

# Application for Certificate of Lawfulness for existing use or development

Official Use	
Application No.:	_____
Fee Received: £	_____
Receipt No.:	_____

This form is specifically designed to be downloaded and completed offline. If completing a printed version, please use black ink and block capitals as the document will be scanned once received by the Planning Authority.

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.

You are advised to read the notes at the end of this form before completing the application. You may also find it useful to discuss your proposals with your local planning office before submitting your application. To find contact details for the Planning Authorities, including the postal or e-mail address to send offline applications to, please check the local council's website or visit [www.nidirect.gov.uk/contacts/planning-offices-ni](http://www.nidirect.gov.uk/contacts/planning-offices-ni).

If you would rather make this application online, you can do so on the Planning Portal (<https://submissions.planningsystemni.gov.uk/app/>).

Please note that when you submit your application the information you provide, including plans, maps and drawings, forms and associated assessments will appear on the Planning Register which is available to the public. The Planning Authority will process your information in line with the General Data Protection Regulations (GDPR) requirements. A copy of the full Privacy Statement is available on the Planning Portal. To request a hard copy, please contact the Data Protection Officer for the relevant Planning Authority.

## Section A

**Applicant's name and address**

**Agent's name and address (if applicable)**

Name:		Name:	
Address:		Address:	
Town/City:		Town/City:	
Postcode:		Postcode:	
Tel:		Tel:	
Mobile:		Mobile:	
E-mail:		E-mail:	
Your Ref.:		Your Ref.:	

## Section B

Please state the applicant's interest in the land (e.g. owner, lessee, occupier, trustee or other)

If the applicant is not the owner, please give the name(s) and address(es) of anyone you know who has an estate in the lands. Please also include the nature of their estate (if known).

Have the owner(s) been informed of the application?

Yes  No

## Section C

Give the full postal address of the site. If you cannot provide a postcode, then please give the most accurate site description you can in order to help locate the site. (*Please outline the site in red on the location plan*)

## Section D

### Description of Existing Use, Operation or Activity

Which of the following categories best describes what the application for Certificate of Lawfulness is relevant to? (being a use, operation or activity subsisting on the date of this application)

Select all that are applicable

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | An existing use   |
| <input type="checkbox"/> | An existing operation   |
| <input type="checkbox"/> | An existing use, operation or activity in breach of a condition |

Provide a brief description of the existing use, operation or activity to which this application for a Lawful Development Certificate relates. If there is more than one existing use, operation or activity on the land at the date of this application, describe fully each of them and where appropriate, show which part of the land each use, operation or activity relates.

### Use Classes (existing or last known)

Please select all existing Use Classes which are applicable:

- |                          |   |                          |                                      |
|--------------------------|---|--------------------------|--------------------------------------|
| <input type="checkbox"/> | A1 - Shops                                      | <input type="checkbox"/> | C2 - Guest houses                    |
| <input type="checkbox"/> | A2 - Financial, professional and other services | <input type="checkbox"/> | C3 - Residential institutions        |
| <input type="checkbox"/> | B1 - Business                                   | <input type="checkbox"/> | C4 - Secure residential institutions |
| <input type="checkbox"/> | B2 - Light industrial                           | <input type="checkbox"/> | D1 - Community and cultural uses     |
| <input type="checkbox"/> | B3 - General industrial                         | <input type="checkbox"/> | D2 - Assembly and leisure            |
| <input type="checkbox"/> | B4 - Storage or distribution                    | <input type="checkbox"/> | NOT LISTED                           |
| <input type="checkbox"/> | C1 - Dwelling houses                            |                          |                                      |

If not listed, please select any of the following 'not listed' existing uses that are applicable:

- (a) as an amusement arcade or centre, or a funfair
- (b) as a betting office
- (c) for the purposes of a funeral undertaker
- (d) as a hostel where a significant element of care is provided
- (e) as a hotel
- (f) as a house in multiple occupation
- (g) for the sale of fuel for motor vehicles
- (h) for the sale or display for sale of motor vehicles
- (i) for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises
- (j) as a scrapyards, or a yard for the storage or distribution of minerals or the breaking of motor vehicles
- (k) as a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations including those involving motorised vehicles or firearms
- (l) for a taxi business or business for the hire of motor vehicles
- (m) for or in connection with public worship or religious instruction
- (n) for the carrying out of any prescribed process which requires an authorisation under Article 6 of the Industrial Pollution Control (Northern Ireland) Order 1997 or for the operation of any installation or mobile plant which requires a permit under regulation 9 of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013
- (o) as a waste management facility for the collection, transport, treatment, recovery, recycling, transfer and disposal of waste (as defined in Council Directive 2008/98/EC)

## Section E - Grounds for Application for a Lawful Development Certificate

Under what grounds is the certificate being sought? Specify what the basis of your claim is and provide date(s) of when the use / works were commenced and, where appropriate, substantially completed. *(Insert N/A for those that 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; *(If possible, please specify which conditions are in breach relating to 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) 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 (vii) The use, operation or activity 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 (viii) Other – please specify (e.g. that the works did not constitute development)

**Previous Planning Details**

Please give the previous planning application reference number (if applicable)

**Additional Information**

Give any additional information you consider necessary to substantiate your claim

## Section F

### Authority Employee / Elected Member Interest

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

Yes  No

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 to either of the above questions, you / the applicant / the applicant's spouse or partner may have a duty to declare an interest in this application under the Authority's code of conduct or scheme of delegation. If necessary, a council officer may be in touch with you to confirm details.

## Section G

### 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 confirm that, to the best of my / our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the persons giving them.

Signature of \*Applicant / Agent \_\_\_\_\_ Date \_\_\_\_\_

On behalf of \_\_\_\_\_

*\* Delete as appropriate*

# 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.

### Section A:

Complete details of the applicant and, if applicable, the agent.

### Section B:

Please confirm if you are the owner of the property. If you are not, please provide the name(s) and address(es) of anyone you know who has an estate in the land(s). Please also include the nature of their estate (if known) and also confirm whether they have been informed about this application.

### Section C:

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 Main Street. The site location plan submitted as part of your application should accurately identify the precise boundaries of the site in red, including any open curtilage, garden area etc.

### Section D

If your application concerns more than one existing use, operation or activity on the date of the application, please 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, please 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.

### Use Classes

Please select all existing Use Classes that are applicable. Please refer to the Planning (Use Classes) Order (Northern Ireland) 2015 if you require further detail.

### Section E

Please identify which options 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.

The onus of proof is on 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).

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);
- 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 needs to 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. 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.**

## **Section F**

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.