

# Form LDC1

## Application for Certificate of Lawfulness for an EXISTING Use or Development

<b>Official Use</b>	
Application No.:	_____
Receipt No.:	_____

The Planning Act (Northern Ireland) 2011, Section 169  
Article 11 of the Planning (General Development Procedure) Order (Northern Ireland) 2015

- Please read the accompanying notes before completing this form.
- You may find it useful to discuss your proposals with your local planning office before submitting your application.
- Please complete in **BLOCK LETTERS**

This form should be completed when the applicant is seeking a written determination that an **existing** use of land, operational development, or activity in breach of a planning condition is lawful.

Please note that when you submit your application the information, including plans, maps and drawings, will appear on the Planning Register which is available to the public. The Department for Infrastructure and the 11 Councils will process your information in line with the General Data Protection Regulations (GDPR) requirements. A copy of the full Privacy Statement is available at [www.infrastructure-ni.gov.uk/dfi-privacy](http://www.infrastructure-ni.gov.uk/dfi-privacy). To request a hard copy, please contact the relevant Data Protection Officer as listed in the statement.

**1 a. Applicant's name and address**

**1 b. Agent's name and address (if any)**

Name:		Name:	
Address:		Address:	
Town:		Town:	
Postcode:		Postcode:	
Tel:		Tel:	
		Ref. No.:	

**2. Address or exact location of the land to which this application relates.**

Describe here and enclose **4** copies of an up to date Ordnance Survey location plan to scale 1:1250 or 1:2500 showing the boundary of the land **edged in red**.

**3 (a).** Nature of applicant's estate in the land e.g. owner, lessee, occupier.

**3 (b).** If you are not the owner:

(i) give name(s) and address(es) of anyone you know who has an estate in the land

(ii) state the nature of their estate (if known):

(iii) state whether they have been informed about this application. Yes  No

**4. Council Employee / Elected Member Interest**

Are you / the applicant / applicant's spouse or partner, a member of staff within the council or an elected member of the council?

Yes  No

Or are you / the applicant / the applicant's spouse or partner, a relative of a member of staff in the council or an elected member of the council or their spouse or partner?

Yes  No

If you have answered yes, please provide details (name, relationship and role):

**5.** This application is for (*tick whichever box is applicable*):

an existing use

an existing operation

an existing use, operation or activity in breach of a condition

being a use, operation or activity subsisting on the date of this application.

**6.** Provide a full description of the existing use, operation or activity to which this application relates.

If there is more than one subsisting use or operation or activity on the land at the date of this application, describe fully each of them and, where appropriate, show to which part of the land each use, operation or activity relates: (Continue on a separate sheet if necessary).

7. If the application relates to an existing use which you consider to be within one of the 'Use Classes' in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015, state which one:

8. Under what grounds is the certificate sought? Specify what the basis of your claim is and provide date(s) of when the use / works were commenced / substantially completed.  
***(Insert N/A for those which are not applicable)***

(i) The use began more than five years before the date of this application;

or (ii) The use, operation or activity in breach of condition began more than five years before the date of this application;

or (iii) The use began within the last five years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last ten years;

or (iv) The operations were substantially completed more than five years before the date of this application;

or (v) The use as a single dwelling house began more than five years before the date of this application.

or (vi) That the use, operation or activity benefited from planning permission granted under the Planning (Northern Ireland) Order 1991 or the Planning Act (Northern Ireland) 2011 or was permitted development under the Planning (General Development) Order (Northern Ireland) 1993 (as amended) or the Planning (General Permitted Development) Order (Northern Ireland) 2015.

or (vii) Other – please specify (e.g. that the works did not constitute development).

9. If the certificate is sought for a use, operation or activity in breach of a condition or limitation, specify the condition or limitation which has not been complied with, attach a copy of the relevant planning permission or, if not available, specify the relevant planning application reference number:

10. Give any additional information you consider necessary to substantiate your claim:  
*(continue on a separate sheet if necessary)*

11. List here all the documents, drawings or plans which accompany this application:

**Declaration**

I / We\* hereby apply for a Certificate of Lawful Use or Development under Section 169 of The Planning Act (Northern Ireland) 2011, in respect of the **existing** use, operation or activity described in this application and the documents, drawings and plans which accompany it.

I / We\* enclose the appropriate fee of £\_\_\_\_\_ by cheque/postal order no. \_\_\_\_\_/cash

\* **Delete as appropriate**

Signed \_\_\_\_\_

Date \_\_\_\_\_

On behalf of (if applicable) \_\_\_\_\_

**Warning: Section 172 of the Planning Act (Northern Ireland) 2011 provides that it is an offence to furnish false or misleading information or to withhold material information with intent to deceive. Section 171 (7) enables the Council to revoke, at any time, a certificate it may have issued as a result of such false or misleading information.**

Please send your completed application to the relevant Council.

# Guidance Notes for Completion of Application Form LDC1

## Section 169 Application for a Certificate of Lawfulness for an EXISTING Use or Development

The purpose of making this application is to establish whether (a) a use which is already in existence or (b) an extension or building that has already been constructed, or operational works that have already been carried out, or (c) an activity in breach of a planning condition or limitation are lawful for planning purposes; in other words, that it did not require – or no longer requires – planning permission. If you wish to apply for a Certificate in respect of a **proposed** use, or for building works or operations that have **NOT** yet been carried out, you should complete the application form LDC2 for a Section 170 application– Certificate of Proposed Use or Development.

### Question 1a & 1b:

Complete details of the applicant, and agent if applicable.

### Question 2:

Give the full postal address of the site to which this application relates. If this is not possible, the distance and direction of the site from a known address or landmark should be given e.g. 200m south of No. 24 Any town Street. The plan provided should accurately identify the precise boundaries of the site in red including any open curtilage, garden area etc.

### Question 3:

Please ensure that you complete section (b) if you are not the owner of the property.

### Question 4:

You must declare whether the applicant or agent is a member of the council's staff, an elected member of the Council or related to a member of staff or elected member of the Council.

Serving elected members or planning officers who submit their own planning applications should play no part in their determination and such applications should be determined by the planning committee rather than by planning officers under delegated powers.

For the purposes of this question related to means related by birth or otherwise closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias on the part of the decision-maker in the council.

### Question 5:

Please ensure that you have ticked at least one box.

### Question 6:

If your application concerns more than one existing use, operation or activity on the date of the application describe each fully and show to which part of the land each use, operation or activity relates. **You must provide drawings that clearly show these works.**

If your application concerns an existing use or activity, provide as much information as possible about the existing use of the building/land. If a building has more than one floor, specify the use(s) of each floor. If the building is residential specify the number of flats/units and provide floor plans showing the location of the different units. Provide drawings to illustrate how the buildings and/or land are used – identify different uses of different parts of the site e.g office, parking, warehousing etc.

### Question 7:

Please refer to the Planning (Use Classes) Order (Northern Ireland) 2015 available from Her Majesty's Stationary Office (HMSO).

### Question 8:

Please identify which option relates closest to your application and insert N/A for the remaining options which do not apply. When indicating the date the use began or the operation was substantially completed, please be as accurate as possible. You should provide evidence to substantiate this.

### Question 9:

You will only need to answer this if you have indicated question 7 (2) is relevant. Please ensure that you attach a copy of any relevant planning permission documentation. If you do not have a copy please provide the relevant planning application reference number.

### Question 10:

The **onus of proof is on you as the applicant** to show with proper evidence that:

(1) If you are making an application in respect of the use of land or building(s):

- The current use has been operating without planning permission for a period of at least five years prior to the date of the application;
- The current use started within the last five years, following a change of use which was not a material change of use, (e.g. the current use is not significantly different from the previous use in its nature and character), and the previous use was a lawful use;

- The current use started following a change of use which was permitted development under the Planning (General Permitted Development Order (Northern Ireland) 2015 (the GPDO) available from the Planning Portal ([www.planningni.gov.uk](http://www.planningni.gov.uk));
- There is already planning permission for the same use or a similar use.

(2) If you are making an application for building works or operations that have already been carried out:

- The works were substantially completed without planning permission, at least five years ago (i.e. prior to the date of the application);
- Planning permission has been granted for the same or similar works;
- The works did not require planning permission because they constitute permitted development under the General Permitted Development Order;
- The works did not constitute development at all (which usually means that they are of a minor nature which would not significantly affect the appearance of a building or property).

#### Question 11:

If you are seeking to obtain a Certificate on the basis that a certain number of years have elapsed since a use began or since building works were completed, **you must provide documentary evidence to substantiate your claim.** Failure to do so is likely to result in your application being treated as invalid or refused.

There is no restriction on the type of evidence that can be considered, but generally the following are likely to be particularly useful:

- Signed statements (preferably sworn statements) by people who have been familiar with the property for part or all of the relevant period (i.e. 5 years, see above);

**Please ensure that you have:**

- Enclosed 4 copies of signed forms and any submitted plans.
- Enclosed the appropriate fee (contact your local Planning Office or check the Planning Portal [www.planningni.gov.uk](http://www.planningni.gov.uk)).
- Enclosed 1 copy of each item of additional evidence in support of your application.

**If any of this information is missing or incomplete your application will be made invalid causing delay.**

- Copies of rates bills;
- Other statutory approvals e.g. Building Control records;
- Utility bills, invoices, rent books, electricity connection records (although these must contain direct reference to the address of the property and some indication of how it was being used);
- Copies of previous planning permissions/decisions.

Only one copy of any document of evidence need be provided but these should be original documents wherever possible – especially letters, sworn statements/affidavits, bills, rent books etc. Arrangements can be made for documents to be returned once the application has been decided if requested.

If your application is in respect of building or other works, drawings (to scale) must be provided. 4 copies of all drawings or plans should be submitted with the application; make sure your drawings are numbered for easy reference.

For a use of land a site plan may be sufficient in very straightforward cases, but in most cases more detailed drawings will be required: for example, the use of a building as flats would require floor plans of each floor, with individual flats clearly identified (e.g. outlined in different colours). If a garden or part of a garden belongs to a flat, this should also be clearly identified.

**Please provide as much evidence as you can and enclose it with your application. The onus of proof is firmly on the applicant in these cases. The Council will consider your application as presented and may request additional information if required.**

**List all documents you have provided with your application. Please ensure that any information you submit is relevant to your application and, if extensive, is properly organised and indexed.**