

Application for a Lawful Development Certificate for an Existing use, Proposed use, or Operation or Activity in Breach of a Planning Condition

Town and Country Planning Act 1990 (as amended)

Town and Country Planning (General Development Procedure) Order (England) 2015 (as amended)

An application for a Lawful Development Certificate form should be used to establish whether:

- an existing use of land, or some operational development, or some activity in breach of a planning condition, is lawful
- a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over, or under land, would be lawful

Examples when an application for a Lawful Development Certificate should be made include:

- when planning enforcement action is taken by the local planning authority and the owner believes it is immune from action because the time limit for taking enforcement action has passed (see below)
- when an owner discovers, in the course of a sale of the land, that planning permission has never been granted, and needs to show a prospective purchaser that no enforcement action can be taken by the local planning authority

An application for a Lawful Development Certificate is also sometimes used in cases involving intensification of use or where the precise nature of the existing use is difficult to describe, such as:

- secondary uses
- mixed uses
- intensification
- sub-division of the planning unit

Time limits for enforcement

[The Levelling Up and Regeneration Act 2023 \(section 115\)](#) amended the [Town and Country Planning Act 1990 \(section 171B\)](#) to update the time limits within which local planning authorities can take planning enforcement action against breaches of planning control.

When this change was enacted, [transitional measures](#) were also put in place based on when the breach took place.

If the breach took place prior to 25 April 2024:

- Change of use of a building, or part of a building, to use as a single dwelling house - Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken.
- Operational development relating to building, engineering or mining - Enforcement action can no longer be taken from four years, beginning the date where the operations were substantially completed.

If the breach took place on or after 25 April 2024:

- Change of use of a building, or part of a building, to use as a single dwelling house - Enforcement action can no longer be taken once the unauthorised use has continued for ten years without any enforcement action being taken.
- Operational development relating to building, engineering or mining - Enforcement action can no longer be taken from ten years, beginning the date where the operations were substantially completed.

Other time limits:

- There is no time limit for enforcement on breaches of planning control relating to relevant demolition.
- For any other breach of planning control, ten years beginning with the date of the breach. This predominantly applies to changes of use.

Information which must be provided with the application

Applications for Lawful Development Certificates should include the following information:

- whether the application relates to:
 - a use
 - a building operation
 - a condition not complied with
- the date that the use (or breach of condition) started, or the date on which the building was substantially complete
- any use class the applicant considers to be applicable
- in the case of a breach of condition, details of the relevant application
- the reasons the applicant thinks he is entitled to a Lawful Development Certificate
- any other relevant information
- a plan identifying the land
- a certificate as to the applicant's interest (ownership, tenancy etc) in the land and any interest of any other person

What the applicant needs to prove

It is up to the person applying for a Lawful Development Certificate for an existing use to show the proper evidence. This could include:

- proof that any building was 'substantially complete' before the time limit for enforcement action expired.
- proof that any use (or breach of condition) started before, and has been carried on continuously for a period longer than the time limit for enforcement action.

If the LPA has evidence, or reasonable grounds to believe, that the applicant's claim is not correct, it may refuse a certificate.

What is a Lawful Development Certificate?

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future building use, operations, or other matters. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate,

However, the certificate will not protect from enforcement action by the planning authority if the specified use is then changed 'materially' without a planning application for it.

The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

The Town and Country Planning Act 1990 (as amended) provides a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and if so, be granted a certificate to that effect.

A certificate granted for a proposed, or an existing use, operation or activity will specify (by reference to a plan or drawing) the area of land included in the certificate and describe the precise nature of the use, operation or activity which is lawful. The certificate will give the reason for determining the use or operation to be lawful and specify the date of the application for the certificate.

Please note: Lawful development certificates are not relevant to situations where breaches of listed building or conservation area controls may be alleged.

A lawful development certificate for non-compliance of a condition does not in itself result in the condition being removed and any further breaches outside the scope of the certificate could lead to enforcement action being taken by the planning authority.

Warning: Section 194 of the Town and Country Planning Act 1990 (as amended) makes it an offence to provide false or misleading information or to withhold material information with intent to deceive.

Section 193 (7) enables an LPA to revoke, at any time, a certificate they may have issued as a result of such false or misleading information.

It is often helpful to discuss your proposal with your local authority before you send in your application – this is known as 'pre-application advice'. Your local authority will normally have details of how to go about this on its website.