



Certificates of Lawful Use or Development



An Agency within the Department of the
Environment



INVESTOR IN PEOPLE

INFORMATION LEAFLET 6

Introduction

The purpose of this leaflet is to provide advice on making an application for a Certificate of Lawful Use or Development (also known as Lawful Development Certificates). This procedure replaces the Article 41 process for determining whether proposed development requires planning permission. It also introduces a procedure whereby confirmation can be requested that existing development is lawful because it did not require planning permission or the time for enforcement action has expired.

The legislative provisions for this procedure (Articles 83A and 83B of the Planning (Northern Ireland) Order 1991) are brought into operation on 12th November 2003 by the Planning (Amendment) (2003 Order) (Commencement No. 2) Order (Northern Ireland) 2003 (SR No. 443 (c.34)).

What is a Certificate of Lawful Use or Development?

Certificates of Lawful Use or Development are certificates issued by the Department, which establish that the use or development of land is lawful in two circumstances:

(a) Article 83A Certificate of Lawfulness of Existing Use or Development.

This is where you wish to confirm that any existing use, or operation, or activity in breach of a condition or limitation on a planning permission that has already taken place is lawful on the date specified in the application. It is defined as being lawful if enforcement action cannot be taken against it. This may be because it had, or did not need planning permission, or it may be the case that the use or operation took place so long ago that the time for enforcement action has expired;

(b) Article 83B Certificate of Lawfulness of Proposed Use or Development.

This is where you wish to confirm that what you are proposing would be lawful i.e. it

would not require express planning permission. For example you may need to establish that what you have proposed does not constitute development, is 'permitted development', or already has planning permission.

What are the benefits of a Certificate of Lawful Use or Development?

There are benefits in gaining a Certificate of Lawful Use or Development. It is a determination that has legal status providing certainty to prospective developers and purchasers of land and buildings.

Certificates of Lawful Use or Development will be particularly beneficial to those participating in the housing market. Solicitors representing purchasers of, for example, extended dwellings, will usually require documentary evidence that extensions such as conservatories are lawful. This evidence may assist with the sale of property.

Certificates of Lawful Use or Development also provide the necessary evidence that any works being undertaken are lawful if, for example, a neighbour were to make an enquiry or complaint about the work.

Enforcement Action - Do any time limits apply?

Article 67 B of the Planning (Northern Ireland) Order 1991 specifies time limits for enforcement action. If you are applying for a Certificate of Lawful Use or Development for existing development you will need to demonstrate, with evidence, that the following time limits have passed:

- i. in the case of operational development, that the operations were substantially completed at least 4 years ago;
- ii. in the case of a change of use of a building to a single dwelling house, that the change took place at least 4 years ago;
- iii. in any other case, such as a change of use or breach of condition of a planning permission,

that the change of use or breach of condition occurred at least 10 years ago.

Once these time limits have passed, no enforcement action may be taken in respect of the breach.

If you are applying for a Certificate of Lawful Use or Development in respect of a **proposed** use of buildings, land, or operations intended to be carried out, you must do so before commencing work.

How do I apply for a Certificate of Lawful Use or Development?

You will need to complete and submit the appropriate application form, along with the correct fee and additional information which is detailed on the application forms and accompanying guidance notes. Separate application forms are available for existing and proposed development (forms LDC1 and LDC2). If you are unsure which application form to complete please discuss with a planning officer before you submit. Copies of these application forms can be obtained from the Planning Service website, www.planningni.gov.uk or any Divisional Planning Office.

You may wish to appoint an agent to act on your behalf. This can be an architect, planner, surveyor or other professional adviser. All matters concerning your application will be addressed to them.

How much does it cost?

Information regarding fees can be obtained from your local Divisional Planning Office or the Planning Service website www.planningni.gov.uk Contact information can be found at the back of this leaflet. The fee for a Certificate for development which has been carried out is the same as the fee for a planning application for that development. The fee for a proposed development is half the appropriate fee for a planning application. These fees are not refundable nor can they be offset against the fee for a subsequent planning application. Concessionary fees are generally the same as for planning applications.

What information is required?

The information required is listed on the application form and accompanying guidance notes. It is in your interest to provide as much accurate and detailed information as possible. If any of the necessary information is not provided, is vague or unclear, the application may be considered invalid, causing delay or refused. **The onus of proof is on you as the applicant to demonstrate to the Department that a Certificate ought to be issued.**

Please ensure that you submit original copies of any evidence in support of your application e.g. utility bills (rates/NIE), copies of other statutory approvals etc. Planning Service will arrange for these to be returned once the application has been decided if requested. In addition, note that your application will be held on a public register and you should think carefully about submitting information of a sensitive nature. Unlike planning applications, however, there is no requirement for Planning Service to publicise applications for Certificates of Lawful Use or Development, nor will neighbour notification or consultation with the local Council be carried out.

Please note that you must not make false or misleading statements or withhold material information with intent to deceive. If you do so you can be prosecuted and any certificate obtained can be revoked.

Planning Office	District Council Area
Ballymena Divisional Planning Office	Antrim Ballymena Carrickfergus Larne Magherafelt
Belfast Divisional Planning Office	Belfast Castlereagh Newtownabbey
Craigavon Divisional Planning Office	Armagh Banbridge Craigavon Newry & Mourne
Downpatrick Divisional Planning Office	Ards Down Lisburn North Down
Londonderry Divisional Planning Office	Derry Limavady
Omagh Divisional Planning Office	Cookstown Dungannon & South Tyrone Omagh Strabane
Coleraine Sub Divisional Planning Office	Ballymoney Coleraine Moyle
Enniskillen Sub Divisional Planning Office	Fermanagh
Planning Service Headquarters	

contact us

Address	Tel/fax No/e-mail
County Hall 182 Galgorm Road BALLYMENA Co Antrim BT42 1 QF	Tel: (028) 2565 3333 Fax: (028) 2565 2127 divisional.planning.office.ballymena@nics.gov.uk
Bedford House 16-22 Bedford Street BELFAST BT2 7FD	Tel: (028) 9025 2800 Fax: (028) 9025 2828 divisional.planning.office.belfast@nics.gov.uk
Marlborough House Central Way CRAIGAVON Co Armagh BT64 1AD	Tel: (028) 3834 1144 Fax: (028) 3832 0004 divisional.planning.office.craigavon@nics.gov.uk
Rathkeltair House Market Street DOWNPATRICK Co Down BT30 6EJ	Tel: (028) 4461 2211 Fax: (028) 4461 8196 divisional.planning.office.downpatrick@nics.gov.uk
Orchard House 40 Foyle Street LONDONDERRY Co Londonderry BT48 6AT	Tel: (028) 7131 9900 Fax: (028) 7131 9777 divisional.planning.office.londonderry@nics.gov.uk
County Hall Drumragh Avenue OMAGH Co Tyrone BT79 7AE	Tel: (028) 8225 4000 Fax: (028) 8225 4010 divisional.planning.office.omagh@nics.gov.uk
County Hall Castlerock Road COLERAINE Co Londonderry BT54 3HS	Tel: (028) 7034 1300 Fax: (028) 7034 1434 divisional.planning.office.coleraine@nics.gov.uk
15 East Bridge Street ENNISKILLEN Co Fermanagh BT74 7BW	Tel: (028) 6634 6555 Fax: (028) 6634 6550 divisional.planning.office.enniskillen@nics.gov.uk
Clarence Court 10-18 Adelaide Street Belfast BT2 8GB	Tel: (028) 90540540 Fax: (028) 90540665 planning.service.hq@nics.gov.uk

How does the Planning Service make a decision?

If valid, your application will be acknowledged and assigned to a planning officer. The application will be assessed against the relevant planning legislation. Depending on the circumstances, a site visit may be required as part of this assessment. Further information may be sought if necessary to determine the application. The process is unlikely to take longer than two months if all the necessary information to determine the application is submitted at the same time.

If granted, the certificate remains valid for the precise use, operation or activity described in it, on the land it describes and provided there is no material change in circumstances.

A Certificate of Lawful Use or Development shows only that planning permission is **not** required. When a certificate is refused an application for planning permission may be made in the normal way.

What can I do if my application is refused?

If your application is not decided within two months or other agreed timescale or is refused, in whole or part, you have the right to appeal to the Planning Appeals Commission (PAC). The PAC may issue a certificate if it determines that the refusal is not well founded.

Further Information

Applicants should note that they may need other approvals and consents such as building control.

If you have further queries about this leaflet you should contact your local Divisional Planning Office.

Please note that this leaflet gives informal advice. It is not an authoritative statement of the law.