

# Lawful Development Certificates - Guidance

**It is important to note that a Certificate of Lawful Existing use or Development is NOT planning permission!**

# 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

The Planning and Compensation Act 1991 introduced rolling time limits within which local planning authorities can take planning enforcement action against breaches of planning control.

The time limits are:

**Four years for building, engineering, mining or other operations** in, on, over or under land, without planning permission. This development becomes immune from enforcement action four years after the operations are substantially completed.

**Four years for the 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.

**10 years for all other development.** The 10 year period runs from the date the breach of planning control was committed

Once these time limits have passed, the development effectively becomes lawful, in terms of planning law.

## 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' more than four years before the date of the application.
- Proof that any use (or breach of condition) has been carried on continuously for a period of 10 years (four years in the case of a dwelling).

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

### **WARNING:**

**The amended section 194 of the 1990 Act provides that it is an offence to provide false or misleading information or to withhold material information with intent to deceive. Section 193 (7) enables the council to can 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**

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