

Building Preservation Notice (BPN) – former Palladium Cinema, High Street, Ballymoney	26th October 2016
Planning Committee For Decision	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Outcome
Leadership and Champion	<ul style="list-style-type: none"> 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.
Protect the Environment in Which We Live	<ul style="list-style-type: none"> All environments in the area will benefit from pro-active decision making which protects the natural features, characteristics and integrity of the Borough.
Lead Officer	Principal Planning Officer/Local Development Plan Manager
Cost:	N/A

1.0 Background

1.1 Councillor Ian Stevenson has asked Council to consider serving a Building Preservation Notice (BPN) on the former Palladium Cinema, High Street, Ballymoney.

2.0 Detail

2.1 Planning officials met with Councillor Stevenson and his constituent, Mr Codie Murray regarding the old cinema building. They were informed that the overall development site at High Street/Linenhall Street was sold recently to a local property developer. Given this sale, Councillor Stevenson considers that the site is at risk of clearance, and as such, the cinema building could be lost.

2.2 Councillor Stevenson informed officials that the cinema closed in 1969 after showing its last film; Planet of the Apes. He also advised that the building has not had a subsequent use. He argued that the building is worthy of listing given its:

- distinct art-deco style (circa 1930's);

- (relatively) intact exterior state;
- Rarity; and
- social history interest

2.3 Councillor Stevenson provided officials with a selection of photographs and information on the building (see Appendix 1 & 2). It is not known when these photographs were taken.

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 3). 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 4);
- record the structure;
- consider the building against PPS 6 Listing Criteria (see Appendix 5);
- 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 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 Council's current Scheme of Delegation. Emergency BPNs however, are as this was agreed at last month's Planning Committee.

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 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 This site lies within Ballymoney Town Centre boundary, as defined in the Northern Area Plan (NAP) 2016, but outside the Conservation Area.
- 5.2 The site is identified as a (committed) major Development Opportunity site; BYT 02: Linenhall Street (0.35ha) in Map 201/b of NAP 2016 (see Appendix 6) on the

basis that, at the time of the Plan preparation, planning permission had been granted for an apartment and retail scheme (Ref: D/2006/0131/F).

- 5.3 This permission lapsed on 12th November 2012. Council officials are not aware that a material start has been made on site in relation to that permission. Therefore, as present, there is no live permission or pending application on the site.
- 5.4 Given that the building is not listed and does not lie within a Conservation Area/ Area of Townscape Character, planning consent is not currently required for its demolition.
- 5.5 It should be noted that the last paragraph at Pg 23 of NAP 2016 Volume 1 deals specifically with Development Opportunity Sites. It states that *“Development Opportunity Sites are zoned in Ballymoney, Coleraine and Limavady and identified in the relevant section in Volume 2. These are large, vacant or underused sites within the town, redevelopment of which will assist in meeting many of the Plan’s objectives, such as the promotion of vitality and viability in the town, enhancement of townscape, or replacement of unattractive features. The Plan generally proposes a range of uses on these sites, due to their location and size. Many sites have potential for the inclusion of a residential element, especially in upper floors. Specific guidance on each site is contained in the relevant section of Volume 2 of the Plan. Other requirements may come forward when applications are assessed, and include new policy guidance and site specific considerations.”*
- 5.6 Given the information that the overall site has been sold to a developer, it is assumed that this was purchased on the basis of certainty that the site could be developed, as per its Area Plan (Development Opportunity) zoning.
- 5.7 Whilst this issue is not listed as a circumstance in which compensation may be payable (see Section 4 above), it is however, important to keep this in mind when deciding whether or not to serve a BPN on this building. The developer may wish to seek compensation for the losses arising as a result of his/her inability to fully develop the overall opportunity site as per the Area Plan zoning.

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. They have been advised that no records exist to show that the building has been previously surveyed. Also, the Ballymoney area is yet to be surveyed as part of DfC’s systematic “Second Survey of NI”.
- 6.2 As a result DfC:HED are not currently in a position to advise Council on whether or not they would be likely to formally list the building.

7.0 The Building

- 7.1 The Listing Query Report Form (see Appendix 4), 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 5). 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 Councillor Stevenson advising that a BPN should not be served on this building.

Appendices:

Appendix 1:- Photographs

Appendix 2:- External (front façade) photographs

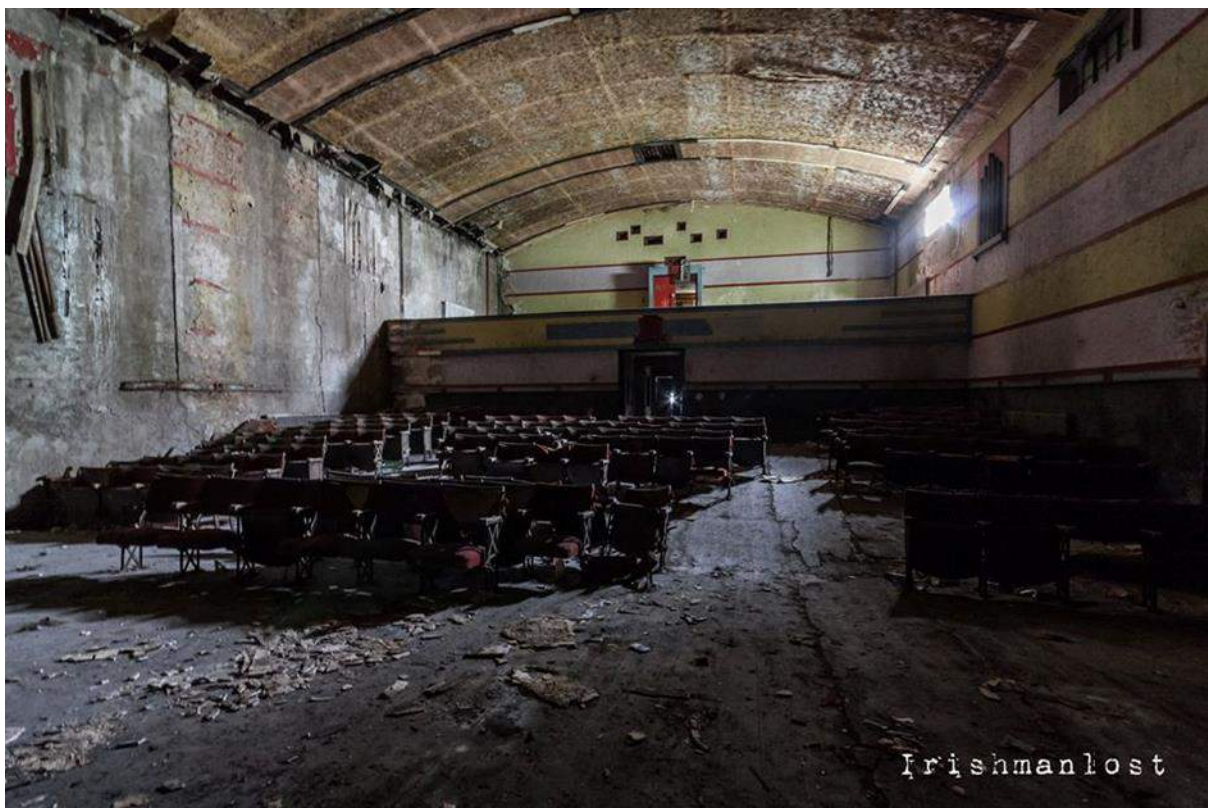
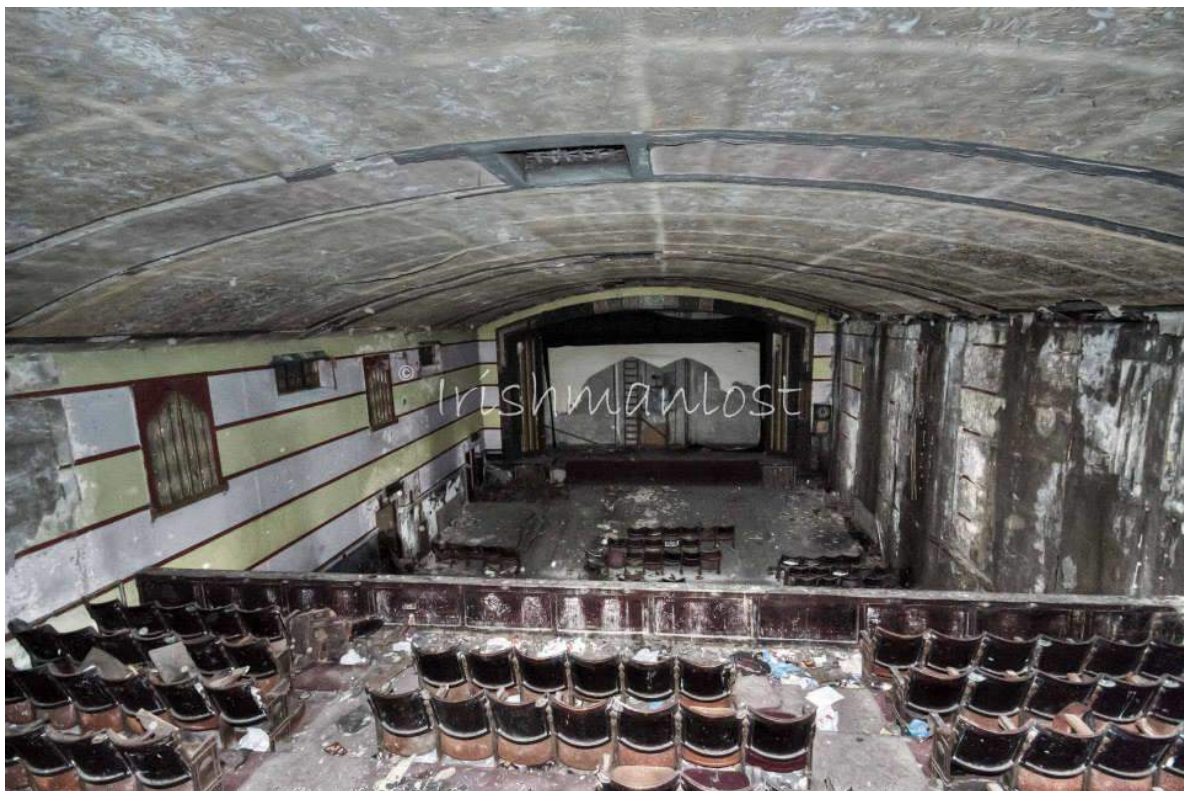
Appendix 3:- BPN's – Good Practice Guide for Councils

Appendix 4:- Listing Query Report Form

Appendix 5:- Listing Criteria: Annex C of PPS 6

Appendix 6:- Map 201/b from NAP 2016

Ballymoney Cinema - photographs





Irishmanlost



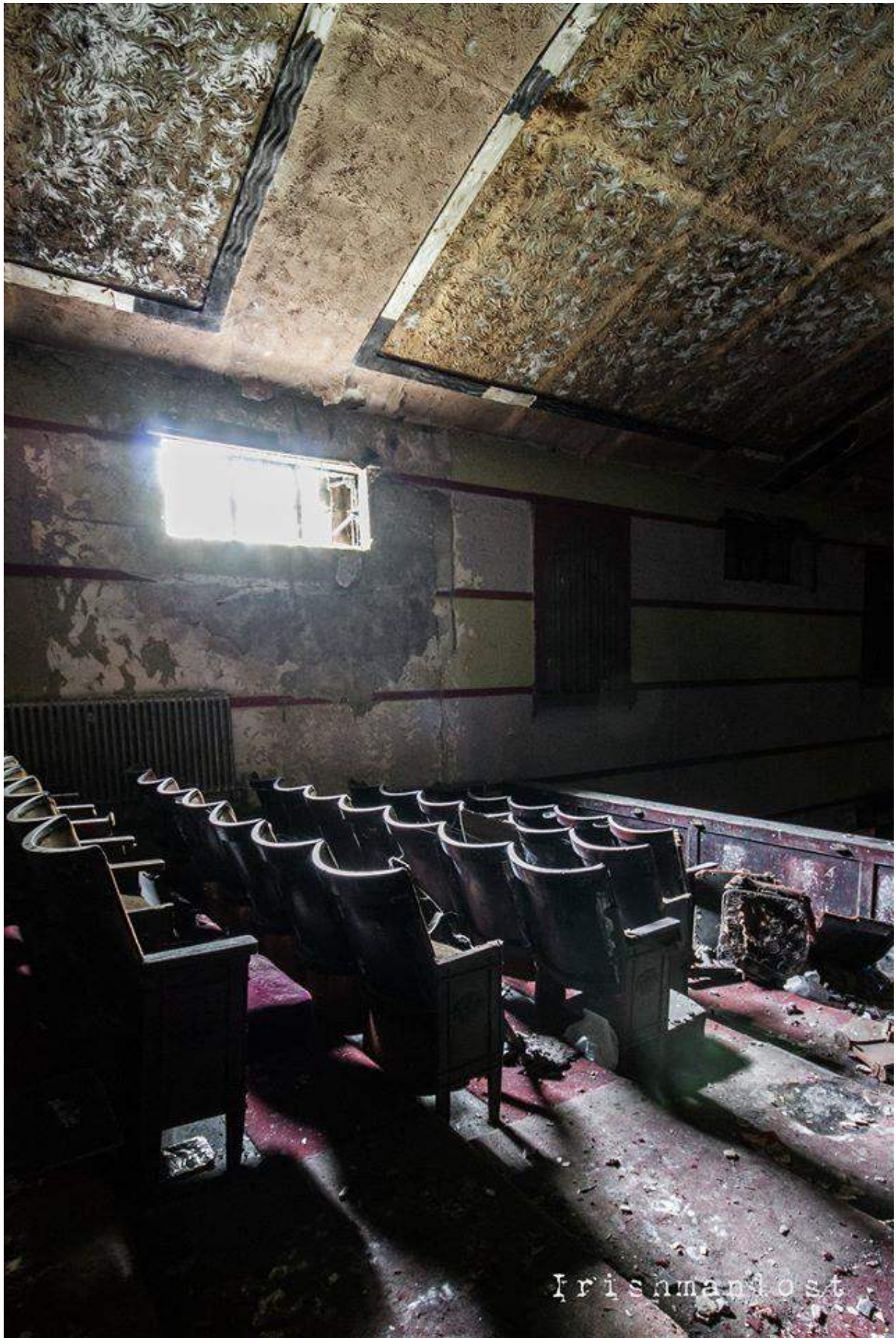
Irishmanlost



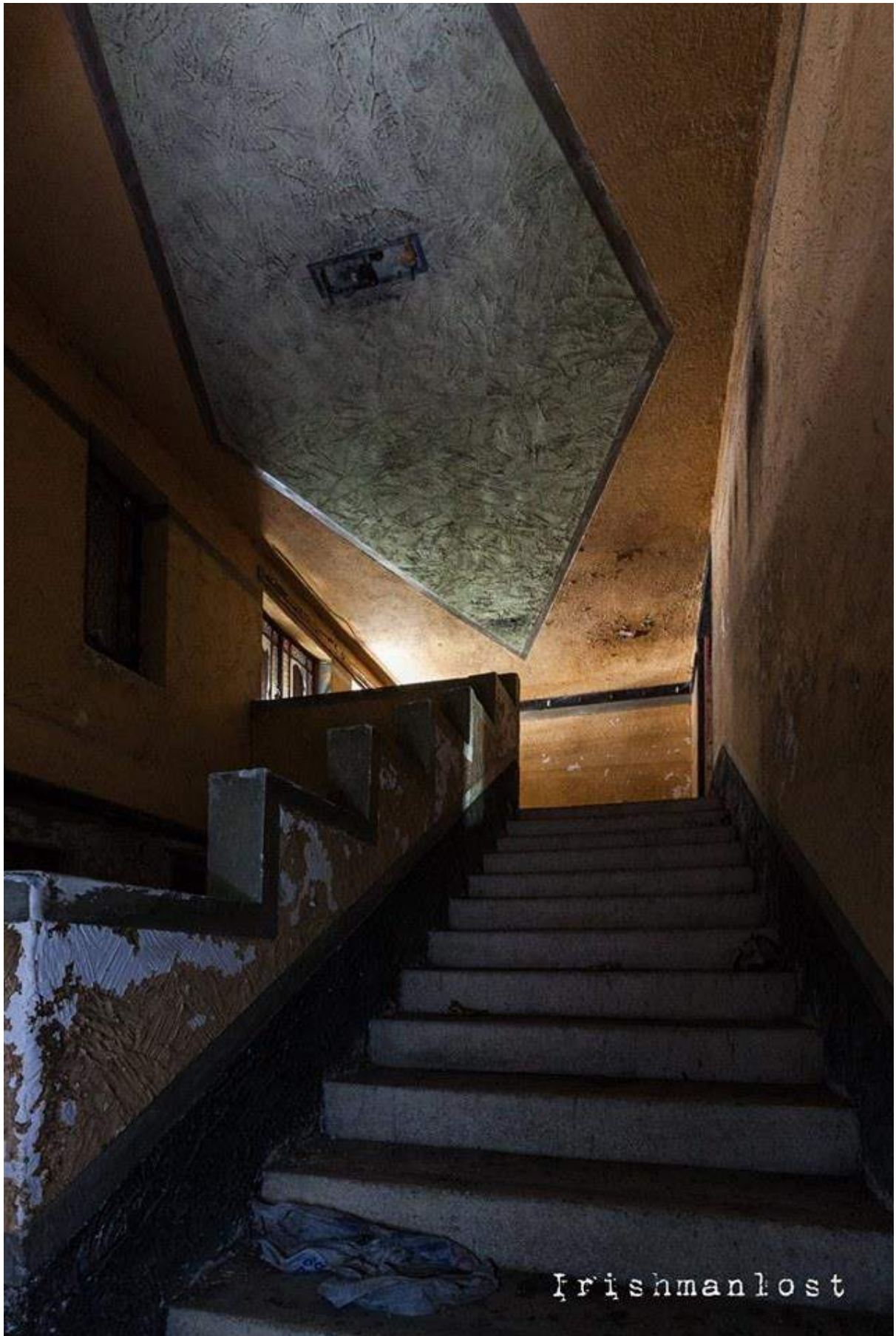
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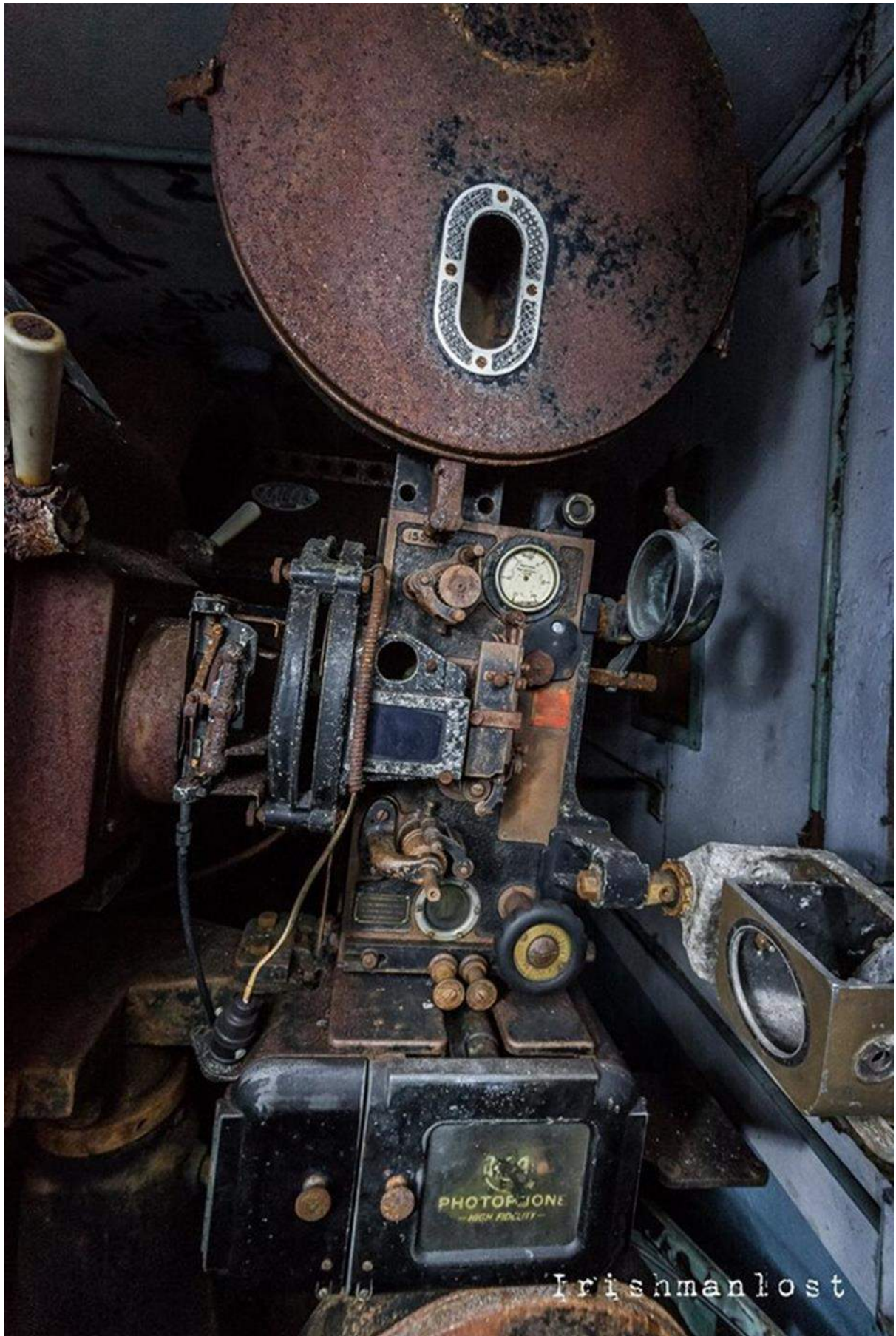
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The Palladium – History

Pictures were first shown in Ballymoney back in the 1920s. The initial venue was in the parochial hall in Castle Street, as silent films and news reels would have been shown there. In September 1936 the purpose-built Ballymoney Palladium was opened on High Street. During the Second World War, before people got their news through television, the pictures provided people with images from the front line that they would not have been able to see otherwise.

Cinema was a cheap and popular form of entertainment. The locals nicknamed it "The Ranch" because they showed a lot of cowboy films there. Another nickname for Ballymoney was 'Cow Town' again due to the fact the Palladium showed so many cowboy movies.

The theatre was also a popular venue. Ballymoney had an amateur dramatic society in the 1920s, and in the 1934 the Ballymoney Drama Festival – one of the oldest of its kind in the country – was initiated

The Palladium closed in May 1969 after televisions became popular and the last film shown was 'Planet of the Apes'.



Photograph: Opening of the cinema in 1937

First floor: spool boy Barney Magee, chief projectionist Hamilton Black.

Ground floor: Fred O'Brien, David McBride, Albert Loudon.

In addition to this photograph, Ballymoney Museum holds a large collection of cinema programmes, a roll of tickets, and two log books. Within the collection is a Gaumont cinema projector. This was used for playing silent, black and white films in the 1920s in St. Patrick's Hall, Castle Street, Ballymoney. These objects were displayed as part of the 'lights camera, action' exhibition in Ballymoney Museum 2014.







Google Maps High St



Image capture: Apr 2016 © 2016 Google

Ballymoney, Northern Ireland

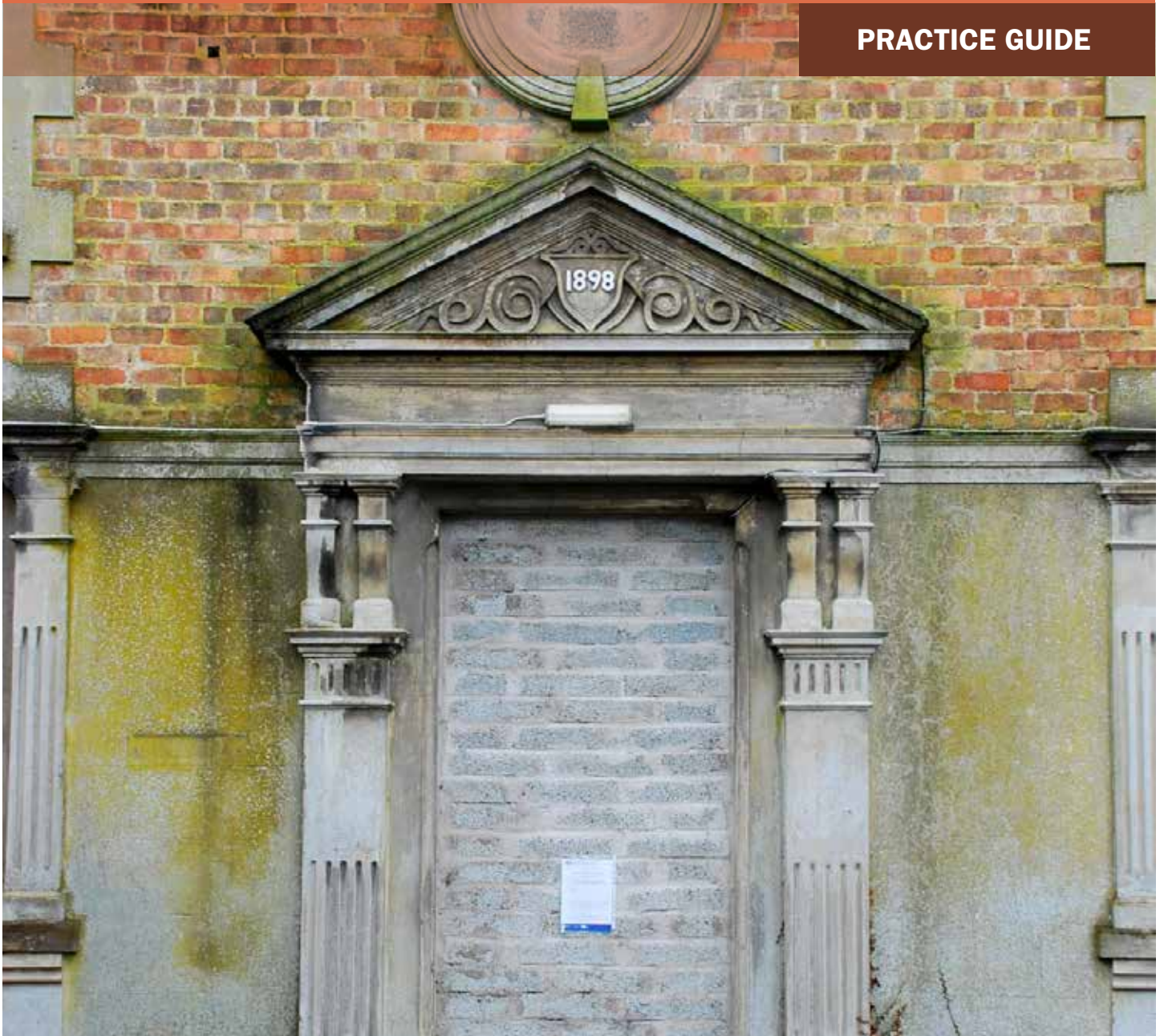
Street View - Apr 2016

Building Preservation Notices

A good practice guide for councils

Version 1.1 / May 2015

PRACTICE GUIDE



'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 website www.doeni.gov.uk/niea.'

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Overview

From 1st April 2015, councils may 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.¹ This discretionary power has been transferred from the Department of the Environment, (DOE) to 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.



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

¹ 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. Councils and the Department have responsibility under the Planning Act (Northern Ireland) 2011, to protect and conserve the historic environment for the benefit of our present and future generations.
- 1.2 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 gives councils the discretionary power to serve a 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 Planning Act. For the 6 month period of the BPN, the building is protected as though it were 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.
- 2.3 Prior to the Review of Public Administration, BPN's were available to the Department under the Planning (Northern Ireland) Order 1991 and were implemented by the DOE Historic Environment Division (DOE:HED). The Department 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 BPN. 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. It is important that an owner knows of this legal change as soon as possible. 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.
- 3.2 At the same time the council should forward a listing request to DOE:HED, who on behalf of the Department, will consider listing the building. This will allow the maximum time to examine the case, as DOE:HED needs 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 DOE:HED as it commences its appraisal. This should be enclosed with the request.
- 3.3 From notification, DOE:HED will commence a process to: record the structure; consider the building against the Listing Criteria²; undertake statutory³ (and non statutory⁴) consultations; and make a final decision. The council will be consulted as part of the process and informed of the final outcome.
- 3.4 It is not anticipated that the number of BPN's served will be large. From introduction in 2003 to the end of 2013, only 43 BPN's were issued. Public requests and Departmental use of the power rose in line with development activity during the 2000's and declined in more recent years in line with the economic downturn.

4. How can 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.
 - DOE:HED may separately ask a council to consider taking action. The consideration process to list a building, requires detailed research and advance consultation and DOE:HED 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.

² The Listing Criteria was published in a revised and updated Annex C of Planning Policy Statement 6 in March 2011.

³ Historic Buildings Council and local councils

⁴ Building owners, building occupiers and DOE Planning

5. When should 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 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 initial assessment. 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 (see Appendix B) is recommended. This may be compiled by a Conservation Officer⁵ or appointed consultant⁶ with reference to the published criteria. DOE:HED's listing team will be happy to liaise with 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 appointed consultant is likely to be sufficient, approval by the wider local council planning team is recommended to provide a more 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 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 alteration of the building to affect its architectural or historic interest, 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, to issue a letter to the person who made the initial request, to inform them of the outcome of the investigation.

⁵ 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.

⁶ Appointed consultants should have appropriate architectural and historical expertise to make an initial assessment and recommendation.

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, applicants may seek compensation for losses associated with a revoked planning permission.⁷

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.'*⁸

If a 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 DOE: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 *'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.'* (Section 186 (3))

6.3 It is therefore important for councils to have due regard to the potential for compensation claims when considering serving a BPN.

⁷ Refer to Section 179 of the Planning (Northern Ireland) Act 2011 *'Compensation where planning permission is revoked or modified'*.

⁸ Paragraph C26 of Annex C of Planning Policy Statement 6

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

- 7.1 Councils may wish to bring forward bespoke local policies for buildings which do not have sufficient architectural or historic interest to warrant statutory protection as listed buildings, but may be important to local communities. Councils may deploy Article 4 Directions⁹ to such buildings to suspend permitted development rights, including demolition, for such buildings.
- 7.2 In some cases, it may be more appropriate for a council to protect a historic building by this route. To justify protection, and swift action, a council should have clear procedures governing the selection and designation of such structures. These should include the waiving of standard consultation procedures in urgent cases. It is also recommended that these procedures are published to aid clarity and public understanding.

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 Areas¹⁰.
- 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.



Above: Dundrum Road, Tassagh, Grade B1 listed terrace, initially protected by a BPN © DOE

⁹ Article 4 of The Planning (General Permitted Development) Order (NI) 2015

¹⁰ Planning Policy Statement 6: Planning Archaeology and the Built Heritage provides definitions for heritage designations noted above..

9. Can councils seek support from DOE?

- 9.1 Yes. As the Government's expert advisor on the Historic Environment in Northern Ireland, DOE:HED can provide further advice to councils as they decide how best to deploy this power. DOE:HED has 40 year's experience of carrying out historic building surveys across Northern Ireland and 10 years experience in the service of BPN's. Engagement with councils who want to set up appropriate procedures in regard to this facet of heritage protection is welcomed by DOE:HED.

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 SECTIONS 81-83

BUILDING PRESERVATION NOTICE

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

SERVED BY: **XX 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 Council** for the purposes of Sections 81-82 of the Planning Act (NI) 2011 ("the Act") because it appears to **XX 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.

XX COUNCILS GIVES NOTICE THAT:

1. The building described in the Schedule ("the Building") appears to **XX 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 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 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 **XX 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 Council.

Appendix A (2)

NOTICE TO BE AFFIXED TO STRUCTURE**PLANNING ACT (NORTHERN IRELAND) 2011 SECTIONS 81-83****BUILDING PRESERVATION NOTICE****IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY****SERVED BY: XX 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 Council** for the purposes of Sections 81-82 of the Planning Act (NI) 2011 ("the Act") because it appears to **XX 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.

XX COUNCILS GIVES NOTICE THAT:

1. The building described in the Schedule ("the Building") appears to **XX 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 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 Council.

Appendix B Listing Query Report Form

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

Decision

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 applied to the building 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 Building 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 are planning to relocate their offices to the building, with the future ambition of acquiring the property and reusing the existing outbuildings as a visitor centre as part of the 'Discover Waterway Lisburn' project, subject to planning permission, listed building consent and scheduled monument consent.



Above: Navigation House, 134 Hillsborough Road, Lisburn © DOE



DOE

Department of
the Environment
www.doeni.gov.uk

NIEA Historic Environment Division

Sixth Floor

Causeway Exchange

1-7 Bedford Street

Belfast

BT2 7EG

Email: bh@doeni.gov.uk



**INVESTORS
IN PEOPLE**

**Appendix 4
Listing Query Report Form**

Building Name:	Ballymoney Palladium Cinema, High Street, Ballymoney		
OS Map No:	-	IG Ref:	294737, 425933
Apparent Current Use:	Vacant		
Date of Inspection:	Assessment of Evidence undertaken on basis of photographic records, background research and Site Inspection on 01-SEP-2016 (external only)		

Background

The Ballymoney Palladium Cinema Building or 'Old Cinema' as commonly known, is situated on High Street, north of the junction with Linenhall Street within the Town Centre of Ballymoney. The building functioned as a cinema for approximately 33 years (September 1936 to May 1969). It has remained vacant since then (47 years).

The current structural condition of building is unknown, however, the vacant status of the building over this substantial time period has resulted in the current dilapidated appearance. In recent years effort has been made to address the physical appearance as part of the DSD Revitalise Scheme for this part of the town, including general repainting works, the placing of decorative wooden boards across the window openings which try to replicate the original style of frames, whilst false active shopfronts have been placed at street level.

It should be noted, however, that these improvement works are of a superficial nature.

Building Form and Streetscape

The building is of simple form with the front facade exhibiting a free 'Art Deco' type style frontage. This frontage detail includes the features of a stepped, banded gable end, punctuated with a circular window feature at the apex with 4 large centrally placed, vertically emphasised, windows directly below. A front single storey flat roof extension projects from the main façade at street level.

The building sits at a slightly turned angle to High Street. This results in limited views of the main front elevational façade from the town centre and Conservation Area, along Main Street to the south. This, in turn, results in prominent views of the southern side elevation which, in essence, has the appearance of a warehouse type unit.

The building also has a degree of setback from High Street when compared to the adjacent Orange Hall. This results in the building being mainly screened from view from the northern approach. The Town Hall, one of the few listed buildings in the Town Centre, is on the opposite side of High Street. It occupies a key prominent corner site location at the junction of Townhead Street and High Street. The Old Cinema's physical relationship with the surrounding built form results in it having limited presence or stature within the local streetscape.

Interior

In terms of the building's interior, photographic evidence seems to suggest a largely intact interior, which includes wooden framed fabric seating within a double-height auditorium with gallery level, kiosks, stairway and Film Room along with associated projection machinery still in place.

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 relation to the above, whilst the building's frontage has some positive architectural attributes in relation to the 1930's free 'Art Deco' type style, it would not be considered a prime or good example for this period with little quality in the external detailing and finishes. The overall proportion and composition of the building's other elevations also lack any architectural quality or character or coherence with the front façade. The physical plan form and 'turn' of the main building façade away from the Street, along with the relationship to adjoining buildings, results in the building failing to make a strong impression in the street. It has limited architectural interest or presence within the surrounding streetscape setting. 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 constructed in the 1930's with a freestyle 'Art Deco' type frontage with few examples of this kind of building remaining. However, the quality of the building would not be described as outstanding, nor is it known to have been the work of an important architect. The building does have some historic merits given the physical condition of interior (from photographic records,) which includes intact historic material.

Local interest in the building is evident, from the 2009 Social Network Campaign to re-open the cinema. Whilst there are no noted historic associations with national recognised figures or events, the building does have some level of local social history, having served as a cultural meeting place for the local community for 33 years. However, it has since been vacant.

Recommendation

In light of the above information, and whilst it is acknowledged that there may be some Architectural or Historical merits, the building does not exhibit the necessary 'special' architectural quality or historic interest to satisfy the listing criteria.

Considered by council planning authority on : 5/10/16

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

Decision DO NOT SERVE A BPN ON THIS BUILDING

Signed: S. Mulhern
SHARON MULHERN : LOCAL DEVELOPMENT PLAN
Name & Title of authorising officer : MANAGER

Date 5/10/16



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 appropriate¹.
- 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 for more detail). The Department is required to consult with the Historic Buildings Council² 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

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

²The 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 were 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). 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>Address St Joseph's RC parochial house 38 Pilot Street Belfast Co Antrim BT1 3AH</p>	<p>HB Ref No HB26/50/095 B</p> 
<p>Extent of Listing House and gate.</p>	
<p>Date of Construction 1860 - 1879</p>	
<p>Townland Belfast Town Parks</p>	
<p>Current Building Use Rectories/ Manses etc</p>	
<p>Principal Former Use Rectories/ Manses etc</p>	

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

Architect

Thomas Morton

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 20th 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)

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

Evaluation

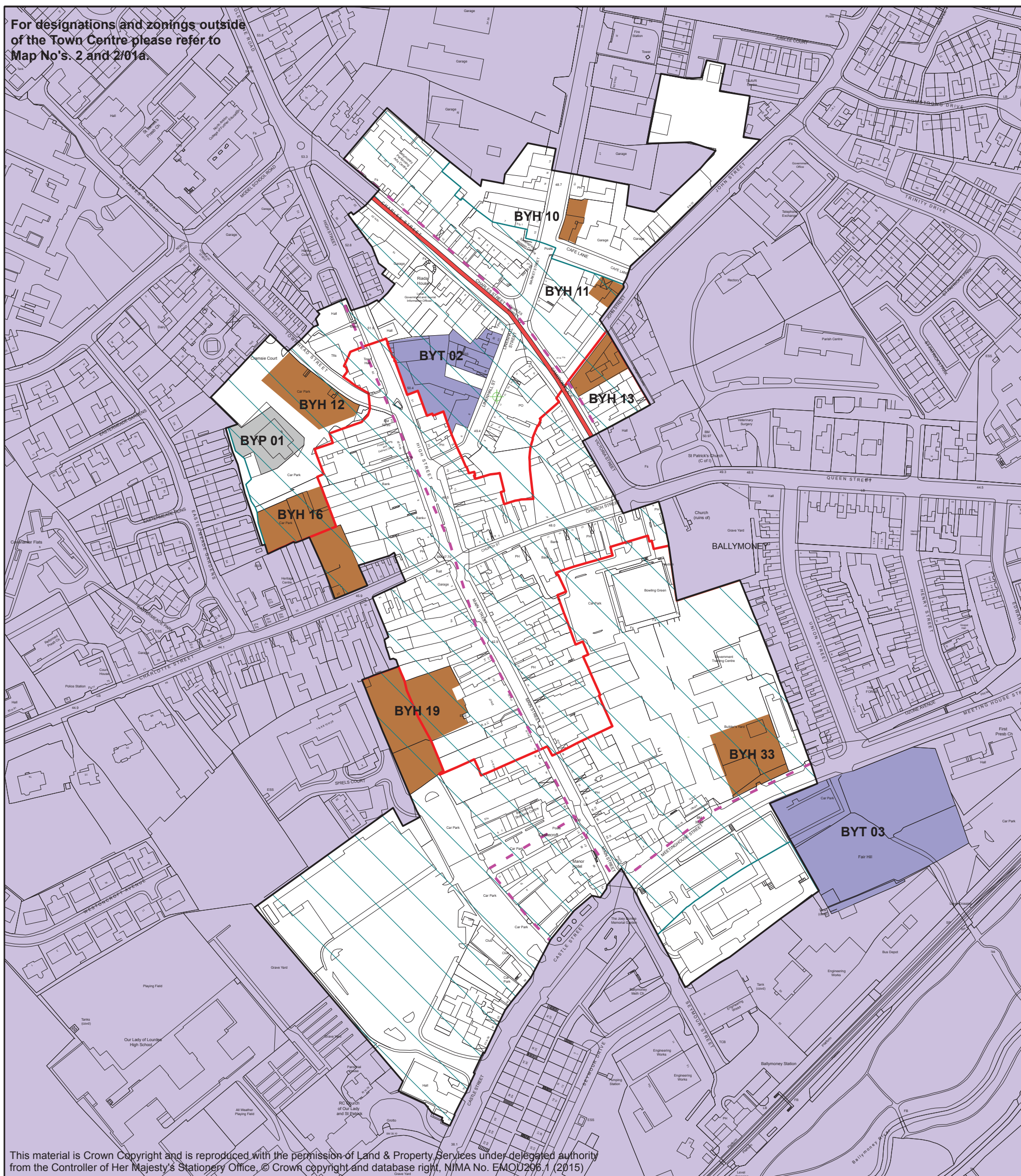
38 Pilot Street is a unique building in Northern Ireland. Because of a tight site it is squeezed and tall resulting in a parochial house which is much more European in form than many of its contemporaries. The steep entrance steps within the depth of the façade and the consistent and complementary details 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.

Date of Survey 13/03/2002





For designations and zonings outside of the Town Centre please refer to Map No's. 2 and 2/01a.








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Northern Area Plan 2016

Map No. 2/01b - Ballymoney Town Centre

-  Town Centre
-  Land Zoned for Housing
-  Car Park
-  Opportunity Site

- For Information Only
-  Area of Archaeological Potential (See Map No. 2/01a)
 -  Conservation Area (See Map No. 2/01a)
 -  Protected Route
 -  Cycle Network (Existing)
 -  Archaeological Site and Monument (Unscheduled)

