

# architectural heritage protection

## GUIDELINES FOR PLANNING AUTHORITIES

Guidance on Part IV of the Planning and Development Act 2000





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## EXPLANATION OF ABBREVIATIONS USED IN THE TEXT

2000 Act	Planning and Development Act 2000 (No.30 of 2000)
2001 Regulations	Planning and Development Regulations 2001 (S.I. No. 600 of 2001)
ACA	Architectural Conservation Area
ASPC	Area of Special Planning Control
EIS	Environmental Impact Statement
ICOMOS	International Council on Monuments and Sites
NIAH	National Inventory of Architectural Heritage
RMP	Record of Monuments and Places
RPS	Record of Protected Structures
TGD	Technical Guidance Document to the Building Regulations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
uPVC	Unplasticised polyvinyl chloride



## FOREWORD

Regeneration of our old buildings and their continued re-use is in all our interests. It ensures that the present generation can experience and enjoy the physical expression of past generations. It is the essence of sustainable development. The process of regeneration in itself requires the maintenance of traditional building techniques and skills. It places an emphasis on quality of work and maintains jobs in an area largely untouched by modern mechanisation. All of this is good for our sense of well-being in this more hurried age.

I welcome the publication of the Architectural Heritage Protection Guidelines for Planning Authorities. These guidelines are a practical guide for planning authorities and for all others who must comply with Part IV of the Planning and Development Act 2000 on the protection of the architectural heritage.

These provisions charge both planning authorities and owners with new responsibilities to protect our architectural heritage and are reflected in the new records of protected structures adopted by planning authorities throughout the State. Such responsibilities need support and I am pleased to say that a comprehensive package of measures has been introduced by Government in recent years. The National Inventory of Architectural Heritage was established to provide both expert and independent data to planning authorities on buildings of value. A new grant scheme, operated by the planning authorities, was introduced for the conservation of protected structures, and conservation officers have been employed to assist the work of the planning authorities.

Building on these foundations, the guidelines will further support the effort of protecting our architectural heritage and are an expression of the Government's commitment to nurturing our built heritage.

I thank all who have made submissions and who have contributed in any way to the preparation of the guidelines for their support and interest.

I would like especially to remember the late Rachel MacRory, architectural historian of Heritage Policy Division, who worked tirelessly towards achieving legislative protection for the architectural heritage and assisted in the preparation of these guidelines until her untimely death in 2002. These guidelines will stand testament to her commitment to Ireland's built heritage.

A handwritten signature in black ink, appearing to read 'Dick Roche', with a stylized flourish below it.

**Dick Roche, T.D.,**  
Minister for the Environment, Heritage and Local Government  
November 2004



# Legislative and Administrative Provisions

PART 1

# Introduction

## CHAPTER 1



**1.1 Why Protect Our Architectural Heritage?**

- 1.1.1 Our architectural heritage is a unique resource, an irreplaceable expression of the richness and diversity of our past. Structures and places can, over time, acquire character and special interest through their intrinsic quality, continued existence and familiarity. The built heritage consists not only of great artistic achievements, but also of the everyday works of craftsmen. In a changing world, these structures have a cultural significance which we may recognise for the first time only when individual structures are lost or threatened. As we enjoy this inheritance, we should ensure it is conserved in order to pass it on to our successors.
- 1.1.2 Sympathetic maintenance, adaptation and re-use can allow the architectural heritage to yield aesthetic, environmental and economic benefits even where the original use may no longer be viable. The creative challenge is to find appropriate ways to satisfy the requirements of a structure to be safe, durable and useful on the one hand, and to retain its character and special interest on the other.

- 1.1.3 The conservation-minded approach entails changing assumptions about existing buildings and thinking carefully about how they can be used or redeveloped so as to conserve and highlight their qualities. At as early a stage as possible in the process of designing for change, emphasis should be put on identifying and holding on to the inherent character of the structure and its physical and aesthetic strengths. Old buildings can perform as well as, and sometimes better than, new ones in terms of the durability and flexibility of their materials or their adaptability in use. The most appropriate interventions tend to be low key and can be financially economical. Specialised conservation techniques to prolong the existence of structures often rely on empathy with the original constructional materials and methods.

- 1.1.4 Structures can be read as historic evidence just like written documents, and can aid the understanding of past conditions and of how society changes. Social history is revealed by structures such as market houses, hump-backed canal bridges, stables, servants' staircases in eighteenth-century houses, public water-pumps and even by details such as bootscrapers outside front doors. There are personal histories and events of the distant past that leave their mark on places, whether these be mansions, grand schemes of town planning, bullet holes or masons' marks. The evidence presented by a surviving structure should be carefully examined for clues to the understanding of the buildings themselves.



*Past social conditions are often powerfully illustrated by structures that have survived from former times*

1.1.5 The endless variety of the existing built environment is available to us for inspiration and precedent. Decisions made as to the siting and construction of buildings are often the result of practical applied knowledge, and represent the skill and insight of their creators. Historic villages, towns and cities can be living urban environments of great quality to the advantage of their users. Where they exist, we should conserve them.

1.1.6 Cultural tourism is increasing and playing a significant part in the tourist economy. The conservation of our built environment contributes to the attractiveness of our country as a place that we can enjoy and invite others to visit. Many people are employed in the heritage sector in Ireland. The promotion of local history for tourism purposes is a significant part of the economy and should be closely bound up with a genuine appreciation of the historic environment that is the backdrop for all visitors, national and foreign alike.



*Heritage is a resource and many heritage sites contribute to the local economy as tourist destinations*

## 1.2 New Legal and Policy Framework to Protect the Architectural Heritage

1.2.1 International charters and conventions<sup>1</sup> have informed and influenced government policy and legislation for protecting the architectural heritage. These documents were formulated mainly in the late twentieth century and arise from a sustained attempt to articulate, at international level, principles that would inform decisions about how the cultural value of the built environment is to be treated. Implicit in these principles is a wider set of values and priorities relating to social, cultural and economic life. The various charters require that all interventions respect the physical, historic and aesthetic character and integrity of cultural property.

1.2.2 UNESCO's *Convention Concerning the Protection of the World Cultural and Natural Heritage* was drawn up in 1972 and ratified by Ireland in 1991. This convention notes that the cultural and natural heritage is increasingly threatened with destruction. Each state party to the convention recognises that the duty of ensuring identification, protection, conservation, presentation and transmission to future generations of this heritage belongs primarily to that state. The *Convention for the Protection of the Architectural Heritage of Europe*, drawn up by the Council of Europe and signed at Granada in 1985, was ratified by Ireland in 1997. Commonly known as the Granada Convention, it provides the basis for our national commitment to the protection of the architectural heritage. The convention is a means of proclaiming conservation principles, including a definition of what is meant by architectural heritage such as monuments, groups of buildings and sites. It seeks to define a European standard of protection for architectural heritage and to create legal obligations that the signatories undertake to implement. It stresses the importance of 'handing down to future generations a system of cultural references'. It relies for its effectiveness on its signatory countries implementing their own national protective regimes.

1.2.3 It is in the context of international initiatives such as the Granada Convention, as well as increasing awareness nationally, that Ireland has legislated for the increased protection of the architectural heritage. This wider acknowledgement of the need to conserve the built heritage recognises the social and economic benefits of conserving this part of our common inheritance and also the place of conservation in policies of sustainable development.

1.2.4 The state is also directly responsible for the care and maintenance of a large proportion of our architectural heritage, built by government departments, offices or agencies, or inherited by them at the founding of the state. The government's policy on architecture<sup>2</sup> seeks to reconcile the many, sometimes conflicting, responsibilities in relation to architectural heritage in its own building stock, and, where possible, to enhance the preservation of the architectural heritage in its care. The government has set out a number of actions in this regard in its policy, to ensure that state authorities are aware of the historic building stock within their ownership and have information and guidance on formulating a conservation strategy.

<sup>1</sup> See bibliography for reference details

<sup>2</sup> *Action on Architecture*; Section 2.2.5



*Public authorities, in the discharge of their functions, erected many fine buildings that are treasured today for their architectural and historic qualities*

- 1.2.5 The government has taken significant steps towards the conservation of the architectural heritage through the introduction of comprehensive and systematic legislative provisions included in the planning code, of which these guidelines form part. These new legislative measures are supported by an architectural heritage advisory service at national level; the establishment, on a statutory basis, of the National Inventory of Architectural Heritage (NIAH); a scheme of grants for protected structures; and support for the employment of conservation officers by local authorities.

### 1.3 Part IV Planning and Development Act 2000

- 1.3.1 The conservation principles of care and protection of the architectural heritage were first introduced under earlier planning legislation which facilitated the listing of significant buildings and the formulation of policies and objectives relating to such structures. These legislative provisions were superseded by the introduction of the Local Government (Planning and Development) Act 1999 and then by Part IV of the Planning and Development Act 2000. The main features of the 2000 Act are:

- a) planning authorities have a clear obligation to create a record of protected structures (RPS) which includes all structures or parts of structures in their functional areas which, in their opinion, are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. This record forms part of a planning authority's development plan;<sup>3</sup>



*The provision to protect structures of technical, social or scientific interest can encompass a great range of historic structures*

- b) planning authorities are also obliged to preserve the character of places and townscapes which are of special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest or that contribute to the appreciation of protected structures, by designating them architectural conservation areas (ACAs) in their development plan;<sup>4</sup>



*Terraces, groups or complexes of structures can be protected in an architectural conservation area where necessary to preserve their character*

- c) development plans must include objectives for the protection of such structures and the preservation of the character of such areas to ensure proper and sustainable planning and development;
- d) new responsibilities are given to the owners and occupiers of protected structures to maintain them and planning authorities have additional powers to ensure that buildings are not endangered either directly or through neglect.<sup>5</sup> Financial assistance, in the form of conservation grants, is available from planning authorities to assist in this process;

<sup>3</sup> See Chapter 2

<sup>4</sup> See Chapter 3

<sup>5</sup> Section 58, 2000 Act



*As well as assisting individual owners, planning authority conservation grants can help foster endangered craft skills such as thatching*

- e) the owner or occupier of a protected structure may seek a declaration from the relevant planning authority to determine the works to the structure that would materially affect its character and therefore require planning permission, and those works which may be carried out as exempted development;<sup>6</sup>
- f) where a structure is protected, the protection includes the structure, its interior and the land within its curtilage and other structures within that curtilage (including their interiors) and all fixtures and features which form part of the interior or exterior of all these structures. All works which would materially affect the character of a protected structure, or a proposed protected structure, will require planning permission.<sup>7</sup>

#### 1.4 Other Relevant Legislation

- 1.4.1 A number of other Acts, plans and national guidelines, in addition to Part IV of the Planning and Development Act 2000, should be considered when including structures in the RPS and carrying out forward planning or development control duties. Primary among them are the National Monuments Acts 1930 - 2004. These Acts and other relevant powers or orders applicable to the protection of the built heritage are listed in the bibliography below.
- 1.4.2 The scope of the National Monuments Acts includes monuments of architectural, historical or archaeological interest, allowing overlap with the 2000 Act which protects structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.



*Many structures are of both architectural and archaeological interest and suitable for protection under the Planning Acts in addition to the National Monuments Acts*

#### 1.5 Purpose of these Guidelines

- 1.5.1 These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives:
  - a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and
  - b) for preserving the character of architectural conservation areas.
- 1.5.2 Guidelines issued under Section 28 of the Act require planning authorities (including An Bord Pleanála) to have regard to them in the performance of their functions. Planning authorities are also required under Section 28 to make copies of these guidelines available for inspection by members of the public.

<sup>6</sup> See Chapter 4

<sup>7</sup> See Chapter 6

1.5.3 Part 1 of these guidelines includes the criteria to be applied when selecting proposed protected structures for inclusion in the RPS. It also offers guidance to planning authorities on issuing a declaration on a protected structure and on determining planning applications in relation to a protected structure, a proposed protected structure or the exterior of a building within an ACA.

1.5.4 Part 2 contains supplementary detailed guidance to support planning authorities in their role to protect the architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals and when a declaration is sought in relation to a protected structure.

1.5.5 While these guidelines are primarily addressed to planning authorities, it is intended that they will also be of assistance to owners and occupiers of protected structures, of proposed protected structures or buildings within ACAs and to those proposing to carry out works which would impact on such structures.

1.5.6 Under the Act, protected structures which are regularly in use as places of public worship are subject to special requirements.<sup>8</sup> Chapter 5 below deals specifically with:

- a) the issue of declarations, in respect of protected structures which are regularly used as places of public worship;
- b) the consideration by planning authorities of applications for development affecting the interior of such protected structures which are regularly used as places of public worship, and
- c) consultation with appropriate persons or bodies for the purpose of ascertaining liturgical requirements where a declaration is sought in respect of a protected structure that is regularly used as a place of public worship.

## 1.6 Administration of Architectural Heritage Protection

1.6.1 The protection of the architectural heritage is administered at both local and national level. At local level, responsibility for protection under the 2000 Act rests with the planning authorities while, at national level, the Minister for Environment,

Heritage and Local Government has an involvement in the formulation and implementation of policy. Other bodies such as An Bord Pleanála and the relevant prescribed bodies also have roles to play.

1.6.2 The protection of structures under the National Monuments Acts is administered at national level.

## 1.7 Planning Authorities

1.7.1 Planning authorities are empowered to protect the architectural heritage, in the interest of the proper planning and sustainable development within their respective functional areas, and to prevent its deterioration, loss or damage. This will be reflected in the adoption of suitable policies for protecting the architectural heritage in their development plans and giving practical effect to them through their development control decisions, generally by liaison between planning officers and conservation officers.

1.7.2 The duties of a local authority apply across all its functions, for example as a planning authority, a building control authority, a fire authority and so on, to act positively to protect the architectural heritage when exercising their functions.

## 1.8 Minister for the Environment, Heritage and Local Government

1.8.1 The Minister's functions in relation to the protection of the architectural heritage include:

- a) acting as a prescribed body under the Regulations for the purposes of Part IV of the Act;<sup>9</sup>
- b) responsibility for drawing up the statutory legislative and policy framework for planning, including these guidelines, in relation to the protection of the architectural heritage;
- c) provision of grants to planning authorities including reimbursement for assistance provided in respect of works to protected structures;
- d) provision of support for a network of conservation officers at local authority level;
- e) compilation of the NIAH, a survey of structures of special architectural heritage interest in the state, which will provide information to planning authorities supporting the compilation of the RPS;
- f) provision of an architectural heritage advisory

<sup>8</sup> Section 57 (5), 2000 Act

<sup>9</sup> See also paragraph 1.9

unit within the Heritage and Planning Division of the Department. The advisory service is principally available to planning authorities. Where owners or developers raise issues in relation to individual structures, they are referred in the first instance to the planning and conservation officers of the relevant planning authority;

- g) issuing of recommendations concerning the inclusion of particular structures in the RPS;<sup>10</sup>
- h) ensuring the protection of the built heritage under the provisions of the National Monument Acts;
- i) making submissions or observations on certain development by or on behalf of state authorities.<sup>11</sup>

### 1.9 Prescribed Bodies for the Purposes of Part IV of the Act

1.9.1 The prescribed bodies in relation to the protection of the architectural heritage are set out in the Planning and Development Regulations 2001.<sup>12</sup> They include the Minister for the Environment, Heritage and Local Government, the Heritage Council, the Arts Council, Bord Fáilte and An Taisce.

1.9.2 The prescribed bodies are sent notification of planning applications where it appears to a planning authority that the development:

- a) would involve the carrying out of works to a protected structure or a proposed protected structure;
- b) would involve the carrying out of works to the exterior of a structure within an ACA or an area specified as an ACA in a draft development plan or a proposed variation of a development plan, or
- c) might detract from the appearance of any of the above structures.

1.9.3 The prescribed bodies must also be sent notification of statutory steps to review, draft, vary and make development plans<sup>13</sup> and of proposals to make additions to or deletions from the RPS.<sup>14</sup> The planning authority processes the observations of the prescribed bodies in the same way as all other submissions in relation to an application.

1.9.4 Under Section 30 of the Act, the Minister may not exercise any power or control in relation to any particular case with which a planning authority or An Bord Pleanála is or may be concerned. However, this does not apply to those functions transferred to him from the Minister for Community, Rural and Gaeltacht Affairs (originally transferred from the Minister for Arts, Heritage, Gaeltacht and the Islands) by the Minister for the Environment and Local Government (Performance of Certain Functions) Act 2002. These include his functions as a prescribed body under Part IV of the Act.

<sup>10</sup> Section 53 (1), 2000 Act

<sup>11</sup> Section 181, 2000 Act and Part 9, 2001 Regulations

<sup>12</sup> Article 28 (1), 2001 Regulations

<sup>13</sup> Section 11, 12 and 13, 2000 Act

<sup>14</sup> Section 55 (1) (b), 2000 Act

