recent innovative piece of agricultural machinery namely ‘The Stanley’ a mobile elevator and beet loader.

The Stanley was designed with the beet grower in mind, it was unique in itself as it had an engine and did not need to be towed by a tractor or powered by any other means. The

“The solicitor appointed to us had excellent knowledge in the areas appropriate to our needs, with excellent results.”

Mr C Sanders, Hereford

What is your pet hate? by Susan Shanahan

We all have certain nuances in our lives that irk us to the extremes and no matter how we try to justify other people’s actions we fail to understand why they do what they do. Do they have no understanding that it is wrong or is it the usual attitude “it’s not my problem”?

We could all adopt that philosophy and attitude to life but sadly it does not resolve the problem.

I live in the heart of the countryside in an area of outstanding natural beauty and I feel blessed to have nature around me. Every morning I draw back my bedroom curtains and gaze in awe at the green and pleasant land before me.

I start my day with hope in my heart that everyone embraces the start of a new day as I do with excitement and expectation.

How delusional can I be? Within half a mile of leaving my delightful surroundings I suddenly realise that not everyone feels the same.

It is unfortunate that there are irresponsible, mindless individuals with a blatant disregard for our environment, the welfare of wildlife and future generations, as they regularly see a green space as a convenient place to ‘DUMP THEIR RUBBISH’.

Why do they do it? A question I ask myself every time I see a pile of rubble, bricks, plaster, a fridge, mattresses, old beds, settees etc. etc. on the side of the road, or in a hedge, piled high in a layby, gateways, woodland anywhere and everywhere except the recycling sites strategically placed around the county, with open access to all and at no charge to the general public.

I fail to understand their logic as to why they take the time to load the offending objects onto a vehicle to travel miles, usually under the cover of darkness, to dump their rubbish instead of taking it to the recycling centre the next day.

I am tired of picking up fast food cartons, paper bags, empty bottles, cans and other unseemly objects from the grass verge fronting my property. How convenient it is to the offenders to just open the car window and throw it out!

It doesn’t matter how small or how large it may be, a sweet wrapper to an unwanted kitchen cupboard, think responsibly and dispose of it thoughtfully and legally in the designated place... A REFUSE BIN OR A RECYCLING SITE.

Fly tipping is the illegal deposit of waste on land contrary to Section 33(1) (a) of the Environmental Protection Act 1990.

Landowners/farmers are liable for any waste that is fly-tipped on their land and can be prosecuted if they do not clear it away, often at a huge cost to their business. The waste poses a risk to livestock, wildlife and the environment.

There is no definitive answer to the escalating problem apart from penalising the offenders, if you can catch them. But, unfortunately this will not deter them as they will just dump their rubbish somewhere else. We need to look to the future and continue to educate the younger generations, encourage them to take more responsibility, learn to respect their environment and help to preserve it as they are the ones who will be living in it.



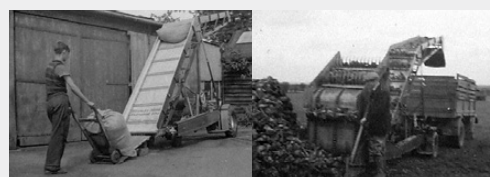
1949

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beet loader could be driven into the field and worked in situ, the photos on page 2 show The Stanley (one) as an elevator in the yard loading sacks and (two) loading the beet into a trailer.

The Stanley was very versatile, cheap and economical to run; co-incidentally the first demonstration/field trial took place locally at Harnage Grange near Harley, very close to where I now live.

My grandfather’s perception of what was needed to ease the labour intensive farming of beet would have undoubtedly made life a lot easier and more time efficient. However, he may have been a little too forward thinking with his idea as sadly The Stanley never went into production.



Sugar beet was grown extensively in Shropshire and in 1927 the Allscott sugar beet factory Nr Wellington, Telford opened. It operated until its closure in 2007 when it was deemed to be un-economical to run. Unfortunately due to its closure many local farmers who grew sugar beet were forced to diversify and look for alternative ways in which to sustain their farming enterprises.

In contrast, there was another piece of interesting trivia in 1949; Wolverhampton Wanderers won the FA Cup putting three goals past Leicester at Wembley. The winning side was captained by local lad Billy Wright.

“Always pleasant and trustworthy.”

E Marsh, Ellesmere

Renewables



The UK government has committed under the Climate Change Act 2008, to reduce greenhouse gas emissions in the UK by 80% (below 1990 levels) by 2050.

One of the principal ways in which the UK proposes to meet these targets is by increasing the use of renewable energy (RE).

The EU’s Renewable Energy Directive requires the UK to ensure that 15% of its overall energy (not just electricity) comes from renewable sources by 2020.

The government provides financial incentives for small-scale renewable electricity and renewable heat, in the form of feed-in tariffs (FITs). The scheme applies to installations with a total installed (generating) capacity of 5 megawatts (MW) or less for solar

photovoltaic (PV), hydro, anaerobic digestion (AD) and wind power. Micro combined heat and power (CHP) installations are covered to 2kW or less. Installations with a larger capacity may be eligible for financial incentives under other schemes. The FIT incentives are less advantageous than they were. This is because the government’s policy changed in 2015 to limit renewables support to technologies that have the potential to scale up and to compete in a global market without subsidy.

Where do lawyers come in?

At the outset, securing planning permission might be tricky and require advice from a planning lawyer. Often there can be local opposition to RE schemes and planning appeals may be necessary.

Obtaining the relevant land rights (for example, a lease) will involve a property lawyer.

Corporate and commercial lawyers may be involved in dealing with the legal aspects of financing (which may well involve bank debt), and reviewing construction contracts etc.

Often, RE projects are sold by their original developers to long-term financial investors. These deals also require corporate lawyers.

And sometimes, things don’t go to plan, and there are disputes which lawyers can help to resolve, such as construction disputes, or disputes over whether what has been supplied works as it should. For example, is the wind turbine generating as much power as anticipated? Prevention is better than cure here; decisions on putting in a turbine will be based on the projected return on investment, and if this doesn’t materialise, it could prove to be a costly mistake. Decisions should not be based on generic postcode data for wind-generation, but a proper survey should be undertaken to ensure that the actual conditions of the site are properly taken into account.

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