

Appendix 12.7

Legislative Framework
Protecting the Architectural
Resource

Legislative Framework Protecting the Architectural Resource

The main laws protecting the built heritage are the Architectural Heritage (National Inventory) and National Monuments (Miscellaneous Provisions) Act 1999 and the Local Government (Planning and Development) Acts 1963-1998, which has now been superseded by the Planning and Development Acts 2000-2018. The Architectural Heritage Act requires the Minister to establish a survey to identify, record and assess the architectural heritage of the country. The background to this legislation derives from Article 2 of the 1985 Convention for the Protection of Architectural Heritage (Granada Convention). This states that:

For the purpose of precise identification of the monuments, groups of structures and sites to be protected, each member state will undertake to maintain inventories of that architectural heritage.

The National Inventory of Architectural Heritage (NIAH) was established in 1990 to fulfil Ireland's obligation under the Granada Convention, through the establishment and maintenance of a central record, documenting and evaluating the architecture of Ireland (NIAH Handbook 2005:2). As inclusion in the inventory does not provide statutory protection, the survey information is used in conjunction with the Architectural Heritage Protection Guidelines for Planning Authorities to advise local authorities on compilation of a Record of Protected Structures as required by the Planning and Development Acts 2000-2018.

Protection under the Record of Protected Structures and County Development Plan

Structures of architectural, cultural, social, scientific, historical, technical or archaeological interest can be protected under the Planning and Development Acts 2000-2018, where the conditions relating to the protection of the architectural heritage are set out in Part IV of the act. This act superseded the Local Government (Planning and Development) Act, 1999, and came into force on 1st January 2000.

The act provides for the inclusion of Protected Structures into the planning authorities' development plans and sets out statutory regulations regarding works affecting such structures. Under new legislation, no distinction is made between buildings formerly classified under development plans as List 1 and List 2. Such buildings are now all regarded as 'Protected Structures' and enjoy equal statutory protection. Under the act the entire structure is protected, including a structure's interior, exterior, attendant grounds and also any structures within the attendant grounds.

The act defines a Protected Structure as (a) a structure, or (b) a specified part of a structure which is included in a Record of Protected Structures (RPS), and, where that record so indicates, includes any specified feature which is in the attendant grounds of the structure and which would not otherwise be included in this definition. Protection of the structure, or part thereof, includes conservation, preservation, and improvement compatible with maintaining its character and

interest. Part IV of the act deals with architectural heritage, and Section 57 deals specifically with works affecting the character of Protected Structures or proposed Protected Structures and states that no works should materially affect the character of the structure or any element of the structure that contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. The act does not provide specific criteria for assigning a special interest to a structure. However, the National Inventory of Architectural Heritage (NIAH) offers guidelines to its field workers as to how to designate a building with a special interest, which are not mutually exclusive. This offers guidance by example rather than by definition:

Archaeological

It is to be noted that the NIAH is biased towards post-1700 structures. Structures that have archaeological features may be recorded, providing the archaeological features are incorporated within post-1700 elements. Industrial fabric is considered to have technical significance, and should only be attributed archaeological significance if the structure has pre-1700 features.

Architectural

A structure may be considered of special architectural interest under the following criteria:

- Good quality or well executed architectural design
- The work of a known and distinguished architect, engineer, designer, craftsman
- A structure that makes a positive contribution to a setting, such as a streetscape or rural setting
- Modest or vernacular structures may be considered to be of architectural interest, as they are part of the history of the built heritage of Ireland
- Well-designed decorative features, externally and/or internally

Historical

A structure may be considered of special historical interest under the following criteria:

- A significant historical event associated with the structure
- An association with a significant historical figure
- Has a known interesting and/or unusual change of use, e.g. a former workhouse now in use as a hotel
- A memorial to a historical event

Technical

A structure may be considered of special technical interest under the following criteria:

- Incorporates building materials of particular interest, i.e. the materials or the technology used for construction
- It is the work of a known or distinguished engineer

- Incorporates innovative engineering design, e.g. bridges, canals or mill weirs
- A structure which has an architectural interest may also merit a technical interest due to the structural techniques used in its construction, e.g. a curvilinear glasshouse, early use of concrete, cast-iron prefabrication
- Mechanical fixtures relating to a structure may be considered of technical significance

Cultural

A structure may be considered of special cultural interest under the following criteria:

- An association with a known fictitious character or event, e.g. Sandycove Martello Tower, which featured in Ulysses
- Other structure that illustrate the development of society, such as early schoolhouses, swimming baths or printworks

Scientific

A structure may be considered of special scientific interest under the following criteria:

- A structure or place which is considered to be an extraordinary or pioneering scientific or technical achievement in the Irish context, e.g. Mizen Head Bridge, Birr Telescope

Social

A structure may be considered of special social interest under the following criteria:

- A focal point of spiritual, political, national or other cultural sentiment to a group of people, e.g. a place of worship, a meeting point, assembly rooms
- Developed or constructed by a community or organisation, e.g. the construction of the railways or the building of a church through the patronage of the local community
- Illustrates a particular lifestyle, philosophy, or social condition of the past, e.g. the hierarchical accommodation in a country house, philanthropic housing, vernacular structures

Artistic

A structure may be considered of special artistic interest under the following criteria:

- Work of a skilled craftsman or artist, e.g. plasterwork, wrought-iron work, carved elements or details, stained glass, stations of the cross
- Well-designed mass produced structures or elements may also be considered of artistic interest

(From the NIAH Handbook 2003 & 2005 pages 15-20)

The Local Authority has the power to order conservation and restoration works to be undertaken by the owner of the protected structure if it considers the building

to be in need of repair. Similarly, an owner or developer must make a written request to the Local Authority to carry out any works on a protected structure and its environs, which will be reviewed within three months of application. Failure to do so may result in prosecution.

Wicklow County Development Plan 2015-2021

Architectural Heritage Objectives

BH7 To support the work of the National Inventory of Architectural Heritage (NIAH) in collecting data relating to the architectural heritage, including the historic gardens and designed landscapes, of the County, and in the making of this information widely accessible to the public, and property owners.

BH8 To have regard to ‘Architectural Heritage Protection: Guidelines for Planning Authorities’ (Department of Arts, Heritage and the Gaeltacht, 2011) in the assessment of proposals affecting architectural heritage.

Record of Protected Structures Objectives

BH9 To ensure the protection of all structures (or parts of structures) contained in the Record of Protected Structures.

BH10 To positively consider proposals to improve, alter, extend or change the use of protected structures so as to render them viable for modern use, subject to consultation with suitably qualified Conservation Architects and / or other relevant experts, suitable design, materials and construction methods.

BH11 All development works on or at the sites of protected structures, including any site works necessary, shall be carried out using best heritage practice for the protection and preservation of those aspects or features of the structures / site that render it worthy of protection.

BH12 To support the re-introduction of traditional features on protected structures where there is evidence that such features (e.g. window styles, finishes etc) previously existed.

BH13 To strongly resist the demolition of protected structures, unless it can be demonstrated that exceptional circumstances exist. In cases where demolition or partial demolition is permitted or where permission is given for the removal of feature(s), the proper recording of the building / feature will be required before works are undertaken and where possible the reuse of such features should be considered in any replacement buildings.

BH14 The Planning Authority shall consider the change of use of Protected Structures, provided that it can be shown that the structure, character, appearance and setting will not be adversely affected or where it can be shown it is necessary to have an economic use to enable its upkeep.