NI Planning Permission

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Retrospective Applications & Certificates of Lawfulness

Regularising work already done, the five-year rule and formal certainty for sales and mortgages

How to put things right where development has been carried out without planning permission or in breach of a condition, how enforcement time limits work under the Planning Act (Northern Ireland) 2011, and when a Certificate of Lawful Use or Development (CLUD) is the better route.



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INTRODUCTION

Work already done without permission

Unauthorised development is more common than many people think: an extension slightly larger than permitted, a garage converted to living space, a use that has quietly changed, or a condition that was never discharged. The Planning Act (Northern Ireland) 2011 provides two main ways to regularise the position.

Retrospective planning application

Section 55 allows the council to grant planning permission for development already carried out, whether without permission, under a temporary permission, or without complying with a condition. It is assessed on its planning merits, as if it were proposed.

Certificate of Lawfulness (CLUD)

Section 169 lets anyone ask the council to certify that an existing use, operations or a breach of condition are **lawful**, for example because the time for enforcement has expired. It is a matter of evidence, not planning merit.

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ACT EARLY

nidirect advises that, if you have built without permission, the council may ask you to apply retrospectively, and may take enforcement action if it considers the breach unacceptable. Dealing with the issue before a sale, or before the council writes to you, keeps more options open.

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KEY RULES

Enforcement time limits and lawfulness

Section 132 of the 2011 Act sets the time limits after which enforcement action can no longer be taken. In Northern Ireland the period is **five years** for each type of breach.

Type of breach	Time limit (s.132)
Building, engineering or other operations without permission	5 years beginning with the date the operations were **substantially completed**.
Change of use of a building to a single dwellinghouse	5 years beginning with the date of the breach.
Any other breach, including other changes of use and breaches of condition	5 years beginning with the date of the breach.

These limits do not prevent a breach of condition notice where an enforcement notice is in effect, or further action where the council has taken (or purported to take) enforcement action within the preceding five years (s.132(4)).

What "lawful" means

Under section 169(2), uses and operations are lawful if no enforcement action may be taken against them (because they did not need permission, or the time for enforcement has expired, or for any other reason) and they do not contravene an enforcement notice in force. Applications for certificates under sections 169 and 170 are included in the public planning register (s.171(6)).

Section 169: existing

Certifies that an **existing** use, operations, or a failure to comply with a condition, is lawful at the date of the application.

Section 170: proposed

Certifies that a **proposed** use or operations would be lawful, for example permitted development. Lawfulness is then conclusively presumed unless something material changes.

Enforcement in brief

nidirect explains that councils can serve an enforcement notice, a stop notice or a breach of condition notice, and that ignoring one is a criminal offence. Works to a listed building without listed building consent, and works to protected trees, can be offences in their own right, so these cases need particular care. A right of appeal exists against some notices and refusals, but it is a last resort; most cases are better resolved by a well-evidenced application.

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CHOOSING THE ROUTE

Application or certificate?

Situation	Usual starting point
Recent works or a recent change of use (under 5 years)	Retrospective application under s.55, addressing the relevant planning policy.
Works substantially completed, or a use continuing, for more than 5 years, with good evidence	Certificate of Lawfulness of Existing Use or Development (s.169).
Works that may have been permitted development all along	Certificate under s.169 (existing) or, for future works, s.170 (proposed).
A condition not complied with	Application to vary or remove the condition, or a s.169(1)(c) certificate if the breach is more than 5 years old.

Evidence for a certificate

The burden is on the applicant to provide information that satisfies the council (s.169(4)). Useful evidence often includes:

- dated photographs and aerial imagery
- invoices, receipts and contracts
- rates, utility and tenancy records
- signed statements from people with first-hand knowledge
- Building Control completion records
- planning history and site plans

The council may revoke a certificate if a false statement was made or material information withheld (s.171(7)), so the evidence must be accurate and complete.

Statutory fees (from 1 April 2025)

Application	Fee
Retrospective planning application	Same as for the equivalent prospective application (Schedule 1, para. 2)
CLUD, existing use or operations (s.169(1)(a) or (b))	Same as the equivalent planning application
CLUD, existing use as one or more separate dwellinghouses	**£307** per dwelling, up to £15,350
CLUD, breach of condition (s.169(1)(c))	**£307**
CLUD, proposed use or operations (s.170)	Half the equivalent planning application fee

Source: Planning (Fees) Regulations (NI) 2015, reg. 12 and Schedule 1, as amended in 2025. **Check the current fee** with the council before applying.

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PRACTICAL CHECKLIST

Regularising the position

- [ ] Exactly what was built or changed, and when, established
- [ ] Planning history and any conditions checked
- [ ] Whether the works were permitted development checked
- [ ] Five-year period calculated from the right start date
- [ ] Any enforcement correspondence or notices reviewed
- [ ] Listed building, conservation area and tree protection checked
- [ ] Evidence gathered and organised by date
- [ ] Route chosen: s.55 application or s.169 certificate
- [ ] Drawings prepared showing the works as built
- [ ] Building Control position checked separately
- [ ] Buyer's or lender's solicitor kept informed
- [ ] Timescales agreed with all parties to a sale

Common pitfalls

- ✕ **Applying for a certificate without enough evidence.** A refused certificate can draw attention to a breach; check the evidence first.
- ✕ **Counting from the wrong date.** For operations, time runs from substantial completion, not from when work started.
- ✕ **Assuming a long-standing use is automatically lawful.** The council will look at whether the use has continued throughout; gaps or changes in the use can weaken the evidence.
- ✕ **Ignoring conditions.** A certificate does not cover a breach of condition unless that matter is described in it (s.171(5)).
- ✕ **Treating planning and Building Control as one issue.** They are separate regimes.
- ✕ **Listed buildings.** Unauthorised works to a listed building raise separate issues and need specialist advice.

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HOW WE HELP

A calm, evidence-led approach

Unauthorised development is usually a solvable problem. The right route depends on the facts, the dates and the evidence available.

1. **Fact-finding.** We review what was done, when, the planning history and any council correspondence.
2. **Route advice.** We advise whether a retrospective application or a Certificate of Lawfulness is more appropriate.
3. **Evidence and application.** We assemble and present the evidence, or prepare the planning case for a retrospective application.
4. **Council liaison.** We deal with the case officer and, where relevant, the enforcement team, and keep your solicitor informed.

PO

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Selling, buying or dealing with an enforcement letter?

Tell us what was built or changed and roughly when, and we will advise on the most suitable way to regularise it.

Request a site-specific assessment → niplanningpermission.co.uk/contact-us

Or call 028 9591 6888 · info@niplanningpermission.co.uk · Monday to Friday, 9am to 5pm

CONTACT NI PLANNING PERMISSION

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Important: This guide is general guidance on the planning system in Northern Ireland. It is not legal advice and does not replace advice on your own site. Planning law, policy and fees change; the content is believed correct at the date of publication (November 2026), and you should check the current position with the relevant council before relying on it. No outcome can be guaranteed: every application is decided by the council on its own merits.

SOURCES

Official sources used

All sources were checked in November 2026.

- **Planning Act (NI) 2011, s.55 (permission for development already carried out)**
  https://www.legislation.gov.uk/nia/2011/25/section/55
- **Planning Act (NI) 2011, s.132 (enforcement time limits)**
  https://www.legislation.gov.uk/nia/2011/25/section/132
- **Planning Act (NI) 2011, s.169 (certificate of lawfulness of existing use or development)**
  https://www.legislation.gov.uk/nia/2011/25/section/169
- **Planning Act (NI) 2011, s.170 (certificate of lawfulness of proposed use or development)**
  https://www.legislation.gov.uk/nia/2011/25/section/170
- **Planning Act (NI) 2011, s.171 (certificates: supplementary)**
  https://www.legislation.gov.uk/nia/2011/25/section/171
- **Planning (Fees) Regulations (NI) 2015 (as amended)**
  https://www.legislation.gov.uk/nisr/2015/73/body
- **Planning (Fees) Regulations (NI) 2015, Schedule 1 (fee scales)**
  https://www.legislation.gov.uk/nisr/2015/73/schedule/1
- **Planning (Fees) (Amendment) Regulations (NI) 2025, S.R. 2025 No. 49 (in operation 1 April 2025)**
  https://www.legislation.gov.uk/nisr/2025/49/pdfs/nisr_20250049_en.pdf
- **nidirect: Reporting a planning breach**
  https://www.nidirect.gov.uk/articles/reporting-planning-breach
- **nidirect: Finding a listed building**
  https://www.nidirect.gov.uk/articles/finding-listed-building
- **nidirect: Conservation areas and advice**
  https://www.nidirect.gov.uk/articles/conservation-areas-and-advice
- **NI Planning Portal: public planning register**
  https://planningregister.planningsystemni.gov.uk/

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