DAMAGING A LISTED BUILDING

Planning Act (NI) 2011

103 – (1) Where a building, not being a building excluded by subsection (8) of section 85 from the operation of that section, is included in a list compiled under section 80, then, if any person who, but for this Section, would be entitled to do so-

    (a) does or permits the doing of any act which causes or is likely to result in damage to the building (other than an act for the execution of excepted works); and

    (b) does or permits the act with the intention of causing such damage; he shall be guilty of an offence ...

  (2) In paragraph (1) "excepted works" means-

    (a) works authorised by planning permission granted in pursuance of an application under this Act; or

    (b) works for which listed building consent has been given under this Act.

  (3) Where a person convicted under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.

Maximum Sentence:

Planning Act (NI) 2011 s103(1)
Offence under s103:
Indictment: Unlimited Fine
Summary: Statutory maximum i.e £5,000 (see Art 4(7) of the Fines and Penalties (NI) Order 1984)

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

Nature of Offence	Starting Point	Sentencing Range
Act falling within section 103	Fine	Fine

Examples of Possible Aggravating Factors of Offence	Examples of Possible Mitigating Factor of Offence
1. Offence committed for financial gain (whether profit or cost-saving) 2. Inability to re-instate works carried out 3. Nature of offence has necessitated the listed building being demolished	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: