

Agenda Item	6.8
Report No	PLN/054/25

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee  
**Date:** 06.08.2025  
**Report Title:** 25/01210/LBC                      Mr & Mrs William & Marlene Lipka  
    15 Riverside Place  
    Thurso  
    KW14 8BZ

### Purpose/Executive Summary

**Description:** Extension and change of use from house to paint & decoration supply business (in retrospect)  
**Ward:** 02 - Thurso And North West Caithness  
**Development category:** Local  
**Reason referred to Committee:** called in by local 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

The application is recommended for REFUSAL as set out in section 11 of the report.

## 1. PROPOSED DEVELOPMENT

- 1.1 This is a retrospective listed building application to regularise an unauthorised extension to a Category 'C'-listed building. An extension was secured under recent planning permission and listed building consents (21/01384/FUL and 21/01637/LBC), however the constructed extension's design, scale and external finishing materials depart from the approved plans.

This application is being considered in tandem with 25/01063/FUL - extension and change of use from house to paint and decoration supply business (in retrospect).

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 previously approved.

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

- 1.2 This is a re-submission of a previously refused application. No modifications or alterations have been made to this proposal and the opportunity to amend the scheme and address the Planning Authority's concerns has not been taken. The applicant has indicated that they wish to appeal any subsequent refusal as they did not previously pursue this option.

- 1.3 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 (Cedral cladding rather than natural larch) and is now horizontal; and
- 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</b>	Linear, horizontal	Square sign	Refer to 'Shopfront

<b>signage</b>	sign across centre	installed to one side of first-floor window	Design Guide' SG
<b>South-west double doors</b>	Double doors		Position acceptable; timber doors 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 storey</b>	5.4 metres	6.75 metres	Reduction in height to 5.4 metres

1.4 Pre Application Consultation: none.

1.5 Supporting Information: supporting statement.

1.6 Variations: 31 March 2025; 12 May 2025 – floor plans amended to include existing courtyard and accessible ramp. Building section plan added.

## 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 (unauthorised).

2.2 The application building's list description is as follows :

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	20.03.2024	23/02275/FUL   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.	APPLICATION REFUSED – COMMITTEE DECISION
3.9	20.03.2024	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.	APPLICATION REFUSED – COMMITTEE DECISION

#### 4. PUBLIC PARTICIPATION

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

Edinburgh Gazette, ‘Listed Building’ 21 days

Date Advertised: 23 May 2025

Representation deadline: 13 June 2025

Timeous representations: One objection comment from the Architectural Heritage Society of Scotland.

Late representations: None.

4.2 Material considerations raised are summarised as follows:

Applicant’s work to restore historic fabric commended. Support offered for the Planning Authority’s requirement that lime mortar be applied to the application building’s exterior.

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 (comments submitted in relation to sister application 25/01210/LBC): **objection** lodged.

Application 25/01210/LBC had prior approval in 2009 which after a period of inactivity a new application was approved in through applications 21/01637/LBC & 21/01384/FUL. The extension approved in the aforementioned applications, was for a single storey extension, with appropriate scaled windows and natural vertical T&G siding. All proposed windows were to be timber with the rainwater goods of the extension also being timber.

The submitted drawings in 25/01210/LBC show a much larger extension with Cedar horizontal siding with larger windows to the gable and the addition of a functional first floor. From the supporting statement it is clear that the planning department were not consulted before these changes were made and therefore the current application is in breach of the approved application 21/01637/LBC & 21/01384/FUL specifically in relation to the current design and finishes. The change in scale of the extension with the addition of a first floor resulted in the ridge being raised 1.38m in height, which is far from a 'minor' change to the interior layout.

The planning department have conceded on the change to the scale and mass of the extension, however after multiple requests, the exterior remains contrary to the approved LBC and in consideration of suggestions presented by the Historic Environment Team, the horizontal Cedar cladding remains in place. The use of a plastic composite cladding is not only a poor substitute for wood in the context of a listed building but is also a carbon intensive material that in this case is not recyclable. It was suggested that the rear of the building either be returned to the original design using vertical t&g Larch left natural or applying a lime render finish system to the timber frame. However, the supporting statement has indicated that

the suggestion to apply render to the timber frame would be visually inappropriate with the likelihood of cracking and significant failure.

However, the rationale that lime render cannot be applied to timber frame construction is false as there are several render systems that are designed to be applied to timber frame and the explanation of not having a base course is also irrelevant. The installed windows are also UPvC instead of timber as indicated on the approved drawings, with UPvC in this context being a visual intrusion on the amenity and setting of the listed building. The rear gable has an additional window added to the first floor that is asymmetrical to the ground floor and this relationship is both awkward and in contrast to the symmetry of the existing building. The supporting statement makes not of several material considerations for the applicant maintaining and justifying his position of non-compliance to the approved drawings, however it is these very same material considerations in design and appearance and impact on a listed building that are being applied in opposition to the application.

In light of the descriptions above and the unapproved changes to the planning application in design terms and the impact on the listed building and its visual amenity, The Historic Environment Team OBJECT to this planning application.

## **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 Sections 25(1) and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended), collectively require that this application be determined in accordance with the development plan unless material considerations indicate otherwise. Section 24(1) requires that all planning applications must now be determined in accordance with the provisions of NPF4 and those of any the relevant, extant Local Development Plan unless material considerations provide justification otherwise. Section 24(3) states that in the event of any incompatibility between a provision of the National Planning Framework and a provision of a local development plan, whichever of them is the later in date is to prevail.

### **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) Has there been a material change in circumstances since this proposal was last considered and subsequently refused?
  - c) Suitability of Materials
  - d) New Door and Window Openings
  - e) Additional Storey
  - 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".

### **Material Change in Circumstances**

- 8.7 The Planning Authority is not aware of any material change in circumstances since the proposed development was last before the Planning Authority in late 2023. The applicant has since instructed a new Agent and, having not appealed their previous refusal decisions, has now resubmitted an identical retrospective application.

### **Suitability of Materials**

- 8.8 In general, using non-natural or non-heritage materials on listed buildings tends to be discouraged, in order to safeguard them from inappropriate development. Highland Historic Environment Strategy (2013) explains that "it is essential in the protection of the historic environment that materials are aesthetically and compositely appropriate to the individual building and local context", later stating as a Strategic Aim a requirement "to actively promote and encourage the use of traditional local materials for the conservation and repair of traditional local buildings". 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, thereby 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, with none of the required amendments proposed within the current application. It should be noted that any unauthorised works to a listed building are considered a criminal offence under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and may result in prosecution and significant penalties.

- 8.9 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 render finish to a suitable substrate – this option is considered both suitably respectful to the historic built environment and sufficiently fire-retardant. This suggestion is however offered without prejudice to any subsequent assessment by the Building Standards Authority; an amendment to the current Building Warrant would be necessary. A lime render 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.
- 8.10 The applicant has sought to re-apply for the same proposal that was previously refused. Proposed plans depict the application building as existing, with none of the Planning Authority's suggested amendments incorporated. Since the North Planning Applications Committee decision to refuse identical applications in December 2023, the Planning Authority has made a number of efforts to engage constructively with the applicant in order to reach a mutually acceptable solution regarding the proposed works to the listed building. However, despite these attempts, no revisions have been made to the proposal and as such, no acceptable compromise has unfortunately been achieved. The applicant has indicated that their rationale for pursuing this course of action is to enable them to appeal any subsequent refusal of consent. This approach appears to stem from the fact that they did not exercise their right to appeal previous refusals 23/02275/FUL and 23/02276/LBC.

#### New Door and Window Openings

- 8.11 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.
- 8.12 The size, scale and number of windows is also considered to be problematic in their non-compliance with approved plans, as set out above fully in section 1.3. 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. Although the approved plans include vertically proportioned windows, a single ground-floor opening within an otherwise timber-clad elevation is considered the more modest and appropriate solution for a commercial-use 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 keeping with the original listed building.

#### Additional storey

- 8.13 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**

- 8.14 Consideration of issues such as travel, access, parking, water supply and drainage were fully considered within the previous 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.
- 8.15 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 the 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.

### **9. CONCLUSION**

- 9.1 The Planning Authority originally 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

This application is exactly the same as that previously refused in 2023. Disappointingly the applicant has declined to seek to amend or modify the proposal in any way.

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 is reiterated that the Planning Authority is not aware of any material change in circumstances to warrant this fresh application. 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. No such modifications have however been proposed. The applicant via their agent has confirmed 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 constructed extension's exterior has been finished entirely in Cedral (fibre-cement) cladding, a non-traditional material inappropriate to the historic character of the Category 'C' listed building. Both the choice and extent of this material fail to preserve the building's special architectural or historic interest and depart from the provisions of its Listed Building Consent. Accordingly, the proposal is contrary to NPF4 Policy 7, HwLDP Policies 28, 29 and 57, and to the statutory duty under Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to have "special regard to the desirability of preserving the building or its features of special architectural or historic interest".
2.	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 fails to preserve the building's special architectural or historic interest and departs from the approved Listed Building Consent. Accordingly, it is contrary to NPF4 Policy 7, HwLDP Policies 28, 29 and 57, and to the statutory duty under Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to have "special regard to the desirability of preserving the building or its features of special architectural or historic interest".
3.	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 scale and massing fail to preserve the listed building's special architectural or historic interest contrary to NPF4 Policy 7, HwLDP Policies 28, 29 and 57 and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

Document Type	Document No.	Version No.	Date Received
PROPOSED FLOOR PLANS	250005.LIPKA.02PP	REV A	31.03.2025
PROPOSED FLOOR/ELEVATION PLAN - ATTIC	250005.LIPKA.03PP	REV B	12.05.2025