



2011 CHAPTER 25

Part 5

Enforcement

Certificate of lawful use or development

Appeals against refusal or failure to give decision on application

173.—(1) Where an application is made to a council for a certificate under section 169 or 170 and—

- (a) the application is refused or is refused in part; or
- (b) the council does not give notice to the applicant of its decision on the application within such period as may be specified by a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the council,

the applicant may by notice appeal to the planning appeals commission—

- (i) in the case described in paragraph (a), within the period of 4 months from the date on which the application is refused or is refused in part or such other period as may be prescribed;
- (ii) in the case described in paragraph (b), within the period of 4 months from the end of the period referred to in that paragraph or such other period as may be prescribed.

(2) On any such appeal, if and so far as the planning appeals commission is satisfied—

- (a) in the case of an appeal under subsection (1)(a), that the council's refusal is not well-founded; or

Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 173. (See end of Document for details)

(b) in the case of an appeal under subsection (1)(b), that if the council had refused the application its refusal would not have been well-founded, the planning appeals commission must grant the appellant a certificate under section 169 or, as the case may be, 170 accordingly or, in the case of a refusal in part, modify the certificate granted by the council on the application.

(3) If and so far as the planning appeals commission is satisfied that the council's refusal is or, as the case may be, would have been well-founded, the commission must dismiss the appeal.

(4) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the use, operations or other matter in question.

Modifications etc. (not altering text)

- C1** Pt. 5 applied with modification(s) (1.4.2015) by [The Planning \(Conservation Areas\) \(Demolition\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/107\)](#), regs. 1, **11**
- C2** Pt. 5 (except ss. 157-163) applied with modification(s) (1.4.2015) by [The Planning General Regulations \(Northern Ireland\) 2015 \(S.R. 2015/39\)](#), regs. 1(1), **2** (with regs. 3-10)
- C3** Ss. 162-175: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

- I1** S. 173 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I2** S. 173 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, **Sch. 1** (with **Sch. 2**) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

Changes to legislation:

There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 173.