



<b>Building Preservation Notice (BPN) request – 11 Cullycapple Road, Aghadowey.</b>	<b>24<sup>th</sup> January 2018</b>
<b>Planning Committee</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	<b>Outcome</b>
Leadership and Champion	<ul style="list-style-type: none"><li>• Our Elected Members will provide civic leadership to our citizens working to promote the Borough as an attractive place to live, work invest and visit.</li></ul>
Protect the Environment in Which We Live	<ul style="list-style-type: none"><li>• All environments in the area will benefit from pro-active decision making which protects the natural features, characteristics and integrity of the Borough.</li></ul>
<b>Lead Officer</b>	Principal Planning Officer, LDP Manager
<b>Cost:</b>	N/A

## **For Decision**

### **1.0 Background**

1.1 A member of the public has written to the Council to request the serving of a Building Preservation Notice (BPN) on a property at 11 Cullycapple Road, Aghadowey (see location map and photographs at Appendix 1).

### **2.0 Detail**

2.1 [REDACTED] wrote to the Council, via e-mail, on 11<sup>th</sup> December 2017, outlining [REDACTED] concerns re the building at No.11 Cullycapple Road, which [REDACTED] considers is a building worthy of retention. [REDACTED] is also concerned that the building may be lost, as [REDACTED] has been advised that the house and the field to the front of it are to be put up for public auction in spring 2018.

2.2 [REDACTED] states that, in [REDACTED] view, the building is worthy of listing given:

- The house dates from the 1700's;

- It is noted as a religious monument on NIEA's mapping;
- Fairlea House, Cullycapple House and the RC Chapel are listed;
- The property sits on a prominent site and is a focal point on the horizon; and
- It has been a pivotal community house in the past (oratory for the church and residence for local priests).

### 3.0 Building Preservation Notice (BPN)

- 3.1 Council has a responsibility under the Planning Act (NI) 2011, the "Act", to protect and conserve the historic environment for the benefit of our present and future generations.
- 3.2 Council has powers (under S.81 & 82 of "the Act") to serve a BPN on the owner and occupier of a building if it appears that the building is of special architectural or historic interest and is in danger of demolition or significant alteration.
- 3.3 A BPN is a form of temporary listing (see Appendix 2). It provides statutory protection to an unlisted building for a 6 month period, within which time any works to the building will require listed building consent. During this time Council will consult the Department for Communities: Historic Environment Division (DfC:HED) asking them to consider permanently listing the building.
- 3.4 The building **must** meet the following test to be considered for a BPN;
- It is of **special** architectural or historic interest; and
  - It is in danger of demolition or alteration in such a way as to affect its character as a building of such interest.
- 3.5 In considering the listing DfC:HED will:
- take into account any information forwarded to them by Council. This is usually Council's Conservation Area Officers completed "Listing Query Report Form" (see Appendix 3);
  - record the structure;
  - consider the building against PPS 6 Listing Criteria (see Appendix 4);
  - undertake statutory and non-statutory consultations; and
  - make a final decision.
- 3.6 The BPN legislation is carefully written to make clear that its test is one of **initial assessment**. Detailed research and assessment can be carried out later. This lower test allows for swift action, should it be required.
- 3.7 If it appears to the Council that an emergency BPN should come into force, it may, instead of serving the notice on the owner and occupier of the building, affix the notice conspicuously to some object on the building.

- 3.8 It should be noted that BPNs are not a delegated function under the Council's current Scheme of Delegation. However, emergency BPNs are.

#### **4.0 Compensation Payable**

- 4.1 It is important to have due regard to the potential for compensation claims when considering serving a BPN. The guidance states that there are two circumstances in which it may occur, as follows:

##### **Upon revocation of an existing planning permission**

- 4.2 A BPN can be served on a building even if there is an existing planning permission for its demolition or alteration. However, should the building be subsequently listed, Listed Building Consent (LBC) will then be required for any proposed works in relation to the existing permission.
- 4.3 If LBC is not granted for such works the current planning permission may have to be revoked and the applicants may seek compensation from Council for losses.
- 4.4 To avoid this scenario a building will not normally be considered for listing once planning permission, which will affect its special architectural or historic interest, has been granted and is still valid, or while works which have received such planning permission are under way.
- 4.5 It should be noted that if the Council is actively considering serving a BPN in this circumstance, then the exceptional nature of the case should be highlighted in the request for listing submitted to DfC:HED.

##### **Should the building fail to merit statutory listing.**

- 4.6 Compensation may also be payable for losses incurred due to the service of a BPN if, after consideration, the structure is not listed, i.e. any loss or damage directly attributable to the effect of the notice.

#### **5.0 The Site**

- 5.1 The building at No.11, which appears to date from late 19<sup>th</sup> Century, is situated on the southern side of Cullycapple Road approximately 200m east of the junction with Mullaghinch Road. The site has functioned as a Parochial House within the parish of Aghadowey. The current structural condition of building is unknown, however, the vacant status in recent times has resulted in the current dilapidated appearance with the paintwork and wood work in need of maintenance and the majority of principal windows boarded up. The building is in an elevated position on this road side site, accessed by a crescent shaped driveway with dual access points on to Cullycapple Road. There are a number of listed buildings in the surrounding environment, which includes

Fairlea House (HB03/03/026) to the North, Cullycapple House (HB03/03/025) to the south east and Our Lady of the Assumption Church (HB03/03/024) to the east.

- 5.2 The building is not listed and does not lie within a Conservation Area/ Area of Townscape Character, therefore planning consent is not currently required for its demolition.
- 5.3 Given the information that the site may be auctioned, it is assumed that it would be purchased on the basis that it could be developed.

## **6.0 Expert advice**

- 6.1 Councils may seek expert advice on BPNs from DfC:HED. As such, planning officials have had preliminary discussions in relation to this building. DfC have advised that this area around Cullycapple has already been assessed as part of the Second Survey of Northern Ireland (carried out in 2012-13). At this time the building was deemed by HED as not having the necessary architectural or historic interest to merit further investigation and therefore it was not even identified as having potential for further survey work. HED has advised that the building shown in this location does not date from 1700s, but rather dates from the late 19<sup>th</sup> Century. The photographs show a much altered late 19<sup>th</sup> Century building which would not appear to meet the statutory tests for listing and therefore would be very unlikely to be considered for listing.

## **7.0 The Building**

- 7.1 The Listing Query Report Form (see Appendix 3), details the Conservation Officer's comment on the building. The format of the report follows an analysis of the building using the Listing Criteria set out in Annex C of PPS 6 (see Appendix 4). Please note that this is only a preliminary assessment, as is required at this stage.

## **8.0 Recommendation**

- 8.1 IT IS RECOMMENDED that Members agree to the Head of Planning writing to [REDACTED] advising that a BPN should not be served on this building.

### **Appendices:**

**Appendix 1:- Location map, historical maps & photographs**

**Appendix 2:- BPN's – Good Practice Guide for Councils**

**Appendix 3:- Listing Query Report Form**

**Appendix 4:- Listing Criteria: Annex C of PPS 6**

11 Cullycapple Road, Aghadowey, Coleraine





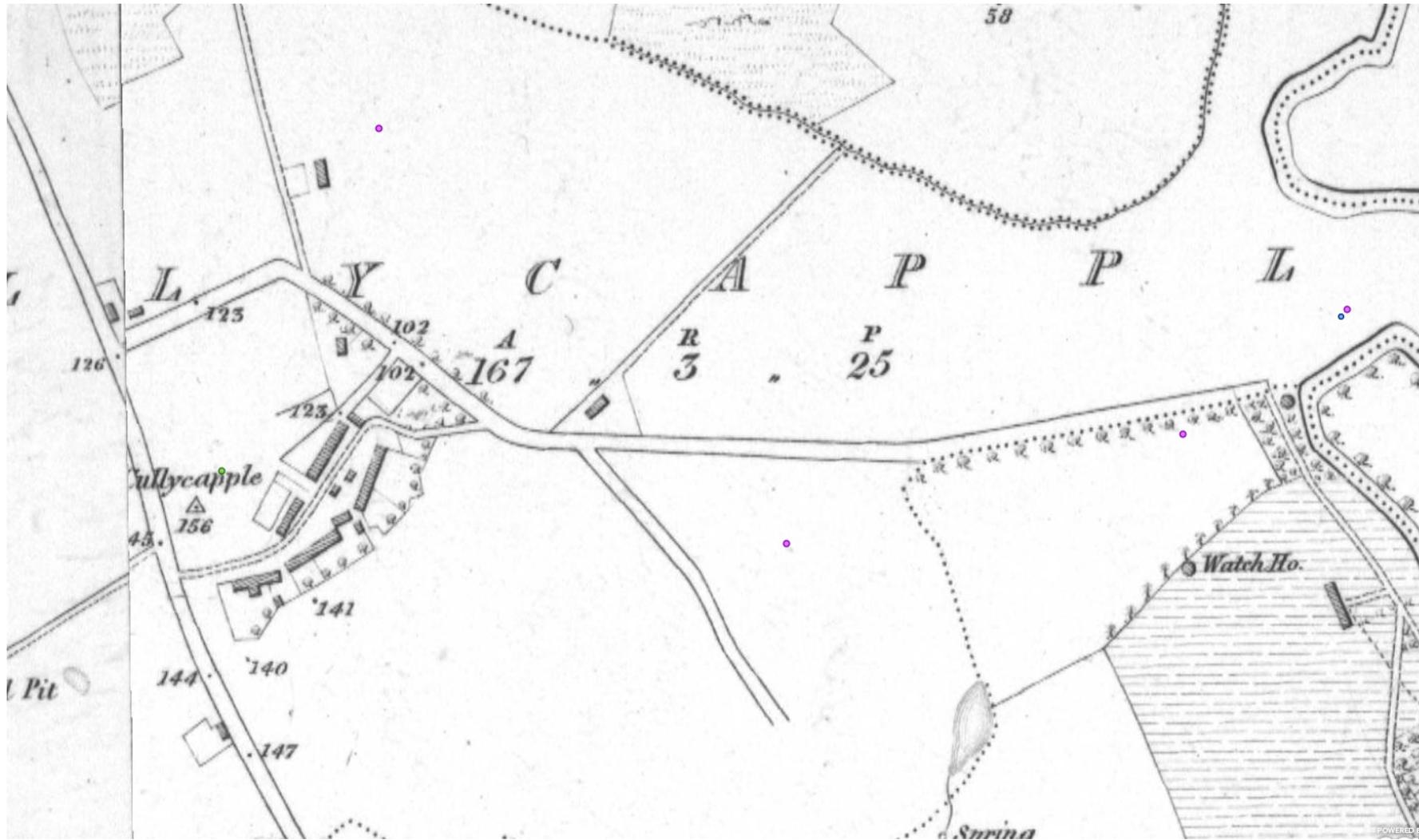
770m



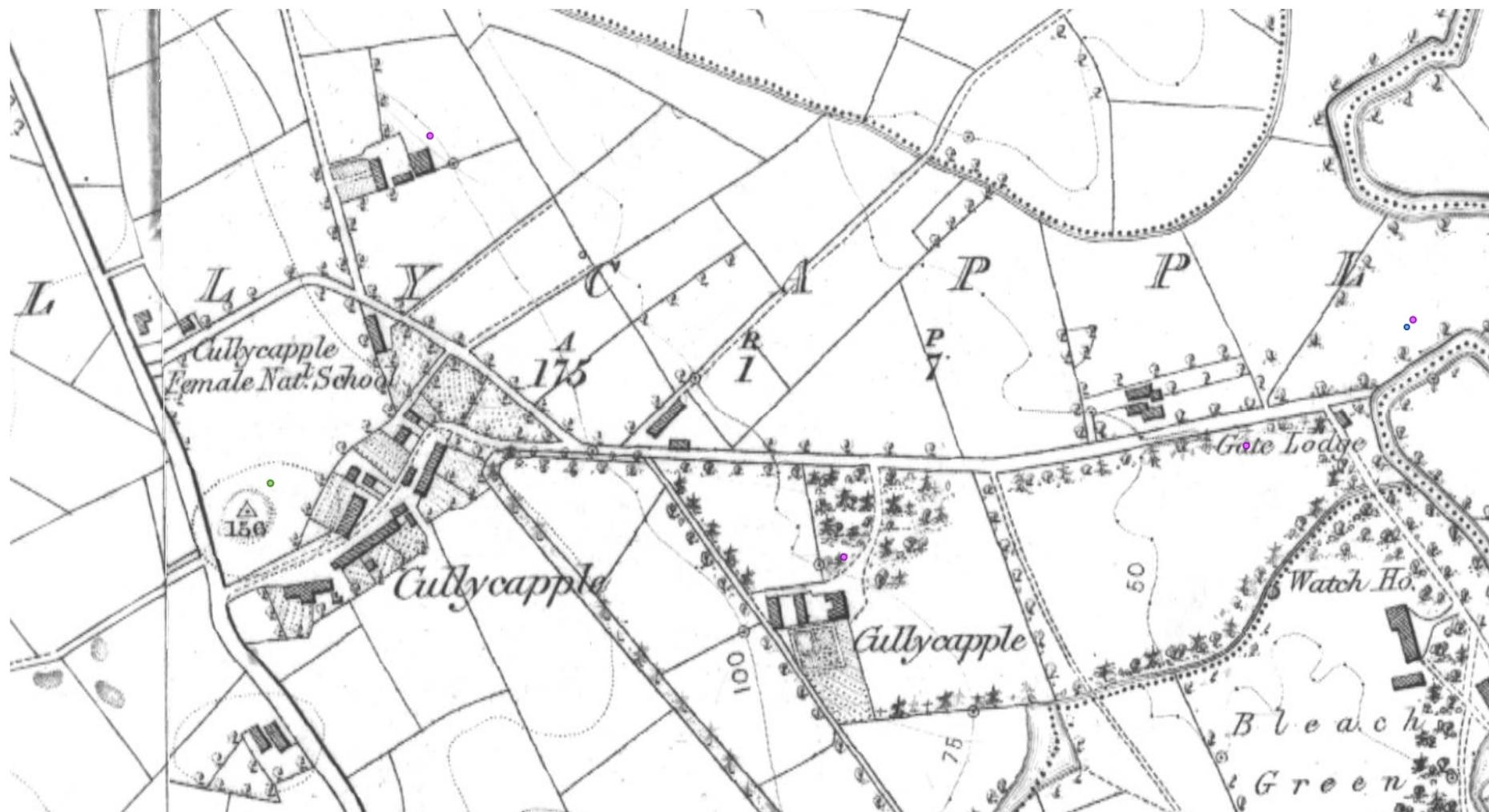
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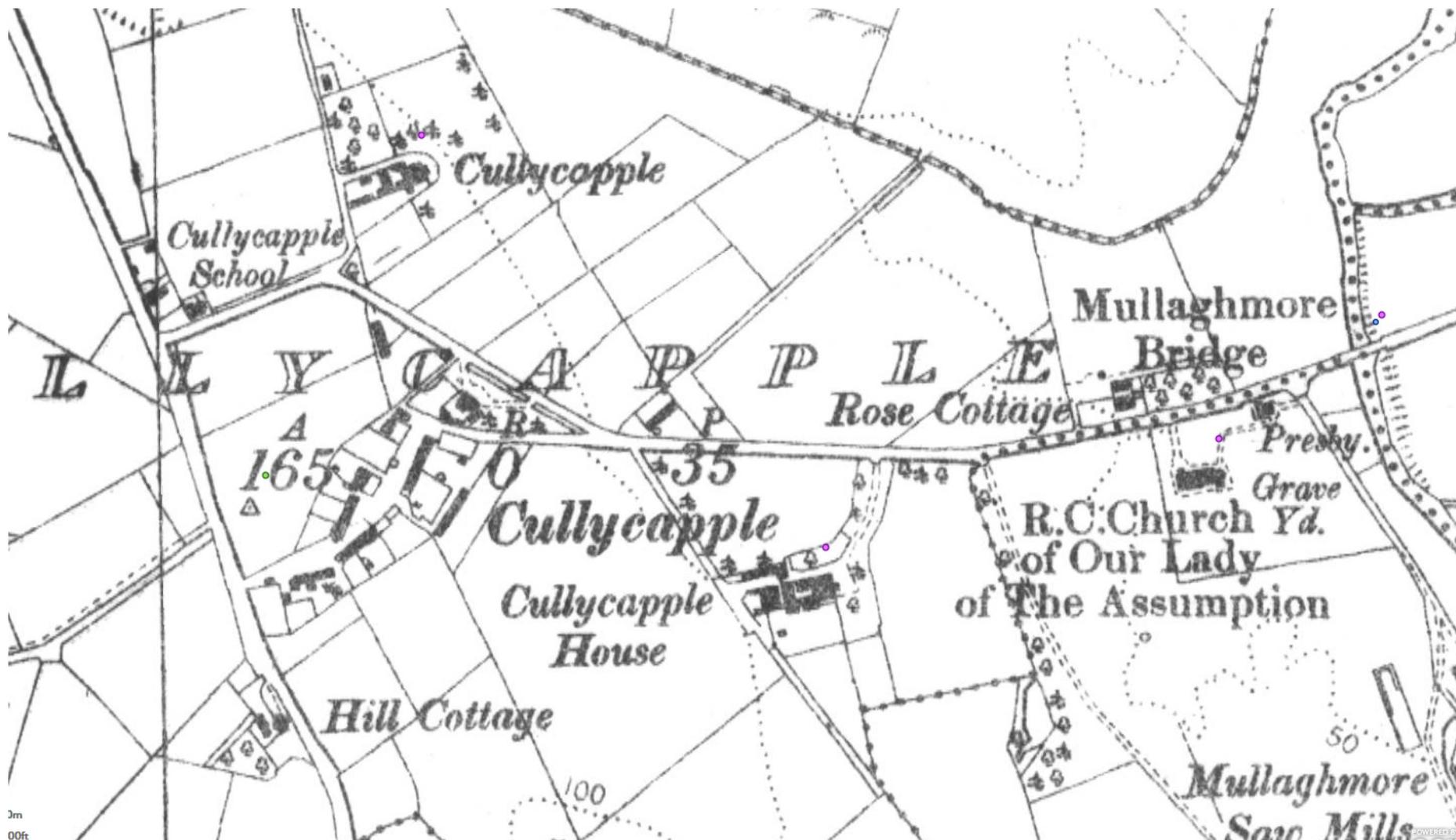
c.1830 1<sup>st</sup> Edition



c.1860 2<sup>nd</sup> Edition



c.1900 3rd Edition



Site Photographs -20/12/2017



















# Building Preservation Notices

A good practice guide for District Councils

Issue 2.0 May 2017

Historic Environment Division



Department for  
**Communities**  
[www.communities-ni.gov.uk](http://www.communities-ni.gov.uk)

Front Page: Lidells Mill, Donaghcloney ©DfC

Issue Date: May 2017

*'This good practice guide aims to assist councils achieve a consistent approach when considering serving a Building Preservation Notice on an unlisted building. Its correct application will help councils to identify and satisfy legislative requirements with regard to Building Preservation Notices, where the building appears to be of architectural and historic importance and is in danger of demolition or of alteration in such a way as to affect its character.'*

*This guide does not attempt to provide a detailed account of the legislation and policy that underpin Building Preservation Notices in Northern Ireland, and is not intended to be a source of definitive legal advice. This guide is not intended to replace the need for council judgement in their decision making. Reference should be made to the actual legislation referred to in this document and if any discrepancy or conflict exists between this guide and legislation, the provisions of the legislation will prevail.*

*Further information can be obtained from the Department for Communities website  
<https://www.communities-ni.gov.uk/>*

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## Overview

Since 1st April 2015, district councils have had the power to serve a 'Building Preservation Notice' (BPN), where it appears to a council that a building is of architectural or historic merit and is at risk of demolition or significant alteration.<sup>1</sup> This discretionary power transferred from the former Department of the Environment (DOE), to district councils, under the Review of Public Administration transfer of functions agreement.

To assist councils undertake this new function, this good practice guide has been developed as a series of questions and accompanying answers to explain how and when councils may consider serving a BPN.

On 9th May 2016, the functions of the former Department of the Environment (DOE) were allocated to three new departments; Department for Infrastructure (DfI), Department of Agriculture, Environment and Rural Affairs (DAERA) and Department for Communities (DfC)

Historic Environment Division (HED) transferred to DfC and Strategic Planning Division (SPD) functions transferred to DfI. Respective departmental powers under the Planning Act (Northern Ireland) 2011, have been set out in the The Departments (Transfer of Functions) Order (Northern Ireland) 2016.



Front cover image & above: Lidells Mill, Donaghcloney, Grade B2 listed building, initially protected by a BPN© DfC

<sup>1</sup> Sections 81 & 82 of The Planning Act (NI) 2011

## 1. Introduction

- 1.1 The historic environment is an asset of immense cultural, social, economic and environmental value, which contributes to our sense of history, place and our quality of life. District Councils and the Department<sup>2</sup> have responsibility under the Planning Act (NI) 2011 to protect and conserve the historic environment for the benefit of our present and future generations.
- 1.2 District councils can actively contribute to the protection and conservation of the built heritage through the appropriate application of Building Preservation Notices (BPN) where there is concern that an unprotected historic building of special interest is in danger of demolition or significant alteration.
- 1.3 'Historic Buildings' can be understood to be any feature or structure built by man. The more recent the date of a structure the less historic it will be. This implies that a recent structure will need to have high architectural interest if it is to be protected in this way.

## 2. What is a Building Preservation Notice?

2.1 A BPN is a form of temporary listing which provides statutory protection to an unlisted building, for a period of 6 months, as if it were listed. The Planning Act (Northern Ireland) 2011 gives councils the discretionary power to serve a Building Preservation Notice (BPN) on the owner and occupier of a non-listed building that they consider meets the following test:

- It is of special architectural or historic interest; and
- It is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest.

2.2 These powers are detailed in Section 81 – 83 of the Act. For the 6 month period of the BPN, the building is protected as though it was a listed building and all relevant planning controls apply. This includes the need to apply for Listed Building Consent for changes that might affect its architectural or historic interest, and enforcement powers relating to unapproved works.



<sup>2</sup> References to the 'Department' in this guide refer to the 'Department for Communities' - DfC)

- 2.3 Prior to the Review of Public Administration, BPNs were available to the Department of the Environment (DOE) under the Planning (NI) Order 1991 and were implemented by the Historic Environment Division (HED). Central government no longer has this power.

### 3. What is the process for serving a BPN?

- 3.1 If a council considers that a building meets the statutory tests then it can issue a Building Preservation Notice. A standard form, (*see Appendix A1&A2*) can either be served on the owner and occupier by registered delivery or in urgent cases it can be affixed to the building. Though it is important that an owner knows of this legal change as soon as possible, it is also essential that there is no confusion in regard to ownership and protection. Where there is any doubt in regard to ownership, it is recommended that a notice is also affixed to the building. This approach, using the same form, is provided for by Section 82 of the Planning Act (NI) 2011.
- 3.2 At the same time the council should forward a listing request to HED, who on behalf of the Department, will consider listing the building. This will give HED the maximum time to consider the case. **HED requires a minimum of five months to consider such a request.** A copy of the information used by the council in arriving at this decision would be very helpful to HED as it commences its appraisal. This should be enclosed with the request.
- 3.3 From notification, HED will commence a process to: record the structure; consider the building against the Listing Criteria<sup>3</sup>; undertake statutory<sup>4</sup> (and non statutory) consultations; and make a final decision. The council will be consulted as part of the process and informed of the final decision.
- 3.4 It is not anticipated that the number of BPNs served will be large. From introduction in 2003 to the end of 2013 only 43 BPNs were issued. Public requests and Departmental use of the power rose in line with development activity during the 2000s and declined in more recent years in line with the economic downturn.

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<sup>3</sup> The Listing Criteria was published in a revised and updated Annex C of Planning Policy Statement 6 in March 2011.

<sup>4</sup> Historic Buildings Council, District Councils and Strategic Planning Division in DfI

## 4. How can district councils be made aware of such buildings?

4.1 Councils can be made aware of such buildings through a number of different ways:

- A planning application may be submitted that involves the demolition of a historic building. A council planning officer or a member of the public may then raise a request that this building be considered for protection.
- HED may separately ask a council to consider taking action. Its power to protect by making a structure a listed building requires detailed research and advance consultation. It may consider there is a high risk of loss during this period.
- It is also possible that a member of the public may make a request without a current planning application being in place - in this case they would need to supply other evidence that the building is in risk of demolition or substantial alteration.

## 5. When should district councils consider using the power?

5.1 Before a BPN can be served there are two tests that need to be met:

**Test 1: Does it appear to the district council that the building is *of special architectural or historic interest*?**

Annex C of Planning Policy Statement 6 (March 2011) sets out the criteria that the Department follows when considering this test. The BPN legislation is, however, carefully written to make clear that its test is one of appearance. Detailed research and assessment can be carried out later. This lower test allows for swift action.

5.2 A report along the lines of a standard listing query report (Appendix B) is recommended. This may be compiled by a Conservation Officer<sup>5</sup> or appointed consultant<sup>6</sup> with reference to the published criteria. HED's listing team will be happy to liaise with district councils at this early stage in regard to advice on standards.

5.3 Listing Queries involve a site visit, initial historical research and an assessment of the record taken. While assessment by the Conservation Officer or consultant is likely to be sufficient, approval by the wider Planning team may, however, provide a more

<sup>5</sup> This is normally a qualified planner or architect who has responsibility for providing advice to decision makers on the designation and management of heritage assets, such as Conservation Areas, within a Council area.

<sup>6</sup> Where councils choose to appoint an external consultant, it is recommended that councils appoint consultants with appropriate architectural and historical expertise to make an initial assessment and recommendation.

robust corporate decision. If, following this stage, council officers consider that the building appears to be a building of special architectural or historic interest they can then consider the other BPN test.

**5.4 Test 2: Is the building *is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest?***

This test is normally met if there is a current planning application involving the demolition or substantial alteration of the building or if the building is being advertised for sale as a cleared site/development opportunity. Unconfirmed rumours from the public are less clear cut, but may on occasion justify action if officers conclude that the risk is high. Unoccupied buildings can be considered to be of higher risk of sudden removal than those which are occupied.

5.5 It is good practice, in any case, that a letter is issued to the person who made the initial request to inform them of the outcome of the investigation.

## 6. When is compensation payable to affected owners?

### 6.1 Revocation of existing planning permission

A BPN can be served on a building even if there is an existing planning permission for its demolition or alteration. Should the building be subsequently listed, Listed Building Consent (LBC), will also be required for any proposed works of alteration. If LBC is not granted for works approved under a current planning permission, this may require the current planning permission to be revoked. Under Section 179 of the Planning Act (NI) 2011, applicants may seek compensation for losses associated with a revoked planning permission.<sup>7</sup>

To avoid major disruption to the smooth working of the planning system, together with consideration of the significant financial implications, and damage to the reputation of the heritage protection system, the Department has adopted the following policy:

*'A building will not normally be considered for listing by the Department once planning permission which will affect its special architectural or historic interest has been granted and is still valid, or while works which have received such planning permission are under way.'*<sup>8</sup>

<sup>7</sup> See Section 179 of the Planning (Northern Ireland) Act 2011 '*Compensation where planning permission is revoked or modified*'.

<sup>8</sup> Paragraph C26 of Annex C of Planning Policy Statement 6

If a council is actively considering serving a BPN in this circumstance, then the exceptional nature of the case will need to be highlighted in the request for listing submitted to HED.

## 6.2 Building fails to merit statutory listing

Compensation may also be claimed from the council for losses incurred due to the service of a BPN if, after consideration, the structure is not protected by the Department as a listed building. Section 186 of the Planning Act 2011 makes clear that such compensation would be in respect of *'any loss or damage directly attributable to the effect of the notice.'* This includes (Section 186 (2) *'a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect to it.'*

6.3 No claim for such compensation has been made against the Department since the introduction of this power in 2003 even though, in a number of cases, the service of a notice did not lead to protection as a listed building. The provision emphasises, however, that a council should have due regard when considering serving a BPN.

## 7. If the building is not listed, can an alternative means of protection be applied?

7.1 Paragraph 6.24 of the Strategic Planning Policy Statement 2015 (SPPS), allows District Councils to bring forward bespoke policies in their Local Development Plan for historic buildings of local importance. These are defined as: *'a building, structure or feature, whilst not statutory listed, has been identified by the council as an important part of their heritage, due to its local architectural or historic significance.'*

7.2 The policy makes it clear that the effect of a planning application on the significance of a non-designated heritage asset should be taken into account in determining the application. Though it also says that such assets will have been *'identified by the council as an important part of their heritage'*<sup>9</sup>, there is no time requirement for this work, and such identification, could, in principle, be carried out at a late stage i.e. after the submission of a planning application.

7.3 To ensure that such structures have protection from demolition and inappropriate alteration, councils can consider the use of an 'Article 4 Direction'.<sup>10</sup> This allows the removal of permitted development rights, including demolition, for a designated

<sup>9</sup> Strategic Planning Policy Statement for Northern Ireland. September 2015, paragraph 6.24, page 41

<sup>10</sup> Article 4 of the Planning (General Permitted Development) Order (NI) 2015 allows the Department or a District Council to *'give a direction that the permission granted by Article 3 shall not apply to— (a)all or any development of the Part, Class or paragraph in question in any particular area specified in the direction; or(b)any particular development, falling within that Part, Class or paragraph, which is specified in the direction.'*

area or feature. However, the agreement of the Department for Infrastructure is required<sup>11</sup> before such a route is followed.

- 7.4 It is good practice, however, to ensure that prospective applicants are aware of any potential designations on their property well in advance of making a planning application. This also helps to ensure that the identified historic and architectural interest can be taken into consideration at an early stage and costly changes avoided. The Department for Communities therefore recommends that district councils consider protection for such buildings well in advance of proposals for significant change.
- 7.5 To assist district councils take forward strategies to protect historic buildings of local importance, HED has published a guide to their identification and protection, which is available to download from its website at:

[www.communities-ni.gov.uk/topics/historic-environment](http://www.communities-ni.gov.uk/topics/historic-environment)

## 8. What other heritage designations offer protection?

- 8.1 The temporary protection of historic buildings and structures through the service of a BPN is only one tool in a suite of controls aimed at managing the Historic Environment. Other features may be more appropriately protected as Monuments in State Care; Scheduled Historic Monuments; as part of Conservation Areas, or through area plan designations such as Areas of Townscape Character and Local Landscape Policy Areas<sup>12</sup>.
- 8.2 Service of a notice on a structure which is already protected as a Listed Building, a Scheduled Historic Monument or a Monument in State care is not appropriate. Research to ensure that a structure is not already protected should form part of initial review of a case. Where a structure is located within an area designation, the merits of increasing protection via the BPN versus reliance on the existing planning controls should be considered.

## 9. Can councils seek support from HED?

- 9.1 Yes. As the Government's expert advisor on the Historic Environment in Northern Ireland, HED can provide further advice to councils as they decide how best to deploy this power. HED has 40 years experience of carrying out historic buildings surveys across Northern Ireland and 10 years in the service of Building Preservation

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<sup>11</sup> Article 4 (2): 'Subject to paragraph (4), a direction by a council under this Article shall require the approval of the Department who may approve the direction with or without modifications.'

<sup>12</sup> The Strategic Planning Policy Statement provides more information and definitions for all of these area heritage designations.

Notices. Engagement with councils who want to set up appropriate procedures in regard to this facet of heritage protection is welcomed by HED.



Above: Dundrum Road, Tassagh, B1 Listed Terrace, protected initially by BPN © DfC

## **Appendix A Typical Building Preservation Notice.**

Appendix A (1) Notice for service on owner/ occupier

Appendix A (2) Notice to be served on the building

**Appendix A (1)****NOTICE FOR SERVICE TO OWNER/ OCCUPIER****PLANNING ACT (NORTHERN IRELAND) 2011 SECTION 81-83****BUILDING PRESERVATION NOTICE****IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY****SERVED BY:** XXX District Council*(Serving Officers Details: Name, Grade, and Telephone Number)***TO:** *Owners Name and address (if Known)*

This Building Preservation Notice, (the 'Notice') is served by XXX District Council for the purposes of Section 81-82 of the Planning Act (NI) 2011 ("the Act") because it appears to XXX District Council that the building described in the Schedule to this Notice which is not a listed building, is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest.

**XXX DISTRICT COUNCIL GIVES NOTICE THAT:**

1. The building described in the Schedule ("the Building") appears to XXX District Council to be of special architectural or historic interest and the Department<sup>13</sup> is considering including the Building in a list of buildings of special architectural or historic interest compiled under Section 80 of the Act.
2. By Section 81(3) of the Act, the Notice shall come into force as soon as it has been served on both the owner and occupier of the Building and shall remain in force for 6 months from the date when it was served or last served.
3. By Section 81(4) of the Act the Notice shall cease to be in force if, before the expiration of that 6 months, the Department either includes the Building in a list compiled under Section 80 of the Act or notifies the owner and occupier of the Building in writing that it does not intend to do so.
4. By Section 81(5) of the Act while the Notice is in force, the provisions of the Act (other than Section 103) shall have effect in relation to the Building as if it were a listed building; and by Section 83 of the Act, if the Notice ceases to be in force by virtue of the expiry of the 6 month period or service of notification, in writing by the Department that it does not intend to list

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<sup>13</sup> Historic Environment Division on behalf of the Department for Communities (DfC)

the Building, then the provisions of Section 83 shall have effect with respect to things done or occurring under the Notice or with reference to the Building. Under Section 83:

- (a) the fact that the Notice has ceased to be in force shall not affect liability for offences committed under the Act with respect to the Building while it was in force;
- (b) any proceedings on or arising out of an application for listed building consent with respect to the Building made while the Notice was in force and any such consent granted while it was in force shall lapse;
- (c) any listed building enforcement notice served under the Act while the Notice was in force shall cease to have effect and any proceedings, including appeal proceedings, relating to the listed building enforcement notice, shall lapse;
- (d) Section 186 (as applied by Section (186 (2)) of the Act shall continue to have effect as respects any expenses incurred by the owner or occupier as mentioned in that Section and with respect to any sums paid on account of such expenses.

NOTE: This Notice does not call for any action on your part unless you propose at any time to demolish the Building or execute or cause to be executed any works (either to the exterior or interior) for the demolition of the building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historical interest. If you wish to carry out such works you will need to obtain listed building consent, in writing from **XXX District Council Planning Authority** before commencing the works.

### **WARNING**

**THIS NOTICE TAKES EFFECT ON THE DATE OF SERVICE. THERE IS NO RIGHT OF APPEAL TO THE PLANNING APPEALS COMMISSION AGAINST THIS NOTICE.**

Any person who carries out unauthorised works to the Building will be guilty of an offence under Section 85 of the Act and liable:

- A) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £100,000, or both;
- B) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both;

and in determining the amount of any fine imposed on a person convicted of an offence under Section 85 (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.

If you need independent advice about the Notice, you are advised to contact a lawyer, planning consultant or other professional advisor specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review.

## SCHEDULE

Insert address of building being served.

Dated this (insert date) day of (insert month) 20XX

Signed: (signature)

Authorised Officer on behalf of XXX District Council.

## Appendix A (2)

# NOTICE TO BE AFFIXED TO STRUCTURE

PLANNING ACT (NORTHERN IRELAND) 2011 SECTION 81-83

## BUILDING PRESERVATION NOTICE

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**SERVED BY:** XXX District Council

*(Serving Officers Details: Name, Grade, and Telephone Number)*

**TO:** Owners Name and address (if Known)

This Building Preservation Notice, (the 'Notice') is served by XX District Council for the purposes of Section 81-82 of the Planning Act (NI) 2011 ("the Act") because it appears to XX District Council that the building described in the Schedule to this Notice which is not a listed building, is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest.

**XXX DISTRICT COUNCILS GIVES NOTICE THAT:**

1. The building described in the Schedule ("the Building") appears to XXX District Council to be of special architectural or historic interest and the Department is considering including the Building in a list of buildings of special architectural or historic interest compiled under Section 80 of the Act.
2. By Section 81(3) of the Act, the Notice shall come into force as soon as it has been served on both the owner and occupier of the Building and shall remain in force for 6 months from the date when it was served or last served.
3. By Section 81(4) of the Act the Notice shall cease to be in force if, before the expiration of that 6 months, the Department either includes the Building in a list compiled under Section 80 of the Act or notifies the owner and occupier of the Building in writing that it does not intend to do so.
4. By Section 81(5) of the Act while the Notice is in force, the provisions of the Act (other than Section 103) shall have effect in relation to the Building as if it were a listed building; and by Article 83 of the Act, if the Notice ceases to be in force by virtue of the expiry of the 6 month period or service of notification, in writing by the Department that it does not intend to list the Building, then the provisions of Section 83 shall have effect with respect to things done or occurring under the Notice or with reference to the Building. Under Section 83:

- (a) the fact that the Notice has ceased to be in force shall not affect liability for offences committed under the Act with respect to the Building while it was in force;
- (b) any proceedings on or arising out of an application for listed building consent with respect to the Building made while the Notice was in force and any such consent granted while it was in force shall lapse;
- (c) any listed building enforcement notice served under the Act while the Notice was in force shall cease to have effect and any proceedings, including appeal proceedings, relating to the listed building enforcement notice, shall lapse;
- (d) Section 186 (as applied by Section (186 (2)) of the Act shall continue to have effect as respects any expenses incurred by the XX Council, owner or occupier as mentioned in that Section and with respect to any sums paid on account of such expenses.

5. By Section 82 of the Act:

- (1) If it appears to a council to be urgent that a building preservation notice should come into force, it may, instead of serving the notice on the owner and occupier of the building, affix the notice conspicuously to some object on the building.
- (2) The affixing of a notice under subsection (1) shall be treated for all the purposes of Section 81, this section, Section 83 and sections 86 to 101 as service of the notice.

The notice has been so affixed and by virtue of it being so affixed it is treated as being served for those purposes described in Section 82 (1) and (2) of the Act.

NOTE: This Notice does not call for any action on your part unless you propose at any time to demolish the Building or execute or cause to be executed any works (either to the exterior or interior) for the demolition of the building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historical interest. If you wish to carry out such works you will need to obtain listed building consent, in writing from **XX District Council Planning Authority** before commencing the works.

### **WARNING**

**THIS NOTICE TAKES EFFECT ON THE DATE OF SERVICE. THERE IS NO RIGHT OF APPEAL TO THE PLANNING APPEALS COMMISSION AGAINST THIS NOTICE.**

Any person who carries out unauthorised works to the Building will be guilty of an offence under Section 85 of the Act and liable:

- A) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £100,000, or both;
- B) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both;

and in determining the amount of any fine imposed on a person convicted of an offence under Section 85 (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.

If you need independent advice about the Notice, you are advised to contact a lawyer, planning consultant or other professional advisor specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review.

## **SCHEDULE**

Insert address of building being served.

Dated this (insert date) day of (insert month) 20XX

Signed: (signature)

Authorised Officer on behalf of XX District Council.

## Appendix B Listing Query Report Form

<b>Building Name:</b>			
<b>OS Map No:</b>		<b>IG Ref:</b>	
<b>Apparent Current Use:</b>			
<b>Pictures taken – Number:</b>		<b>Type: Digital/ Slides</b>	
<b>Date of Inspection:</b>			
<b>Exterior Description (not more than 100 words)</b>			
<b>Considered by council planning authority on :</b>			
<b>Checklist</b>	<b>Yes</b>	<b>No</b>	
<b>Building appears to satisfy listing criteria</b>			
<b>Building has permission to demolish or significantly alter the</b>			

<b>Decision</b>

**Signed:** ..... **Date** .....

Name & Title of authorising officer

## Case Study: Navigation House, Lisburn

Navigation House is a detached three-bay, two-storey, polychromatic brick house, built c. 1866 for the Canal Manager of The Lagan Navigation Company. It is a well proportioned Victorian villa with its original ornate door surround, retaining most of its original external features and its interior. The building was occupied by successive superintendent /managers of the canal, the last of whom was in post from 1928-1954. It is the only canal manager's house on the waterway and is a well preserved remnant of a period when the Lagan Navigation was probably the most commercially successful of all the waterway enterprises in Ulster. Set in its original secluded, landscaped site, with enclosed yard and outbuildings, Navigation House has group value with the listed Lock Keeper's house (HB19/08/005) and Union Lock canal structures (DOW 009:500) directly adjacent.

Navigation House was brought to the attention of the Department by Lisburn City Council's Planning Committee, who asked for a planning application involving the demolition of the building to be deferred pending consideration of its historic interest.

A BPN was served on the building's owners in June 2012, to give the Department time to carry out detailed research and consultation to determine if the house should be the subject of permanent listing as an historic building. Following consideration of a detailed survey and research, evaluation against the listing criteria and consultation with the Historic Buildings Council and Lisburn City Council, the building was listed in December 2012, as a Grade B1.

Hearth Revolving Fund and Lagan Canal Trust have since been working in partnership to conserve the heritage significance of the building and its group value with the associated canal structures. In 2014, Hearth Revolving Fund negotiated a temporary loan from Ulster Garden Villages to acquire Navigation House, and have carried out essential holding repairs.

The Lagan Canal Trust has now relocated their offices to Navigation House, with the future ambition of acquiring the property and reusing the existing building and outbuildings as a visitor centre and teaching centre as part of the 'Discover Waterways Lisburn' project, subject to planning permission, listed building consent and scheduled monument consent.



*Left:  
Navigation House,  
134 Hillsborough Road,  
Lisburn © DfC*



**DfC**

Department  
for Communities  
[www.communities-ni.gov.uk](http://www.communities-ni.gov.uk)

Supporting and sustaining vibrant communities and a strong economy through realising the significant, ongoing value of our historic environment.

**Historic Environment Division**

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Email: [Historicenvironmentenquiries@doeni.gov.uk](mailto:Historicenvironmentenquiries@doeni.gov.uk)

Web: [www.communities-ni.gov.uk/topics/historic-environment](http://www.communities-ni.gov.uk/topics/historic-environment)



**INVESTORS  
IN PEOPLE**



<b>Building Name:</b>	11 Cullycapple Road, Aghadowey, Coleraine.		
<b>OS Map No:</b>	-	<b>IG Ref:</b>	288536, 420911
<b>Apparent Current Use:</b>	Vacant		
<b>Date of Inspection:</b>	Site Inspection on 20-DEC-2017 (external inspection only)		

#### Background

The building at No.11 is situated on the southern side of Cullycapple Road approximately 200m east of the junction with Mullaghinch Road. The building has functioned as a Parochial House within the parish of Aghadowey. The current structural condition of building is unknown, however, the vacant status of the building in recent times has resulted in the current dilapidated appearance with the paintwork and wood work in need of maintenance and the majority of principle windows boarded up.

Submitted correspondence refers to the dwelling as dating to the 1700's, however from assessment of the historical Ordinance Survey mapping along with discussions with DfC:HED, this is not substantiated. No building was present on the site in the 1<sup>st</sup> and 2<sup>nd</sup> Edition Maps and built form only appearing on the 3<sup>rd</sup> Edition C.1900 map. The building appears to date from late 19<sup>th</sup> Century.

The building is in an elevated position on this road side site, accessed by a crescent driveway with dual access points on to Cullycapple Road. There are a number of listed buildings in the surrounding environment which includes Fairlea House (HB03/03/026) to the North, Cullycapple House (HB03/03/025) to the south east and Our Lady of the Assumption Church (HB03/03/024) to the east. I note in discussion with DfC:HED that they have already assessed this area around Cullycapple as part of the Second Survey (carried out in 2012-13) and at this time the building was not deemed to have the necessary architectural or historic interest to merit further investigation.

#### Evaluation

Key criteria for listing are 'Architectural Interest' or 'Historic Interest'. The overall test is that this interest **must** be considered '**Special**'.

#### Architectural Interest

In terms of the architectural interest, whilst the building has a few features of merit such as the pair of front splayed bay windows, as is evident from the photographs, the building is much altered with a lot of detail and original elements lost over the years, replaced with inappropriate features such as, PVC windows, plastic rainwater goods

and roof tiles. It also appears that a garage annex (with a possible asbestos roof) has been added over the years on to the eastern gable.

In relation to the above, whilst the building's proportion and frontage have some positive architectural attributes, the building as a whole would not be considered a prime or good example for this period with little remaining quality in the external detailing and finishes, lacking the necessary architectural interest, quality and character required for listing. Therefore the building does not provide significant architectural interest and certainly cannot be considered special in this regard.

**Historic Interest**

In terms of Historic Interest the building was likely constructed in the late Nineteenth Century and is not known to be the work of an important architect. The building also appears to have been significantly altered with many unsympathetic features added. The building is therefore not of definitive quality and character and would not be described as outstanding for its time period.

The building does have some level of local community and social history, having served as a community house, oratory and residence for local Priests in Aghadowey Parish over the years. However, in more recent times it has since been vacant.

**Recommendation**

In light of the above information, the building does not exhibit the necessary 'special' architectural quality or historic interest to satisfy the listing criteria.

Considered by council planning authority on : 3/1/18

Checklist	Yes	No
Building appears to satisfy the listing criteria		✓
Building has permission to demolish or significantly alter the building		✓

**Decision Do not issue a BPN.**

Signed: *S. Mulhern*

Date *3/1/18*

Ms Sharon Mulhern BSc Hons DIS MRTPI  
Local Development Plan Manager



# Planning Policy Statement 6 Planning, Archaeology and the Built Heritage

Revised Annex C:  
Criteria for Listing

March 2011



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# Preamble

Planning Policy Statement 6 'Planning, Archaeology and the Built Heritage' (PPS6) was published in March 1999. PPS6 sets out the Department's planning policies for the protection and conservation of archaeological remains and features of the built heritage, and embodies the Government's commitment to sustainable development and environmental stewardship. Annex C of PPS6 provides the criteria under which buildings of special architectural and/or historic interest are listed.

Following commitments given to the Northern Ireland Assembly in February 2008, the Northern Ireland Environment Agency (NIEA) published a revised Annex C for public consultation in April 2010 based on established practice from across Great Britain and the Republic of Ireland.

In taking account of comments received to the above consultation, this document contains revised criteria for use by the Department in listing buildings of special architectural and/or historic interest under Article 42 of the Planning (Northern Ireland) Order 1991.

This document replaces Annex C of PPS6.



# Criteria for Listing

## Introduction

- C1 The protection of historic buildings and structures by listing is only one part of a suite of controls that helps the Department influence and manage the Historic Environment. Important historic structures may be more appropriately protected for example as Monuments in State Care; Scheduled Historic Monuments; or as part of Conservation Areas. Many listed buildings are located in Conservation Areas. Designation of a structure as both a listed building and as a scheduled historic monument is normally avoided by deciding which form of protection is most appropriate<sup>1</sup>.
- C2 Other controls guide planning decisions that affect historic structures within Areas of Townscape Character, Areas of Village Character, and Local Landscape Policy Areas. These designations are identified through location or area-based development plans.
- C3 Buildings are added to the lists normally as a result of systematic resurvey or review of particular areas or building types. The Department may also consider suggestions made by members of the public (see [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk) for more detail). The Department is required to consult with the Historic Buildings Council<sup>2</sup> and the appropriate District Council before including a building on a list or amending the list. Though not required, it also writes to owners in advance of a proposal to list.

## Statutory Criteria

- C4 Article 42(1) of the Planning (NI) Order 1991 gives the overall test for assessing a building for listing. It states that:

*‘The Department - (a) shall compile a list of buildings of special architectural or historic interest and (b) may amend any list so compiled.*

The key criteria for listing are, therefore, **architectural interest** or **historic interest**. A building can be listed for either criteria but in most cases it will have both. The overall test is that this interest must be considered

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<sup>1</sup> Guidance on how the Department makes this decision is in preparation and will be made available on NIEA’s website.

<sup>2</sup>The Historic Buildings Council was first established in 1973 under the provisions of the Planning (Northern Ireland) Order 1972. Its current authority is derived from the Planning (Northern Ireland) Order 1991. The role of the Council is to advise the Department of the Environment on matters relating to the preservation of buildings and areas of special architectural or historic interest.

**‘special’**. It should be noted that the same criteria must be applied to buildings whether the Department is considering adding or removing them from the list.

- C5 **Architectural Interest** is understood to encompass a broad spectrum which ranges from style, character and ornamentation to internal plan form and functionality. Also important are examples of particular building types and techniques used in their construction. Where buildings have been changed over time (as many have) it is the consideration of its current architectural interest that is important, rather than what it may have been like in the past.
- C6 **Historic Interest** is understood to encompass a broad spectrum which ranges from age and rarity, through the amount of historic material left in a building, to its importance as a historic structure, and to the stories, historical events and people associated with the building. It is important that associations are linked in a clear and direct way to the fabric of the building if they are to be regarded as major grounds for listing. Aspects of social, economic and cultural history revealed by the building may also be considered important.
- C7 The heritage and culture of all parts of Northern Ireland’s society are relevant to the consideration of the historic interest associated with a structure. This includes structures associated with different religious beliefs, political opinions, racial or other groups etc.

### **Group Value**

- C8 In considering whether to include a building in a list, Article 42 (2) of the Planning (NI) Order 1991 states that the Department **may** take into account not only the building itself but also –
- “any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms a part”*
- C9 The main types of group are: Terraces of buildings designed as a group or designed as a single entity. eg: with a ‘palace façade’ or which evolved in a similar style;. Estate-related structures e.g. main house, gate lodges, stables etc; A group of buildings that relate to each other in a planned manner – Court House, Market House, Parish Church, etc, e.g. the Main Street of Moneymore; A group of structures which were constructed as part of a single architectural scheme eg: many railway or canal related structures; Vernacular groups such as ‘clachans’ or structures within an industrial complex which have a less formal relationship but still have important group characteristics. .
- C10 The extent to which group value is relevant to any assessment of special interest will vary. The greater the element of design and the closer structures are to one another, the more this will normally be considered significant. For vernacular and industrial groups the best examples will be those which clearly illustrate known group characteristics eg a

vernacular 'claghan' with all of the constituent historic buildings surviving and the associated 'in field' and 'out field' arrangement intact.

- C11 The value or interest within groups of buildings such as: building 'types', or; all the buildings designed by a particular architect, or; groups of buildings defined by a geographical area, are not considered in regard to 'group value' as defined above.
- C12 When assessing a group, the Department will first consider each building against the listing criteria. If some are considered listable the importance of the group will then be considered. Buildings not individually listable can meet the test as a result.
- C13 Individual buildings can have different listing grades (see section C22), or be deemed not list-worthy, ie, group value alone does not imply listed status.

### Features

- C14 Under Article 42 (2) of the Planning (NI) Order 1991The Department **may** also take into account not only the building itself but also –

*'the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building which consists of a man-made object or structure fixed to the building or which forms a part of the land and which is comprised within the curtilage of the building'.*

- C15 The Department regards the desirability of preserving such a feature as a factor which would increase the likelihood of a building being listed. However, in the absence of any other aspects of special architectural or historic interest, such features will justify the listing of the building only if they are of themselves of sufficient interest to render the building of special interest. An example is an otherwise unremarkable industrial building designed to house a highly important piece of fixed machinery or a significantly altered building which retains a rare seventeenth century roof structure.

NB. Fixtures and Curtilage are precise legal terms- see paragraph C31 to C34 for a detailed consideration.

### Derived Criteria

- C16 Each listed building has an associated record (see Appendix 2), part of which, the '*evaluation*' explains the reasons for listing. Since 1997 this evaluation has been separated from the description of the building and supplemented by letters indicating relevant criteria. These derive from the statutory criteria, and aim to improve clarity and consistency in regard to the legislative test that a listed building must be of: '*special architectural or historic interest*' (see C4).

- C17 The following paragraphs, therefore, explain the criteria which will be considered for all future listing decisions. Not all of these will be relevant to every case, and a building may qualify for listing under more than one of them. However, the criteria provide a framework within which professional judgment is exercised in reaching individual decisions. Criteria are not scored; rather, the aim is for the criteria to act as a framework for a full assessment and understanding of a structure's architectural and/or historic interest.
- C18 Criteria with a significant influence on a listing decision are noted on the building's record. However, the lack of a criterion should not be taken as a lack of importance. For example, Setting may not be a significant determinant of the special architectural interest of a building in itself, but it will often still be of interest and be important to the understanding of key features.
- C19 The following criteria seek to expand and clarify those employed since 1997.

## Architectural Interest

**Style (criterion A)** – A building may fit within a particular and distinctive style, e.g. Gothic Revival or Neo-Classical, or its style may be more eclectic such as the 'free styles' which were popular at the beginning of the 20th century. The assessment will gauge the design against the relevant style and more weight will be given to the best examples. These should provide the most effective or consistent interpretation. A building, such as a vernacular house, may be less formally designed but still be a good example of a recognised style.

**Proportion (criterion B)** – Designed buildings exhibit systems of proportion both internally and externally, and the assessment will take into consideration the inter-relationship of elements within the overall composition, both in plan and in three dimensions, appropriate to the style. Not all buildings were formally designed and the informality of vernacular buildings can have an interest and proportion of their own. The best proportioned examples will be those which display this quality most consistently.

**Ornamentation (criterion C)** – This should be appropriate to the style and nature of the structure under consideration. It will vary from architectural styles that include rich ornamentation to those that deliberately avoided such decoration. The quality of such ornamentation and detailing will also be considered. Some buildings will be significant because of both of these attributes or because the quality of their detail, or that of particular features, stands out from those of their peers. They may also be significant because they have features which are of high artistic quality.

**Plan form (criterion D)** – The plan form of a building can be as carefully designed as its façade and may be of equal significance. Plans which are intact and display the intentions of the designer are of greater significance those which do not. The same is true for a vernacular building which follows the traditional layout or is an interesting variation. Plans may be important because of their architectural quality, as an elegant solution to a complex function, because they display an important architectural concept or because they are a good illustration of a standard or vernacular type. The most significant plans will be those which clearly contribute to the interest of the building.

**Spatial organisation (criterion E)** – This is an extension of the study of plan forms where more complicated buildings often have a planned three dimensional relationship between spaces. The more significant examples of this occur when the potential of such space has been fully exploited in the architecture - such as in a gothic cathedral. Industrial buildings can also be significantly organised to utilise such a relationship. Fortified houses provide another example where the sequence of security from the front door to main rooms in some structures is carefully designed. The best examples take full advantage of this potential.

**Structural system (criterion F)** – This may be an important part of the interest of a historic building where the structure is unusual or an early example. It may also be important as a very good example of a more common type. Structure may be a significant determinant of the architectural form. Bridges often exhibit this interest for the way they have solved the problem of crossing a space or river. The best examples, on structural grounds, will be the most elegant designs or the most efficient solutions relating to the period in which they were built. Vernacular roofs can also be as important for their minor differences as for their underlying standard approach. All constructional types from load bearing mud-walling to cut stonework are of interest.

**Innovatory qualities (criterion C)** – Some buildings are important because they are examples of the early use of building techniques or materials such as patent glazing or they are examples of innovatory layouts - such as the Wiltshire schools.

**Alterations (criteria H+&H-)** – Buildings may have extra interest where they have been added to over the years and illustrate an historic development.(H+) Similarly inappropriate extensions and alterations can damage a building's architectural and historical worth (H-).

**Quality and survival of interiors (criterion I)** – Buildings can be given added significance because of the quality and survival of their interiors. Sometimes the interior of a building can be more important than the exterior. Interiors may be regarded as significant if they are largely intact or if they add to and reinforce the character of the building. They may also be considered important in their own right because of the quality and standard of constituent features such as a plaster ceiling or staircase. Industrial buildings with surviving machinery will often be regarded as more significant than similar structures with such fixtures removed.

**Setting (criterion J)** – A building's setting can have a very important bearing on its architectural interest. The assessment will take into account the integrity of any planned setting. Settings can be important to the special interest of a building even if they were not part of the original design - for example, the wider landscape setting of a vernacular house. Even if not a significant influence on special interest, the loss of setting can have an adverse influence on the character and importance of a historic building.

**Group value (criterion K)** – A building's architectural interest may be increased when it forms part of a group such as a terrace, square or other architectural composition, as explained in paragraphs C9 – C13.

## Historic Interest

NB. Criteria in this section have been reordered to reflect their relative importance in assessment terms.

**Age (criterion R)** – The older a building is, and the fewer surviving examples there are of its kind, the more likely it is to have historic importance. The most significant examples of any age will be those which most clearly reveal this association. Buildings may however also be regarded as significant because of the way their fabric reveals the effects of change over time or illustrates changing values. An example is changes in the eighteenth century to make an old building conform to classical ideals of beauty.

In general, buildings dating from before the early 19th century, ie indicated on the Ordnance Survey 6 inches to one mile County Series maps drawn in the 1830s, which survive in anything like their original form, will qualify for listing.

After this period the choice is progressively more selective, not least because of the greater number of surviving buildings. Buildings constructed between 1830 - 1935 should be of definite quality and character, and will often be the work of important architects. Buildings constructed after 1935, but not normally younger than 30 years, will generally be outstanding buildings including the best works of important architects.

**Rarity (criterion Z)** – Importance is attached to the rarity of a building type, style or construction. This will be most significant when there are few examples of a particular building type left.

**Authenticity (criterion S)** – A building's extent of original fabric and therefore its ability to convey its significance, and levels of integrity, is important. This will add to the interest of a building when compared to its peers. It need not be the case that a building is as originally built, because changes made to it may have added to its interest. However a building

even with a high quality reproduction of historic fittings will be less important than a similar example where the fabric is historic.

**Historic Importance (criterion T)** – A building may be significant because it is a good, early, example of a particular architectural type or structural development- such as the first cast iron structure - or because it forms an important part of the history of a particular style, type, or feature, and its development. The earliest known examples of a style, type or feature will be the most important.

**Authorship (criterion V)** – The buildings of architects who are recognised as being the leading exponents of the architecture of their era will be given special attention.

**Social, cultural or economic importance (criterion Y)** – Buildings such as churches, community halls and schools are of social and cultural importance to a community. The more significant examples will be those with long associations on one site or of particular importance or significance to a group. Some structures may be important because of their contribution to economic development. The most important examples will have made a major contribution to the development of an industry or business of major importance to Northern Ireland. The configuration of a group of buildings where they have facilitated important social interaction such as a market square may also be of social, economic or cultural importance.

**Historic Associations (criterion U)** – Close associations with national, or internationally recognised figures such as founders of important businesses and industries, scientists, writers, etc, or events whose associations are well-documented, can add to the significance of a building. This could be industrial, agricultural, commercial or social. In consideration of such cases the association must be well authenticated and important. If the fabric reflects the person or event and is not merely a witness to them the association will be of higher significance than if it is not. Associations should be linked in a clear and direct way to the fabric of the building if they are to be regarded as the main grounds for listing. Though homesteads, factories and any other buildings associated with such people can be considered, those which can be shown to have influenced or contributed to a persons' historic importance will be considered most significant. Transient association of short term guests, lodgers and tenants, however eminent, will not justify listing.

## **Architectural and Historic Interest**

(These criteria were included under the title of 'historic interest' between 1997 and 2011 and though it is appropriate that they be identified as joint criteria their reference letters remain the same to avoid any confusion.)

**Northern Ireland/International interest (criterion W)** – Some buildings will be of interest within the context of Northern Ireland or even in a

national or international context. This will include vernacular building types particular to Northern Ireland as well as exceptionally good examples of buildings that are common to many countries. If a building is of significant regional or international interest it will not also be recorded as of local interest. This will be assumed.

**Local interest (criterion X)** – Although most buildings will not be of regional or international interest they could be of particular local interest or be an example of a building type concentrated within a small geographical area.

### General Notes

- C20 Where a building qualifies for listing primarily on the strength of its intrinsic architectural quality or its group value, the fact that there are other buildings of similar quality elsewhere is not likely to be a major consideration. Comparative selection would only play a role where a substantial number of buildings of a similar type and quality survive, and in such cases the Department would select the best examples.
- C21 It is important to stress that when buildings are being considered for listing, no factors other than architectural or historic interest as defined above can be taken into account. For example, the condition of a property is not a factor in the evaluation. Similarly, proposals for the future of a building are not relevant to a determination of listing.

### Grading of Listed Buildings

- C22 Buildings listed by the Department are divided into four grades; A, B+, B1 and B2 to give an indication of their relative importance. Gradings in Northern Ireland (unlike elsewhere in the UK) are not statutory. The categories contained within the list can be defined as follows:

**Grade A:** buildings of greatest importance to Northern Ireland including both outstanding architectural set-pieces and the least altered examples of each representative style, period and type.

**Grade B+:** high quality buildings that because of exceptional features, interiors or environmental qualities are clearly above the general standard set by grade B1 buildings. Also buildings which might have merited Grade A status but for detracting features such as an incomplete design, lower quality additions or alterations.

**Grade B1:** good examples of a particular period or style. A degree of alteration or imperfection of design may be acceptable. Generally B1 is chosen for buildings that qualify for listing by virtue of a relatively wide selection of attributes. Usually these will include interior features or where one or more features are of exceptional quality and/or interest.

**Grade B2:** special buildings which meet the test of the legislation. A degree of alteration or imperfection of design may be acceptable. B2 is chosen for buildings that qualify for listing by virtue of only a few

attributes. An example would be a building sited within a conservation area where the quality of its architectural appearance or interior raises it appreciably above the general standard of buildings within the conservation area.

### **Locally listed Buildings (Former Non Statutory Grade C)**

C23 Some important buildings of architectural or historic interest do not meet the 'special' standard required for listed buildings. These were formerly recorded by NIEA as 'Non Statutory Grade C', and their records were collectively known as the 'Supplementary List'. This category was discontinued in 1997. The devolution of powers to compile a non-statutory 'local list' to District Councils has been proposed as part of the Reform of Public Administration. Though this power will be the subject of a separate consultation, it is envisaged that such lists will be made up of buildings which fall into this category. Buildings of this standard are still recorded as part of the survey work needed to isolate buildings for statutory listing and are included within the 'Record Only' category of the Northern Ireland Historic Buildings Database.

## **Associated Procedures**

### **Owner Notification**

C24 The Department will normally serve a non statutory advance notice of listing upon an owner which explains that it intends to list their property. This is followed by a statutory notice informing the owner and occupier(s) that the building has been listed. This includes an explanatory note which states that the building is subject to listed building control and that listed building consent is required from the Department for demolition of the building or any works either to the exterior or interior which would affect its character. It also states that it is an offence to carry out such works without listed building consent or not to comply with any condition attached to a listed building consent. The notice also states that conviction for such an offence can result in a fine or imprisonment. Listed building status may provide the owner with certain tax advantages and also the possibility of grant aid from the Department's Northern Ireland Environment Agency for approved repairs and maintenance.

### **Building Preservation Notices**

C25 If it appears to the Department that a building, which is not a listed building, is of special architectural or historic interest, and is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest, it may serve on the owner and occupier of the building a 'building preservation notice'. This protects a structure for a period of up to six months as if it were a listed building. This allows the Department time to carry out detailed research and consultation and to decide if the structure should be permanently listed. Following the Reform of Public Administration the power to issue such a notice will be devolved

to Local District Councils. The Department will retain responsibility to take the final decision on permanent listing after consultation with the District Council and the Historic Building's Council.

- C26 A building will not normally be considered for listing by the Department once planning permission which will affect its special architectural or historic interest has been granted and is still valid, or while works which have received such planning permission are under way.

### **Public Access to the List**

- C27 The list of buildings of special historic or architectural interest is available for the public to inspect at the Monuments and Buildings Record held by the Northern Ireland Environment Agency at Waterman House, 5-33 Hill Street, Belfast. Sections of the list can also be inspected at the offices of the appropriate district council or at the appropriate Divisional Planning Office. The name and address of all listed buildings are also available on the Northern Ireland Historic Buildings Database located on the Northern Ireland Environment Agency's website ([www.ni-environment.gov.uk](http://www.ni-environment.gov.uk)). For listings reviewed since 1997 detailed descriptions and evaluations relative to the listing criteria are also available on this website. Data and evaluations of unlisted buildings, reviewed by the Department since 1997, can also be accessed on the website.

### **List Description**

- C28 The list includes a Departmental reference number, date of listing, a grid reference, and the name and address of the building.

A brief description / evaluation, bibliographic references, non statutory grade of listing, and the date of erection are also included for each listed building. Where a building has been reviewed by the Department since 1997 this supporting information has been superseded by a more detailed record explaining the Department's view of its special interest online. In cases of dispute the online description, evaluation, bibliographic references, non statutory grade, and the date of erection, as published in the Northern Ireland Buildings Database will be relied upon.

While the list is expected to remain unchanged over time, the supporting information may be subject to periodic review and updating. This may occur as a result of a systematic resurvey (eg the current Second Survey) or if important history or features which add to the evaluation of the building are discovered.

- C29 In many cases the list, associated descriptions and evaluation will appear to set out the most important features of the building. In such a case the information is for guidance purposes only as it is, by necessity, a summary of a structure's interest. Absence from the list description of any reference to a feature (whether external, internal or within the curtilage) does not indicate that it is of no interest, or that it can be removed or altered without consent. Where there is doubt, advice should be sought from the Northern Ireland Environment Agency.

## Listing Map

C30 Under Article 131 of the Planning (NI) Order all listed buildings are also registered in the statutory charges register of the Land Registry. This is recorded as an address and a map which indicates the listed building (statutory charge). A 'red line' indicates the structures of principal interest to the Department such as: a house; gates; and major outbuildings. These are also described in the 'extent of listing' section of the online record.

Where a building has been reviewed by the Department since 1997 this supporting information may have been updated with the aim of improving clarity. A common modification is the inclusion of the back return of a terraced house to clearly indicate that it is an important part of the listed building.

However, it should be noted (see C31 below) that curtilage features and fixtures associated with the building but not highlighted by the red line, are also afforded protection by the legislation.

## Fixtures and Curtilage Structures

C31 Further guidance to what can be included on the list is given in Article 42(7) of the Planning (NI) Order 1991. This Article explains that the term "listed building" refers to any building included in the list and that the following is also treated as part of the building:

- (a) any object or structure within the curtilage of the building and fixed to the building; and
- (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 October 1973.

Paragraph C15 above explains that when listing a building, the Department may also take into account not only the building itself but also:

*'the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building which consists of a man-made object or structure fixed to the building or which forms a part of the land and which is comprised within the curtilage of the building'.* (Article 42 (2) of the Planning (NI) Order 1991)

C32 The word "fixed" has the same connotation as in the law of fixtures, where any object or structure fixed to a building should be treated as part of it. It is therefore a test of fact in each case as to whether a structure is free-standing or physically fixed to the building. Generally it would be reasonable to expect some degree of physical attachment, the intention of which is to make the object an integral part of the land or building. Examples of fixtures to a building would normally include items such as chimney pieces, wall paneling and painted or plaster ceilings.

- C33 It may be difficult however to decide whether a particular object or structure is a fixture or not. Free standing objects, such as statues, may be fixtures if they were put in place as part of an overall architectural design: this would include objects especially designed or made to fit in a particular space or room. Works of art which were placed in a building primarily to be enjoyed as objects in their own right, rather than forming part of the land or building, are not likely to be considered as fixtures. However, each case must be treated individually, and owners that contemplate works to remove such features are advised to contact the Department.
- C34 The listing of a building affords protection to those objects or structures contained within its curtilage which form part of the land and have done so since before 1 October 1973. Examples of such objects might include stables, mews buildings, garden walls, a gate lodge or stone setts (cobble). There is no exact legal definition of a building's curtilage and this sometimes causes difficulties, but the following considerations may be of assistance in determining what is included within the curtilage:
- the historical connection of the building to the principal building
  - the physical layout of the principal building and other buildings;
  - the ownership of the buildings now and at the time of listing;
  - whether the structure forms part of the land at present; and
  - the use and function of the buildings, and whether a building is ancillary or subordinate to the principal building.
- C35 Changes in ownership, occupation or use after the listing date will not bring about the delisting of a building which formed part of the principal building at the time of listing. Ancillary buildings which served the purposes of the principal building at the time of listing or at a recent time before the building was listed, and are not historically independent of the principal building, are usually deemed to be within the curtilage. Where a self-contained building was fenced or walled off at the date of listing, regardless of the purpose for which it was built or its use at the time of listing, it is likely to be regarded as having a separate curtilage. To be within the curtilage, the structure or building must still form part of the land at the time of listing, and this normally means that there must be some degree of physical connection to the land ie, the curtilage building was part and parcel of the main property when it was listed. As with fixtures however this guidance does not purport to be definitive and the Department will often need to consider the facts of each case.

### **Right of Appeal**

- C36 There is no right of appeal against listing. However, an owner or occupier can write to the Department at any time, if they consider that the building is not of special architectural or historic interest sufficient to justify its listing. Such a claim must be supported by factual evidence relating only to the special architectural or historic interest ascribed to the building in

the list description. The Department may then reassess the building's merit in light of the information supplied (see C38 below).

### **Certificates of Immunity from Listing**

C37 Provided that planning permission is being sought or has been obtained, any person may apply to the Department to issue a certificate stating that it does not intend to list the building or buildings involved in the planning application (Article 43 of the 1991 Planning (NI) Order). Before issuing a certificate the Department will consult with the Historic Buildings Council and the local district council. Where a certificate is issued, the building cannot be listed for five years. However, if the Department does not grant a certificate, then it will normally add the building to the statutory list. This procedure gives greater certainty to developers proposing works which will affect buildings that might be eligible for listing.

### **Delisting**

C38 Buildings are sometimes removed from the list. This may be because the Department has seen fit to grant listed building consent to demolish or severely alter the building (See policy BH10 of PPS6), has reviewed the listing (normally as part of a resurvey) and found that it does not meet the statutory test, or because an interested party (usually the owner) has demonstrated to the satisfaction of the Department that the building no longer meets the test of the legislation. In cases where unapproved changes have occurred to a building since listing an applicant will need to show that the restoration of such changes would still not allow the building to meet this test. As with listing, the Department is obliged to consult the Historic Buildings Council and the appropriate district council before removing a building from the list. The Department will then serve a notice on the owner and occupier to the effect that the building has ceased to be listed, with an explanation for the decision.

# Appendix 1: The Statutory criteria – Extract from the Planning (Northern Ireland) Order 1991

## Lists of buildings of special architectural or historic interest

### Article 42.

(1) The Department—

(a) shall compile lists of buildings of special architectural or historic interest; and

(b) may amend any list so compiled.

(2) In considering whether to include a building in a list compiled under this Article the Department may take into account not only the building itself but also—

(a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and

(b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building which consists of a man-made object or structure fixed to the building or which forms a part of the land and which is comprised within the curtilage of the building.

(3) Before compiling or amending any list under this Article, the Department shall consult with the Historic Buildings Council and with the appropriate district council.

(4) As soon as may be after any list has been compiled under this Article, or any amendments of such a list have been made, the Department shall cause a copy of so much of the list, or so much of the amendments, as relates to the area of a district council to be deposited with the clerk of that council.

(5) As soon as may be after the inclusion of any building in a list under this Article, whether on the compilation of the list or by its amendment, or as soon as may be after any such list has been amended by the exclusion of any building from it, the Department shall serve a notice in the prescribed form on every owner and occupier of the building, stating that the building has been included in, or excluded from, the list, as the case may be.

(6) The Department shall keep available for inspection by the public at all reasonable hours copies of lists and amendments of lists compiled or made under this Article.

(7) In this Order "listed building" means a building which is for the time being included in a list compiled under this Article; and, for the purposes of the provisions of this Order relating to listed buildings, the following shall be treated as part of the building—

(a) any object or structure within the curtilage of the building and fixed to the building;

(b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st October 1973.

## Appendix 2: Typical Public Record

(Available on request. Web database does not currently display photos)

<p><b>Address</b> St Joseph's RC parochial house 38 Pilot Street Belfast Co Antrim BT1 3AH</p>	<p><b>HB Ref No</b> HB26/50/095 B</p> 
<p><b>Extent of Listing</b> House and gate.</p>	
<p><b>Date of Construction</b> 1860 - 1879</p>	
<p><b>Townland</b> Belfast Town Parks</p>	
<p><b>Current Building Use</b> Rectories/ Manses etc</p>	
<p><b>Principal Former Use</b> Rectories/ Manses etc</p>	

<b>Conservation Area</b>	No	<b>Survey 1</b>	Not Listed	<b>OS Map No</b>	130/10
<b>Industrial Archaeology</b>	No	<b>EHS</b>	B1	<b>IG Ref</b>	J3449 7525
<b>Vernacular</b>	No	<b>Date of Listing</b>	17/10/2005	<b>IHR No</b>	
<b>Thatched</b>	No	<b>Date of Delisting</b>		<b>SMR No</b>	
<b>Monument</b>	No				
<b>Vacant</b>	Yes				
<b>Derelict</b>	No				

**Owner Category** Church - RC

### Building Information

#### Exterior Description and Setting

Tall, mildly Italianate, red brick four storey rectory house (set within a terrace) of 1879-80 with arch headed windows, overhanging slated (partly) hipped roof and lintels and string courses in red sandstone. The property is set on the NE side of Pilot Street at the Rear of St Joseph's RC Church.

The front elevation to Pilot Street contains a staircase within the façade which rises to a first floor entrance door. This results in a third of the façade sitting back from the road behind the stair. The door is sheltered by a slated hood on brackets and has semicircular fanlight. At first floor are two paired round headed windows and a large arched window into the main living room. Windows on the second floor

have semicircular head and on the top floor they are flat under the eaves. At ground level flat heads with a bevel in the lintel. Original sashes removed but it is likely that they followed the one over one pattern of the current PVC replacements. There are red sandstone string courses at cill and head level to the upper floors. Rafter ends are exposed under the overhanging eaves.

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**Architect**

Thomas Morton

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**Historical Information**

Built in 1879-80 at the same time as the erection of St Josephs Church to the rear. The architect for this building is not confirmed but it is likely that it was either Thomas Hevey who designed the church or his assistant Thomas Morton who took on the work after his early death. Given the difference in style and material between the two buildings it may be that it is the work of the second man.

The building functioned as a parochial house for the adjacent church until its closure in 2001. It is largely unchanged since construction apart from the removal of its windows and some fireplaces.

Occupied during the 1980's and 90's by Franciscan Monks, the shift of population away from the docks area in the later half of the 20<sup>th</sup> century led to a gradual decline in worshipers attending St Joseph's and its closure in February 2001. The building was vacant at the time of survey in 2003.

References- Primary sources

- 1 Fred Heatley, 'St Joseph's centenary 1872-1972: The story of a dockside parish' (Belfast, 1972)

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**Criteria for Listing**

**Architectural Interest**

- A. Style
- B. Proportion
- C. Ornamentation
- D. Plan Form
- H-. Alterations detracting from building
- J. Setting
- K. Group value

**Historical Interest**

- V. Historical Association/Authorship
- X. Local Interest
- Z. Scarcity
- Y. Social Importance

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**Evaluation**

38 Pilot Street is a unique building in Northern Ireland. Because of a tight site it is squeezed and tall resulting in a parochial house which is much more European in form than many of its contemporaries. The steep entrance steps within the depth of the façade and the consistent and complementary details are all part of a carefully composed façade which is given prominence by the contrast of the workaday warehouse and dockside surroundings. The building is a conscious beacon of an aesthetic and higher approach to life within a more haphazard area.

Despite the loss of original windows sufficient character of this building remains to regard it as special. The details both inside and out are consistent for their time and style, it is well proportioned and the impact upon its setting carefully considered, the plan is unusual and intact, the difficult junction with the main church behind and the organisation of the plan to accommodate this is also of interest. With St Josephs Church immediately behind it forms a prominent architectural group.

Historically the building is important for its function as part of a nineteenth century outreach of a church to a dockside community. Such a tradition is quite marked in areas such as the East End of London but not found in Northern Ireland as a specific type outside of Belfast.

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**Date of Survey** 13/03/2002

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