

WORKING ON LISTED BUILDING WITHOUT CONSENT

Planning (NI) Order 1991

44.– (1) Subject to this Part, if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised under paragraph (2), he shall be guilty of an offence.

...

(5) Without prejudice to paragraph (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent he shall be guilty of an offence.

Maximum Sentence:

Planning (NI) Order 1991, Art.44(6)

Indictment: 2 years imprisonment and/or Unlimited Fine

Summary: 6 months imprisonment and/or £30,000 Fine (for offences committed before 4 May 2011)

6 months imprisonment and/or £100,000 Fine (for offences committed on or after 4 May 2011)

Assessment of Offence

(Starting points and ranges based on 1st time offender convicted following contest)

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Technical breach of condition attached to listed building consent (e.g. wrong size of window installed) OR Offence committed on non-commercial basis	£5,000 Fine	Fine to Community Order
Offence committed on commercial basis	£25,000 Fine	Fine to 3 months Custody

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
<ol style="list-style-type: none">1. Offence committed for financial gain (whether profit or cost-saving)2. Offender failed to engage with the relevant authorities prior to works being carried out3. Offender committed offence following refusal of authorisation by the relevant authorities4. Inability to re-instate works carried out5. Nature of offence has necessitated the listed building being demolished	<ol style="list-style-type: none">1. Re-instatement (as far as possible) of original works has been undertaken by the offender

Relevant Cases:

NI Cases:

N/A

English Cases

N/A

Notes:

1. In determining the amount of any fine imposed on a person convicted of an offence under paragraph (1) or (5) the court shall have particular regard to any financial benefit which has accrued or is likely to accrue to him in consequence of the offence. – Article 6 of the 1991 Order