

Guidance Notes for:

Application for a Certificate of Lawfulness of Proposed Works to a listed building

The Planning (Listed Buildings and Conservation Areas) Act 1990: sections 26H and 26I, as inserted by section 61 of the Enterprise and Regulatory Reform Act 2013.

The Planning (Listed Buildings) (Certificates of Lawfulness of Proposed Works) Regulations 2014

An application for a Certificate of Lawfulness of Proposed Works form should be used to establish whether proposed works to a listed building would be lawful i.e. they would not affect the character of the listed building as a building of special architectural or historic interest and therefore, would not require listed building consent.

NB: Applications for Certificates of Lawfulness of Proposed Works cannot be submitted in respect of works which have already been carried out.

Information which must be provided with the application

Applications for Certificates of Lawfulness of Proposed Works should include the following information:

- detailed description of the proposed works (including existing and proposed materials and finishes) together with details of those part(s) of the building likely to be affected
- the reasons the applicant thinks they are entitled to a Certificate of Lawfulness of Proposed Works i.e. why they think the proposed works do not affect the special architectural or historic interest of the listed building
- any other relevant information
- a plan identifying the listed building(s) to which the application refers
- a statement as to the applicant's interest (ownership, tenancy etc) in the listed building(s) and any interest of any other person
- details of listed building grading – if not known, this information can be found in the National Heritage List for England, which is available on English Heritage's website at: <http://www.english-heritage.org.uk/professional/protection/process/national-heritage-list-for-england/>

What the applicant needs to prove

It is up to the person applying for a Certificate of Lawfulness of Proposed Works to provide the proper evidence to show that the proposed works do not require listed building consent.

If the local planning authority has evidence, or reasonable grounds to believe, that the applicant's claim is not correct, it may refuse to grant a Certificate of Lawfulness of Proposed Works.

What is a Certificate of Lawfulness of Proposed Works?

A Certificate of Lawfulness of Proposed Works is a legal document stating the lawfulness of proposed works to a listed building and, are therefore, not liable to enforcement under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Works would be lawful if they do not affect the character of the listed building as a building of special architectural or historic interest.

Sections 26H and 26I of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as inserted by section 61 of the Enterprise and Regulatory Reform Act 2013) established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether proposed works to a listed building are lawful, and if so, be granted a Certificate to that effect.

A Certificate granted for proposed works will specify the listed building (by reference to a plan or drawing) included in the Certificate and describe the precise nature of the works which are considered lawful. The Certificate will give the reasons for determining the works to be lawful and specify the date of issue of the Certificate.

Once issued, Certificates of Lawfulness of Proposed Works are valid for 10 years from the date of issue of the Certificate i.e. the works certified must be carried out within 10 years from the date the Certificate is issued.

The responsibility is on the applicant to provide evidence to support the application.

Tip Box: Certificates of Lawfulness of Proposed Works are not the same as Lawful Development Certificates. The former are part of the listed building consent regime; the latter are granted under the planning permission system. The grant of a Certificate of Lawfulness of Proposed Works does not affect any requirement to obtain planning permission for the proposed works.

WARNING:

Section 26J of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that it is an offence to furnish false or misleading information or to withhold material information with intent to deceive. Section 26I (6) enables the authority 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.