



COMHAIRLE NAN EILEAN SIAR

Town and Country Planning (Scotland) Act 1997: Section 151

Town and Country Planning (General Development Procedure) (Scotland) Order 1992

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

1. **Applicant (in block capitals)**

Name:

Address:

Post Code:

Tel No:

2. **Agent (if any)**

Name:

Address:

Post Code:

Tel No:

3. **Full Address or exact location** of the land to which this application relates:

Note: Please enclose 4 copies of an OS-based plan at an appropriately detailed scale showing the boundary of the land edged in red.

4. **Has the proposal been started?** Yes/No (Please circle)

If yes, state when

5. **This application is for:**

- a proposed operation or development;
- a proposed use of building or land;

6. If the proposal consists of, or includes, **carrying out building or other operations**,

(i) give a full and detailed description of the proposed development or other operation

(ii) attach such plans, drawings and such other information as is necessary to show the extent and precise nature of the proposal.

7. If the proposal relates to a **change of use of the land or building(s)**:

(i) give a full description of the scale and nature of the proposed use, including the processes to be carried on, any machinery to be installed, and the hours of operation

(ii) fully describe the existing use or the last known use, with the date when this use ceased.

8 If you consider the existing, last or proposed use is within a “use class” described in the **Town and Country Planning (Use Classes)(Scotland) Order 1997**, state which one:

- a. Previous Use Class_____
- b. Existing Use Class_____
- c. Proposed Use: Class_____

Use Class:

Is there more than one use ? Yes/No (please delete as appropriate)

If yes, please describe each use and show on a plan how they relate to each other:

9. **Briefly explain why you consider the existing, or last use of the land is lawful**, or why you consider that any existing buildings which it is proposed to alter or extend are lawful. Please provide any supporting documentary evidence.

10. **Is the proposed use temporary or permanent?**

If temporary, please give details, including the dates on which the temporary use will begin and terminate:

11. **State why you consider that a Certificate should be granted for this proposal**

12. Supporting Evidence: Provide any additional information or supporting evidence you consider necessary to substantiate your claim. (Continue on a separate sheet if necessary)

13 Please state the applicant's interest in the land: Owner/Occupier/Lessee/Other (please circle)

Please give details of the name and address of the owner

Has the owner been informed about this application Yes/No (Please circle)

Please give the names and addresses of anyone else you know who has an interest in the land.

14. Planning Fee.

I enclose the Planning Fee of £_____

15. Please list here the attachments to the application

DECLARATION

I/WE, the applicant/agent certify that this is an application for Lawful Use or Development Certificate under Section 151 of the Town & Country Planning (Scotland) Act 1997 in respect of the proposed use, operations or activity described in this application and the documents, drawings and plans and additional information which accompany it. All the information contained within the application is, to the best of my/our knowledge and belief, correct and complete.

Applicant or Agent's Signature: _____

On behalf of Name: _____

Date: _____

WARNING:

Section 153 of the 1997 Act provides that it is an offence to knowingly or recklessly provide false or misleading information or to withhold material information with intent to deceive.

Section 152(7) enables the planning authority to revoke, at any time, a certificate they have issued as a result of such false or misleading information or if material information has been withheld.

APPLICATIONS FOR CERTIFICATES OF LAWFUL USE OR DEVELOPMENT

Notes for Guidance

PLEASE READ THESE NOTES BEFORE MAKING YOUR APPLICATION

1. What are 'Certificates of Lawful Use or Development'?

The Town and Country Planning (Scotland) Act 1997 establishes that the development of land requires planning permission. Development means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. However, the 1997 Act and the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and the allows certain developments to take place without requiring planning permission.

Certificates of Lawful Use or Development were introduced in 1992 and replaced the procedures for Established Use Certificates. These powers are now contained within sections 150-153 of the Town & Country Planning (Scotland) Act 1997.

If a person is carrying on a use, operation or activity which does not have planning permission or is not complying with a condition of planning permission, they may wish to establish if that activity is lawful, in terms of the Planning Acts. Alternatively, they may wish to begin a use, operation or activity, and seek confirmation whether or not planning permission is necessary.

A Certificate of Lawful Use or Development is a formal certificate which clarifies or establishes the planning status of land, or whether existing or proposed development is lawful for planning purposes. .

A formal application for a certificate must be made to the Comhairle's Planning Service. Applications do not have to be made by the owner of the land in question - any person may apply to Comhairle nan Eilean Siar as the local planning authority for a decision on whether any of the following are lawful for planning purposes:

- *a specified existing use*
- *a specified existing operational development*
- *failure to comply with a planning condition or limitation of a planning consent*
- *a specified proposed use*
- *a specified proposed operational development*

Following the registration of an application, the matters to be determined are solely matters of evidential fact and law. The onus of proof is firmly on the applicant and it is therefore the applicant's responsibility to ensure that the application is accompanied by appropriate supporting information to support any claim.

Please also note that, under section 153 of the Act, it is an offence to furnish false or misleading information or to withhold material information with intent to deceive. Under section 152 of the Act, the Council can revoke, at any time, a certificate issued as a result of such false or misleading information.

2. How to apply for a 'Certificate of Lawful Use or Development'

Applications must be made in writing on the forms which are available on request from the Planning Service at Comhairle nan Eilean Siar, Council Offices, Sandwick Road, Stornoway, HS1 2BW or Council Offices, Balivanich, Benbecula, HS7 5LA.

Fill in each section as shown on the appropriate form. It may be necessary to continue on separate sheets of paper as space on the forms is limited. If this is necessary, please ensure that these are attached to the application form and clearly labelled for ease of reference.

You must include:

(a) Appropriate plans to recognised metric scales, accurately identifying the location and boundaries of the land to which the application relates. Scaled drawings of buildings may also be necessary. Where the application specifies two or more uses, operations or other matters, the submitted plans must indicate to which part of the land each such use, operation or matter relates. Ordnance Survey plans are available for purchase from a number of suppliers. Details can be found on the planning service website:

<http://www.cne-siar.gov.uk/planningservice/development.asp>

(b) Appropriate evidence verifying the information included in the application.

(c) A declaration of interests in the land and/or buildings. Please note that there is no requirement to notify owners, however you are encouraged to do so.

3. Fees

No application will be registered until the correct fee has been submitted to the Comhairle in accordance with the Fee Regulations prescribed by the Scottish Government. The current fees are as follows:

'Proposed' applications

In respect of a proposed use or operation

Fee

Half the amount which would be payable in respect of a planning application to institute the use or carry out the operation specified in the application.

Payments can be made in cash, cheque or debit card to Comhairle nan Eilean Siar. If in doubt about the fee which is due, please contact the Planning Service.

4. Timescale for dealing with applications

Once submitted, an application will be checked, and deemed as valid only if:

- *the appropriate form has been completed*
- *four sets of adequate plans have been submitted*
- *the appropriate fee has been paid*

If the application is deemed invalid, the applicant (or agent) will be informed in writing to specify which matters must be attended to before registration can take place.

Valid applications will be registered as soon as possible, and an acknowledgement letter will be sent to the applicant or agent as appropriate. If further information is required following registration, this will normally be requested in writing from the officer who is dealing with the application.

The Council will always try to reach a decision on Certificate of Lawful Use or Development applications within two months of registration. At present a right of appeal to the Scottish Government exists only in respect of refused applications. Details on how to appeal are given in the decision notice.