

Agenda Item	<b>6.5</b>
Report No	<b>PLN/087/23</b>

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee  
**Date:** 06.12.2023  
**Report Title:** 23/02275/FUL: J Waters Paint & Wallpaper  
15 Riverside Place  
Thurso  
KW14 8BZ  
**Report By:** Area Planning Manager - North

### **Purpose/Executive Summary**

**Description:** Erection of extension and change of use from derelict house to paint shop (amendment to previous approval ref: 21/01384/FUL). (In retrospect). Installation of solar panels.

**Ward:** 02 - Thurso And North West Caithness

**Development category:** Local

**Reason referred to Committee:** Called in by a majority of Ward Members

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

### **Recommendation**

Members are asked to agree the recommendation to **REFUSE** the application as set out in section 11 of the report

## 1. PROPOSED DEVELOPMENT

1.1 This is a retrospective application to regularise an unauthorised extension to a Category 'C'-listed building. An extension was secured under recent planning permission and listed building consents, however the constructed extension's design, scale and external finishing materials depart from the approved plans.

This application is being considered in tandem with 23/02276/LBC - erection of extension and change of use from derelict house to paint shop (amendment to previous approval ref: 21/01637/LBC) (in retrospect), installation of solar panels.

An extension of approximately 5.4 metres to roof ridge height was approved, but an extension of 6.75 metres to roof ridge height has been constructed. The constructed extension is however of the approved length and width (approximately 9.72 metres x 5.15 metres respectively).

The constructed extension's arrangement of windows, doors and signage differs markedly from that approved.

The approved extension's exterior was to be surfaced in natural vertically-laid larch cladding, while the constructed extension has in fact been clad in horizontally-laid white Cedral boards.

1.2 The Planning Authority's concerns detailed above are summarised as follows:

The constructed extension is 1.1m taller than originally approved;

Its external cladding is different to that approved in 2021 (Cedral cladding over natural larch) and is now horizontal;

Doors and window frames diverge from the approved design, as set out in the below table:

	<b>As approved (2021)</b>	<b>As constructed</b>	<b>Changes required by Planning Authority</b>
<b>North-west, ground-floor window</b>	Single landscape window	Full-height window with central astragal	Position acceptable; timber 'conservation' style window however required
<b>North-west, first-floor window</b>	(N/A – single-storey extension approved)	Full-height window with central astragal	To be removed – unnecessary for a 'store' area
<b>North-west gable signage</b>	Linear, horizontal sign across centre	Square sign installed to one side of first-floor window	Refer to 'Shopfront Design Guide' SG
<b>South-west double doors</b>	Double doors		Position acceptable; timber doors are required

<b>South-west single door</b>	Single door adjacent to double doors	Door relocated southward, swapped position with central window	Position acceptable; timber door however required
<b>South-west central window</b>	4 x 2 paned landscape window	2 x 1 window with central astragal	4 x 2 paned (timber) landscape window
<b>South-west additional window</b>	4 x 2 paned landscape window	Not implemented	Optional
<b>South-west rooflights</b>	Two rooflights, widely spaced	Two rooflights, towards centre	Two rooflights, widely spaced
<b>Window frames</b>	Timber, painted white	Grey woodgrain-effect uPVC	Timber 'conservation' style windows
<b>External wall finish</b>	Natural vertically-laid larch cladding	Horizontally-laid white Cedral cladding	Buff-coloured lime harl on substrate
<b>Roof ridge height and creation of an additional upper storey</b>	5.4 metres	6.75 metres	5.4 metres

1.3 Pre Application Consultation: none.

1.4 Supporting Information: before/after photographs.

1.5 Variations: plans as originally submitted did not accurately depict the extension as built – accurate plans were requested on several occasions and were eventually received on 15 November 2023.

## 2. SITE DESCRIPTION

2.1 The category 'C' listed building is a two-storey traditional stone-built townhouse that forms a part of a small terrace of seven properties that mostly edge the public road with rear gardens backing on to the Council owned (but privately operated) car park, currently serving a supermarket. The five adjacent properties to the north-east are single-storey traditional cottages, while the adjoining two-storey corner property to the south-west is considerably recessed, ensuring the house is prominent in the street. Until recently, the building was in a relative derelict state but has recently been subject to significant restoration and extension work.

2.2 The application building's list description follows thus:

Earlier 19th century, symmetrical 2-storey, 3 bay house. Coursed rubble, painted tooled ashlar margins. Centre door; 1st floor window in SW gable; 12-pane glazing; end stacks; composite tiled roof.

### 3. PLANNING HISTORY

3.1	03.09.2009	09/00246/LBCCA   Renovation of existing house and erection of single storey extension, demolish existing extension and outbuildings, installation of timber double swing sash and case windows, re-slate roof, formation of 2 no. dormer windows on rear elevation.	APPLICATION PERMITTED
3.2	03.09.2009	09/00247/FULCA   Renovation of existing house and erection of single storey extension, demolish existing extension and outbuildings, installation of timber double swing sash and case windows, re-slate roof, formation of 2 no. dormer windows on rear elevation.	LISTED BUILDING CONSENT
3.3	02.09.2021	21/01384/FUL   Change of use from house to shop, erection of extension, demolition of extensions	APPLICATION PERMITTED
3.4	02.09.2021	21/01637/LBC   Change of use from house to retail paint and decoration shop, erection of extension, demolition of extensions	LISTED BUILDING CONSENT
3.5	27.10.2022	22/00356/ENF   Unauthorised Building, Eng or Ops	NOTICE SERVED
3.6	21.02.2023	22/06191/LBC   Install solar panels to the roof of the new extension	APPLICATION RETURNED
3.7	09.05.2023	23/01136/LBC   Installation of solar panels to rear extension	APPLICATION WITHDRAWN
3.8	DATE PENDING	23/02276/LBC   Erection of extension and change of use from derelict house to paint shop (amendment to previous approval ref: 21/01637/LBC). (In retrospect). Installation of solar panels.	PENDING CONSIDERATION

### 4. PUBLIC PARTICIPATION

4.1 Advertised: John O’Groat Journal, ‘Listed Building’ 21 days

Edinburgh Gazette, ‘Listed Building’ 21 days

Date Advertised: 2 June 2023

Representation deadline: 23 June 2023

Timeous representations: One objection from one household.

Late representations: None.

4.2 Material considerations raised are summarised as follows:

- a) Constructed extension is of a greater height and length than that approved; rooflights, rainwater goods and roof covering are also not as approved.
- b) Work to a boundary wall is causing issues of damp for neighbouring

properties. Wall is at potential risk of collapse. Another removed wall has not been reinstated.

c) Amenity issues caused by location of new stench pipe.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam).

## 5. CONSULTATIONS

### 5.1 Historic Environment Team – Conservation

The development cannot be supported as it will adversely affect the special architectural and historic character of the parent listed building and is therefore contrary to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, NPF4 Policy 7c and HwLDP Policy 57.1.

Of primary concern in this case are a) the height of the proposed building, which breaks into the rear roofslope of the listed building, b) the cladding, which is of a material, colour and design that is unsuitable, unsympathetic and inappropriate for use on a listed building, and c) the openings on the gable, which are inappropriate in terms of size and proportion.

For this proposal to be on balance acceptable and supportable, we require traditional external finish that reflects and relates to the listed building and that meets the non-combustibility requirements of building standards. In this case this should be a lime harl applied to a suitable substrate, i.e. blockwork or board and mesh. Secondly, the openings on the prominent gable will need to be significantly reduced in size and be amended to be of traditional vertical proportions, with timber frames. It is notable that the elevation drawings show the 1st floor gable window of a different size and proportion to that that has been built, and the same may also be the same of the ground floor window. The location and proportions of the proposed signage also differs from what has been erected. It is therefore unclear if the applicant proposes to change the existing windows and signage to align with the elevation drawings (which would not be supported) or to regularise what has been unlawfully built, which (if it is to be supportable) will need to be significantly reduced in size.

Revised drawings that take account of the comments above should be submitted for consideration. If the applicant is unwilling to make the required changes the Historic Environment Team will strongly object to the proposal for the reasons outlined above.

### 5.2 Planning Enforcement Team

Subject to an active Enforcement case, specifically relating to a new skylight not having been included on approved plans. A Section 33A Notice was served in October 2022.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application:

### 6.1 National Planning Framework 4 (NPF4) (2023)

Policy 1 - Tackling the Climate and Nature Crises

Policy 2 - Climate Mitigation and Adaptation  
Policy 3 - Biodiversity  
Policy 7 - Historic Assets and Places  
Policy 9 - Brownfield, Vacant and Derelict Land and Empty Buildings  
Policy 12 - Zero Waste  
Policy 13 - Sustainable Transport  
Policy 14 - Design Quality and Place  
Policy 15 - Local Living and 20 Minute Neighbourhoods  
Policy 22 - Flood Risk and Water Management  
Policy 23 - Health and Safety  
Policy 27 - City, Town, Local and Commercial Centres

## 6.2 **Highland Wide Local Development Plan (HwLDP) (2012)**

28 - Sustainable Design  
29 - Design Quality & Place-making  
31 - Developer Contributions  
34 - Settlement Development Areas  
40 - Retail Development  
56 - Travel  
57 - Natural, Built & Cultural Heritage  
58 - Protected Species  
64 - Flood Risk  
65 - Waste Water Treatment  
66 - Surface Water Drainage

## 6.3 **Caithness and Sutherland Local Development Plan (CaSPlan) (2018)**

Site is located within Thurso's Settlement Development Area and defined Town Centre. Site is located well outside Thurso Conservation Area.

Placemaking Priorities:

- Promote and enhance the built heritage of the town.
- Regeneration of the settlement centre by directing all significant footfall generating uses towards the town centre which will help to enhance its vitality and vibrancy.
- Relocate industrial uses along the riverfront and replace them with residential and mixed use development to make the most of the river corridor setting.

## 7. **OTHER MATERIAL CONSIDERATIONS**

### 7.1 **Highland Council Supplementary Planning Policy Guidance**

Developer Contributions (March 2013)

Flood Risk & Drainage Impact Assessment (Jan 2013)  
Highland Historic Environment Strategy (Jan 2013)  
Highland's Statutorily Protected Species (March 2013)  
Sustainable Design Guide (Jan 2013)  
Shopfront Design Guide (May 2018)  
Historic Windows and Doors (May 2017)

## **8. PLANNING APPRAISAL**

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

### **Determining Issues**

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

### **Planning Considerations**

- 8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) Suitability of Materials
- c) New Door and Window Openings
- d) Other Material Considerations

### **Development plan/other planning policy**

- 8.4 NPF4 Policy 7c 'Historic assets and places', requires that: Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.
- 8.5 There is a requirement to judge proposals in terms of their impact upon the natural, built and cultural heritage features identified by Policy 57 of the HwLDP. As an application relating to a Category C building Policy 57.1 states that developments are suitable where they can be demonstrated not to have an unacceptable impact on the protected amenity and heritage resource. It is also noted that the application site is located within a Settlement Development Area, wherein HwLDP Policy 34 supports policy-compliant proposals.
- 8.6 Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that, "In considering whether to grant listed building consent for any works, the planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

### Suitability of Materials

- 8.7 As a general convention, application of non-natural or non-heritage materials to listed buildings tends to be discouraged, in order to safeguard them from inappropriate development. A natural larch-clad extension was therefore considered to be suitable and was granted Planning permission in September 2021. During a subsequent Building Warrant application, however, this natural timber cladding was not accepted by the Building Standards Team as it was not considered to be sufficiently fire-retardant in proximity to a neighbour's boundary. At this stage, it was incumbent on the applicant/agent to then contact the Planning Authority to agree a more appropriate material in terms of both aesthetic heritage design and fire safety, most likely requiring amended applications to be submitted prior to undertaking any development works. This opportunity to regularise a material change to approved applications was not however taken and so in pursuing an unauthorised design in relation to a listed building, a criminal offence has technically taken place.
- 8.8 As the incorporation of white horizontal Cedral cladding is both inappropriate and unacceptable in relation to a statutorily-designated built heritage asset, the Planning Authority requires the applicant to remove the existing cladding and instead apply a traditional lime harl finish to a suitable substrate – this option is considered both suitably respectful to the historic built environment and sufficiently fire-retardant. A lime harl would be expected to be off-white/putty/oatmeal coloured, which would be more visually recessive and subservient to the original listed building than bright white cladding.
- 8.9 The applicant has been presented with the above solution but their agent has advised that “the Cedral cladding will not be removed” – the application under consideration is therefore recommended for refusal on the basis that an acceptable solution cannot be reached.

#### New Door and Window Openings

- 8.10 In terms of material, the approved extension's window openings are stated on plans to be of timber, painted white. This would have been acceptable from a historic environment perspective. The constructed extension's windows depart from this significantly, being of an anthracite grey colour. The exact window frame material appears to be of woodgrain-effect uPVC, rather than of timber as approved.
- 8.11 The size, scale and number of windows is also considered to be problematic. The constructed extension's rear elevation features one additional window to that as approved, due to the unauthorised construction of an upper storey. The exact arrangement of a central upper window juxtaposed with a slightly wider, off-centred window below is not considered to be of sufficient quality in relation to a listed building. While these windows' vertical emphasis is welcomed, the ratio of a single large window to an elevation otherwise clad in timber is considered to be more modest and appropriate for an extension to a listed building. Attention is furthermore drawn to supplementary guidance set out in 'Historic Windows and Doors' (2017):
- i. Windows and doors will relate materially and aesthetically to their immediate context and also the wider historic setting.
  - ii. The preference is for timber windows. Where justification is provided high quality contemporary materials, such as steel and powder



coated aluminium, may be supported. Note that uPVC will not be supported.

- iii. Unless justification that horizontally aligned windows are a necessary component of the overall design, windows will generally be vertically proportioned.

The configuration and dimensions of existing windows are however not supported – a series of grills and astragals on approved drawings acted as an appropriate acknowledgement to the 12-pane glazed windows within the listed building's principal elevation. The constructed extension's windows are less contextual, bisected only by one central astragal. They are considered to be excessively generous in size and require to be reduced in scale to be more in sympathy with the original listed building which, it is noted, was constructed at a time when windows were taxed.

#### Additional storey

- 8.12 The Planning Authority acknowledges that an upper storey has been constructed, diverging from 2021 approved plans. Plans currently under consideration depict a kitchen, office, shower room, W/C and stores at first-floor level. Plans approved in 2021 included two offices, a shower room and storage space at first-floor level. The application has been assessed on the basis that these are additional facilities ancillary to the current use.

#### **Other material considerations**

- 8.13 Consideration of issues such as travel, access, parking, water supply and drainage were fully considered within permitted application (ref. 21/01384/FUL) – these matters remain unchanged since their previous assessment and so consideration of them is not required to be duplicated at this time.
- 8.14 Part of the development work undertaken to date includes a restoration of the listed building's principal elevation. This more or less accords with approved plans (with only a slight departure regarding its new front door's configuration). Restoration work has been executed to a high standard; the listed building's Riverside Place elevation conveys an attractive, fresh appearance and so now exerts a significantly more positive effect on its surroundings – the Planning Authority therefore supports this aspect of the development.

#### Developer Contributions

- 8.15 Policy 31 requires that, where developments create a need for new or improved public services, facilities or infrastructure, the developer makes a fair and reasonable contribution in cash or kind towards these additional costs or requirements. This application has been assessed against 'Developer Contributions' supplementary guidance and no contribution is necessary.

### **9. CONCLUSION**

- 9.1 The Planning Authority has granted permission for an extension, the design of which was negotiated at length during its determination process. Regrettably the work undertaken is unauthorised in its current form and significantly departs from the approved plans by virtue of the fact that;
  - I. The rear extension is significantly taller than approved by 1.1 metres

resulting in the creation of an another storey

- II. The installation of inappropriate external timber wall cladding
- III. The windows and doors are finished in wood grain effect uPVC
- IV. The windows and doors by virtue of their number and size do not accord with the approved plans

Given the discussion that occurred prior to the submission of the application, the amendments to the design and finish of the building were undertaken without the approval or discussion with the Planning Authority. In light of this, the decision to progress with these works without further recourse to the Planning Authority is particularly disappointing.

The principle of bringing this building back into use is welcomed, however the Planning Authority is unable to accept the modifications as undertaken as they serve to erode and detract from the character of this listed building. It remains within the Planning Authority's remit to require a complete removal of the extension, allowing a more appropriate development; it is however considered that this could be avoided if modifications were proposed to the design and finish. The applicant via their agent has advised that they do not wish to make any amendments and seek determination of the application as submitted. Regrettably, the Planning Authority has no option but to recommend refusal of this retrospective case and its sister Listed Building Consent application (also retrospective).

## 10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## 11. RECOMMENDATION

### Action required before decision issued

Notification to Scottish Ministers	No
Conclusion of Section 75 Obligation	No
Revocation of previous permission	No

**Subject to the above actions**, it is recommended to **REFUSE** the application for the following reasons:

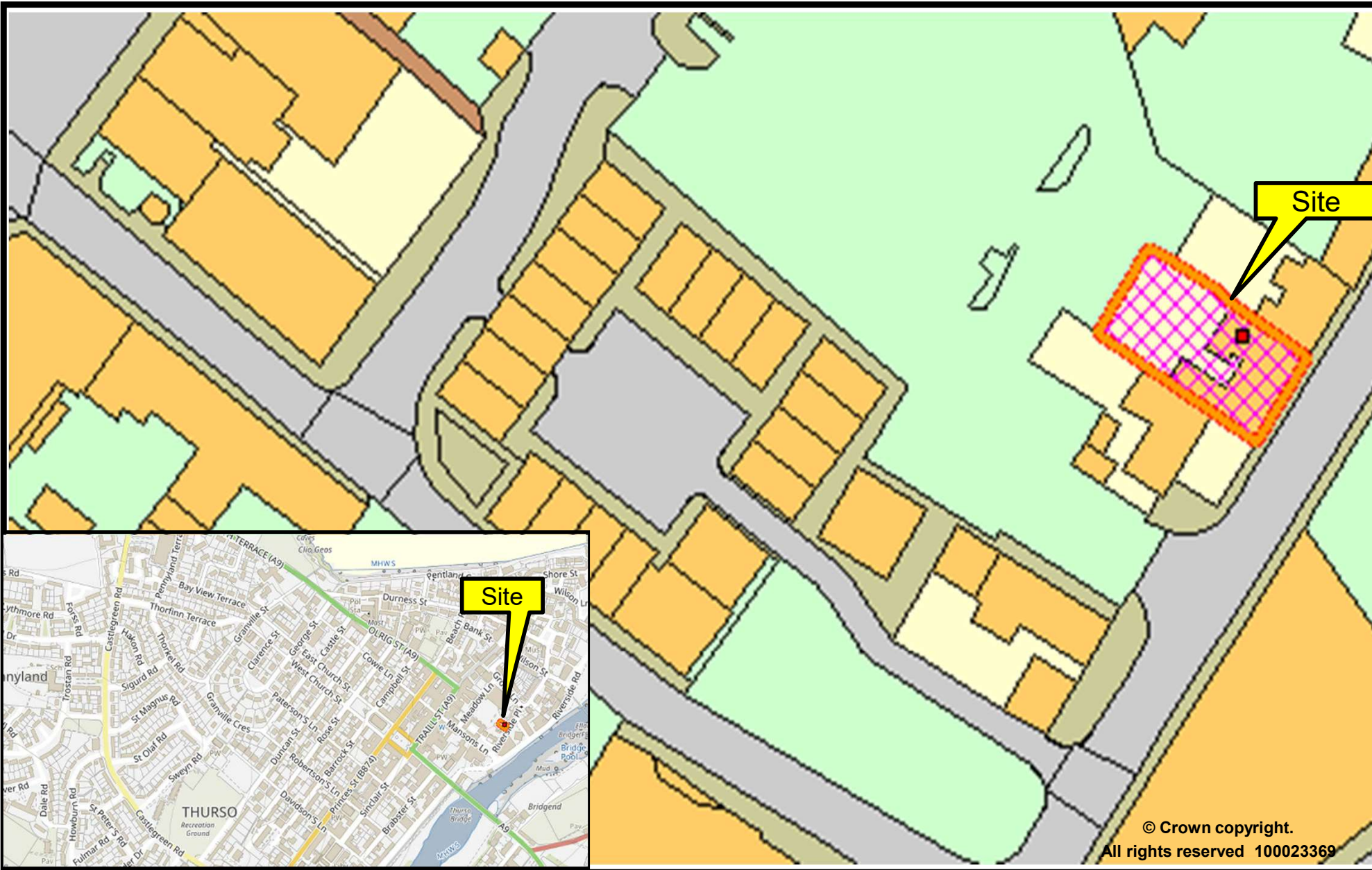
- |    |                                                                                                                                                                                                                                                                                |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | The external wall appearance of the constructed extension has resulted in an adverse impact on a Category 'C' listed building, by incorporating a historically inappropriate material (Cedral cladding). As the constructed extension has been entirely clad in this material, |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

	<p>the quantity of material is unacceptable as much as the choice of material itself. This unjustified and avoidable impact on a statutorily-designated heritage asset is contrary to NPF4 Policy 7, HwLDP Policies 28, 29 and 57 and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The development is unlawful, having carried out works to a listed building which depart from the provisions of a Listed Building Consent.</p>
2.	<p>The external appearance of the constructed extension has resulted in an adverse impact on a Category 'C' listed building, by incorporating a series of large uPVC-framed windows. The form of these windows is unacceptable, as they do not take the existing listed building's windows into account – their landscape orientations are broken up by only single astragals, in contrast to the paned appearance of the existing listed building's windows. Their design is inconsiderate, exerting an unjustified and avoidable impact on a statutorily-designated heritage asset contrary to NPF4 Policy 7, HwLDP Policies 28, 29 and 57 and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The development is moreover unlawful, having carried out works to a listed building which depart from the provisions of a Listed Building Consent.</p>
3.	<p>The external appearance of the constructed extension has resulted in an adverse impact on a Category 'C' listed building, by unlawfully incorporating an additional storey in a departure from granted Listed Building Consent. The height of the constructed extension breaches the eaves of the existing listed building, conveying an unbalanced and awkward appearance. Its inconsiderate massing exerts an unjustified and avoidable impact on a statutorily-designated heritage asset contrary to NPF4 Policy 7, HwLDP Policies 28, 29 and 57 and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.</p>

Signature: Dafydd Jones  
Designation: Area Planning Manager – North  
Author: Craig Simms  
Background Papers: Documents referred to in report and in case file.

Relevant Plans:

<b>Document Type</b>	<b>Document No.</b>	<b>Version No.</b>	<b>Date Received</b>
Location Plan	WL/1		9 May 2023
Ground Floor Plan	WL/2	REV A	16 November 2023
First Floor Plan	WL/3	REV A	16 November 2023
Floor Plan - Attic	WL/4	REV A	16 November 2023
Elevations	WL/5	REV A	16 November 2023
Section Plan 1	WL/6	REV A	16 November 2023
Section Plan 2	WL/7	REV A	16 November 2023

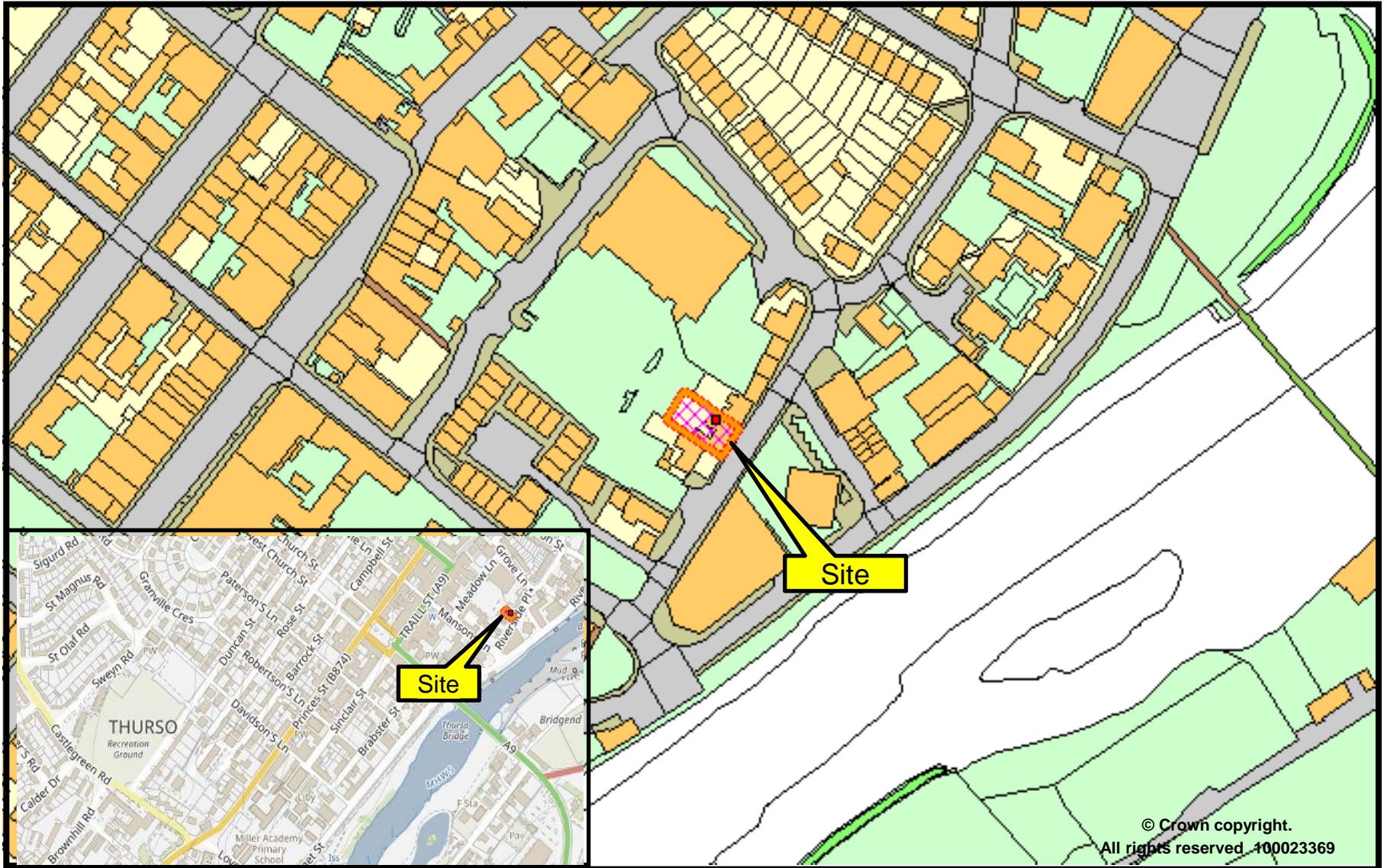


**23/02275/FUL & 23/02276/LBC**

Erection of extension and change of use from derelict house to paint shop (amendment to previous approval ref: 21/01384/FUL). (In retrospect). Installation of solar panels. At 15 Riverside Place, Thurso.  
 December 2023







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