

## **Appendix A.13.9**

### **Legislative Framework Protecting the Architectural Resource**

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## 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Provisions) Act 1999 and the Local Government (Planning and Development) Acts 1963-1999, which has now been superseded by the Planning and Development Act, 2000. 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 Act, 2000.

### **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 Act, 2000, 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 This act superseded the Local Government (Planning and Development) Act, 1999, and came into force on 1st January 2000.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.

### **Galway City Development Plan 2017-2023**

#### *Policy 8.2 Built Heritage RPS*

Encourage the protection and enhancement of structures listed in the Record of Protected Structures.

Ensure new development enhances the character or setting of a protected structure.

Avoid protected structures becoming endangered by neglect or otherwise by taking appropriate action in good time.

Consider the inclusion in the Record of Protected Structure of buildings and structures of special interest.

Consult with the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs regarding any planning applications relating to protected structures and national monuments.

Implement proactive measures to encourage the conservation of protected structures.

#### *Policy 8.4 Vernacular Heritage*

Encourage the rehabilitation, renovation and re-use of existing structures that contribute to the character of the city.

Increase public awareness of the vernacular heritage of the city through publication of the Inventory of Thatched Buildings.

### **Galway County Development Plan 2015-2021**

#### *Policy AH 1 – Architectural Heritage*

Protect the architectural heritage of County Galway which is a unique and special resource.

#### *Policy AH 2 – Traditional Skills*

Maintain a database of traditional building skills, and promote training and awareness of the use of appropriate materials and skills within the Local Authority, community groups and owners and occupiers of traditionally built structures.

#### *Objective AH 1 – Legislative Context*

Ensure the protection of the architectural heritage of County Galway which is a unique and special resource, in particular by implementing the legislative provisions of the Planning and Development Act, 2000 (as amended) in

relation to architectural heritage and the policy guidance contained in the Architectural Heritage Protection Guidelines 2011 (and any updated/superseding document).

*Objective AH 2 – Protected Structures (Refer to Appendix V)*

Ensure the protection and sympathetic enhancement of structures included and proposed for inclusion in the Record of Protected Structures (RPS) that are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, together with the integrity of their character and setting.

*Objective AH 3 – Architectural Conservation Area (Refer to Appendix III)*

Protect, conserve and enhance the essential character of any Architectural Conservation Area (ACA) through the appropriate management and control of the design, location and layout of new development, alterations or extensions to existing structures, surviving historic plots and street patterns and/or modifications to the character or setting of the Architectural Conservation Area. The identification of areas of special interest may be considered during the lifetime of the plan in either urban or rural settings. (See Map AH1)

*Objective AH 4 – Works Relating to Protected Structures and Architectural Conservation Areas*

Ensure that any development, modifications, alterations, or extensions materially affecting the character of a protected structure, or a structure adjoining a protected structure, or a structure within or adjacent to an Architectural Conservation Area (ACA), is sited and designed appropriately and is not detrimental to the character or setting of the protected structure or of the ACA. This will include the following:

- a) Works materially affecting the character of a protected structure or the exterior of a building/ structure within an ACA will require planning permission;
- b) Any works carried out to a protected structure or the exterior of a building/structure within an ACA shall be in accordance with best conservation practice and use sustainable and appropriate materials.

Works within the ACA shall ensure the conservation of traditional features and building elements that contribute to the character of the area. New proposals shall have appropriate regard to scale, plot, form, mass, design, materials, colours and function.

*Objective AH 5 – Demolition*

Prohibit development proposals, either in whole or in part, for the demolition of protected structures, save in exceptional circumstances, or the demolition of a structure within an Architectural Conservation Area that contributes to the special character of the area.

*Objective AH 6 – Vernacular Architecture*

Recognise the importance of the contribution of vernacular architecture to the character of a place and ensure the protection, retention and appropriate

revitalisation and use of the vernacular built heritage, including structures that contribute to landscape and streetscape character and resist the demolition of these structures.

*Objective AH 7 – Local Place Names*

Protect local place names as an important part of the cultural heritage and unique character of an area. Support the use of appropriate names for new developments that reflect the character and heritage of the area and that contribute to the local distinctiveness of a place.

*Objective AH 8 – Energy Efficiency and Traditionally Built Structures*

Ensure that measures to upgrade the energy efficiency of protected structures and traditionally built historic structures are sensitive to traditional construction methods and use appropriate materials and do not have a detrimental impact on the material, aesthetic or visual character of the building.

*Objective AH 9 – Local Landscape and Place Assessment*

To support proposals from local communities including Tidy Town Committees, Chambers of Commerce and resident's groups in analysing the character of their place and promoting its regeneration for their own use and enjoyment and that of visitors to the area.

*Objective AH 10 – Designed Landscapes*

Identify and evaluate the surviving historic designed landscapes in the County and promote the conservation of their essential character, both built and natural.

*Objective AH 11 – Custodianship*

Promote an inter-disciplinary approach demonstrating best practice with regard to the custodianship of protected structures, recorded monuments and elements of built heritage.