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## Appendix 14.11

# Legislative Framework Protecting the Architectural Resource

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Rialtas  
na hÉireann  
Government  
of Ireland

Tionscadal Éireann  
Project Ireland  
2040



Air Roinn Iompar  
Turasoireachta agus Spóirt  
Department of Transport,  
Tourism and Sport

TIIV  
Bainneadh tairgeoir Éireann  
Irish Architectural Resource



Dún na nGall  
Limerick City  
& County Council

JROD  
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## **APPENDIX 14.11**

### **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Provisions) Act 1999 and the Local Government (Planning and Development) Acts 1963-1999, which has now been superseded by the Planning and Development Act, 2000.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 This act superseded the Local Government (Planning and Development) Act, 1999, and came into force on 1st January 2000.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:

- A generally agreed exemplar of good quality architectural design
- The work of a known and distinguished architect, engineer, designer, craftsman
- An exemplar of a building type, plan-form, style or styles of any period but also the harmonious interrelationship of differing styles within one structure
- A structure which makes a positive contribution to a setting, such as a streetscape or a group of structures in an urban area, or the landscape in a rural area
- A structure with an interior that is well designed, rich in decoration, complex or spatially pleasing.
- 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
- Historical interest can be attributed where light is thrown on the character of a past age by virtue of the structure's design, plan, original use, materials or location
- A structure may be a memorial to a past event
- Some fixtures and features may survive, for example in consistory courts and courts of law, that are important evidence of former liturgical or legal practice and may have special historical interest for that reason.
- Some unusual structures may have historical or socio-historical interest, for example, early electricity substations, 'Emergency' era military pillboxes or sentry-boxes. Although not yet of popular heritage significance, such structures can nonetheless have special historical and social interest.
- Special historical interest may exist because of the rarity of a structure. Either few structures of an identifiable type were built at a particular time, or few have survived. In either case, the extant structure may be one of the few representative examples of its time that still exists in the national, regional or local area.

### Technical

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

- It displays structural or engineering innovation evidenced in its design or construction techniques such as the use of cast- or wrought-iron prefabrication or an early use of concrete;
- It is the work of a known and distinguished engineer;

- It is an exemplar of engineering design practice of its time. For example, a bridge may be a masonry arch, an iron suspension or a concrete span;
- It displays technically unusual or innovative construction or cladding materials, such as early examples of glazed curtain walling, prefabricated concrete plank cladding or Coade stone;
- Contains innovative mechanical fixtures, machinery or plant or industrial heritage artefacts that describe the character of production processes. The specifically industrial aspect of some sites like mill buildings, mill-ponds, tailings or derelict mines can often have a technical heritage value;

Purely special technical interest can be ascribed to the innovative engineering qualities of a structure, as distinct from the building's appropriateness for use, or its appearance or form.

### Cultural

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

- Those structures to which the Granada Convention refers as 'more modest works of the past that have acquired cultural significance with the passing of time';
- Structures that have literary or cinematic associations, particularly those that have a strong recognition value;

Other structures that illustrate the development of society, such as early schoolhouses, library buildings, swimming baths or printworks. If these associations are not related to specific aspects of the physical fabric of a structure, consideration could be given to noting them by a tourism plaque or other such device.

### Scientific

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

- The results of scientific research may be seen in the execution of the structure;
- The materials used in the structure may have the potential to contribute to scientific research, for example extinct pollen or plant species preserved in the base layers of ancient thatch roofs;

The structure may be associated with scientific research that has left its mark on the place, such as early Ordnance Survey benchmarks carved into stonework.

### Social

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

- The fixtures and features that testify to community involvement in the creation of a structure, or have a spatial form or layout indicating community involvement in the use of a structure, could include such elements as memorials, statues or stained-glass panels.
- A structure may display vernacular traditions of construction and may be set in a group or area which illustrates the social organisation of the inhabitants. Most obviously this would include thatched cottages. In vernacular buildings, elements of the plan-form (for example, direct-entry, lobby-entry, doors opposite one another, bed outshots etc), as well as the roofing material of otherwise ordinary structures may be distinctive and have special social interest.
- Types of decoration may have artistic as well as social interest, such as shell houses or the local manifestation of exuberant or astylar stucco decoration where it is particular to a town or region.

A social interest could also be attributed to structures illustrating the social philosophy of a past age, as in the case of philanthropic housing developments. Structures which illustrate a particular lifestyle or social condition, for example holy wells, are to be found in many parts of the country. Care must be taken to ensure that there is sufficient physical fabric to such places for them to be defined as 'structures'.

### Artistic

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

- Examples of good craftsmanship;
- Decoratively carved statuary or sculpture that is part of an architectural composition;
- Decoratively-carved timber or ceramic-tiled shopfronts;
- Ornate plasterwork ceilings;
- Decorative wrought-iron gates;
- Religious art in a place of public worship such as the Stations of the Cross or stained-glass windows;
- Fixtures and fittings such as carved fireplaces, staircases or light-fittings;
- Funerary monuments within a graveyard;

The relationship of materials to each other and to the totality of the building in which they are situated, if these have been designed as an ensemble (From the NIAH Handbook 2017 pages 14–19).

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.

The Limerick County Development Plan 2010 – 2016 (as extended) has a number of Objectives in relation to Architectural Heritage:

### Objective EH O31: General Protection of Structures

It is the objective of the Council to:

- a) seek the protection of all structures (or, where appropriate, parts of structures) within the County, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and listed in the Record of Protected Structures. The record will continue to be developed on an ongoing basis, as resources permit, in accordance with the criteria laid down in the Architectural Heritage Protection Guidelines for Planning Authorities.
- b) As resources permit, determine the extent of the curtilage of protected structures.

### Objective EH O32: Promotion of Conservation of Protected Structures

It is the objective of the Council to promote the benefits of protecting structures and the positive effects that conserving the architectural heritage has in areas of economic activity such as tourism. To this end the Planning Authority will continue to develop, publish and distribute comprehensive advisory manuals, booklets and leaflets to all property owners of Protected Structures and structures within Architectural Conservation Areas advising them of the opportunities available to them as the owners of such properties.

### Objective EH O33: Re-use of Protected Structures

It is the objective of the Council to encourage the re-use of protected structures while recognising that such an objective will require adaptation and modifications of the building, including the construction of extensions. However, the Planning Authority will require the maintenance of essential architectural character, retention of features of special interest and respect for the structure's fabric, plan, form and setting. The development of, or on, a protected structure which would have a significant adverse impact upon its character will not be permitted. Developments in proximity to a protected structure, which would seriously affect its character, amenity, or setting will not normally be permitted.

### Objective EH O34: Establishment of Architectural Conservation Areas

- a) It is the objective of the Council to identify places of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and to define them as Architectural Conservation Areas. Additional Architectural Conservation Areas may be identified and included during the lifetime of the Plan.
- b) It is an objective of the Council, during the life time of the Development Plan, to undertake a detailed survey and appraisal of all Architectural Conservation Areas designated under the Development Plan, where appropriate. A set of both general and site specific policies, objectives and guidelines will then be formulated for each Architectural Conservation Area. These measures will be adopted as a means of ensuring the continued preservation, protection and enhancement of the special character of our Architectural Conservation Areas.

### Objective EH O35: Protection of Architectural Conservation Areas

- a) The Planning Authority will seek to protect buildings of merit that demonstrate past design or construction practices within an Architectural Conservation Area as this can damage the integrity of an area.
- b) Conservation, restoration and reconstruction is the preferred approach in Architectural Conservation Areas.
- c) The Planning Authority will not permit insensitive developments that compromise the character or integrity of Architectural Conservation Areas and will seek to have large-scale developments respect the morphology and layout of a town or village.
- d) Development proposals on sites in the vicinity of an Architectural Conservation Area will only be permitted where it can clearly be demonstrated that the development will not materially affect the special character or the integrity of the area, its amenity and setting. The special character of an area includes its traditional building stock and material finishes, spaces, streetscape, landscape and setting.

### Objective EH O36: Historic Gardens, Designed Landscapes and their associated Non Structural Elements

To protect important non-structural elements of the built heritage associated with a Protected Structure such as historic gardens and parkland, and curtilage and demesnes features such as hedgerows and terracing, individual trees and shelterbelts, copses and woodland, as well as walls and ha-ha's, the areas they occupy and in their vicinity will be defined as Architectural Conservation Areas. Additional Architectural Conservation Areas of this type may be identified and included during the lifetime of the Plan. The Planning Authority will not permit insensitive developments that compromise the character of such Architectural Conservation Areas. Development proposals on sites in the vicinity of an Architectural Conservation Area will only be permitted where it can clearly be demonstrated that the development will not materially affect the character, integrity, amenity and setting of the Area.

### Objective EH O37: General Protection of Architectural Streetscapes

It is the objective of the Council to protect the character of the medieval towns, post medieval features and 18th – 19th streetscapes in the County having due regard to their architectural character, plot pattern and street patterns when assessing planning applications for development.

### **Askeaton Local Area Plan (2015 – 2021)**

#### Objective EH 2: Protected Structures

It is the objective of the Council to protect structures entered onto the Record of protected structures or listed to be entered onto the Record and to encourage their appropriate re-use and restoration. The Council shall resist;

- a) Demolition of protected structures, in whole or in part;
- b) Removal or modification of features of architectural importance;
- c) Development that would adversely affect the setting of the protected structure.

### **Rathkeale Local Area Plan (2012 – 2018, extended until 2022)**

#### Objective EH 2: Protected Structures

It is the objective of the Council to protect structures entered onto the Record of protected structures or listed to be entered onto the Record and to encourage their appropriate re-use and restoration. The Council shall resist;

- a) Demolition of protected structures, in whole or in part;
- b) Removal or modification of features of architectural importance;
- c) Development that would adversely affect the setting of the protected structure.

### Adare Local Area Plan (2015 – 2021)

#### Objective EH 1: Thatched Structures

It is the objective of the Council to protect and retain the thatched structures while recognising that such an objective may require the adaptation and modifications of the thatched structures, including the construction of extensions. The Planning Authority will require the maintenance of their essential architectural character, retention of features of special interest and respect for the structure's fabric, plan, form and setting. Any development to the thatched structures which would have a significant adverse impact upon their character will not be permitted.

#### Objective EH 2: Architectural Conservation Area (ACA)

It is the objective of the Council to protect, conserve and where appropriate, enhance the ACA as identified in Map 4.

Proposals for development within the ACA shall;

- a) Reflect and respect the scale and form of existing structures within the ACA in proportioning, overall scale and use of materials and finishes, particularly with reference to the street frontages and seek to contribute to or enhance the character and streetscape of the ACA;
- b) Seek to retain/incorporate/replicate exterior features which contribute or enhance the character and streetscape of the ACA such as shop fronts, sash windows, gutters and down pipes, decorative plasterwork etc;
- c) Ensure priority is given to the pedestrian, to inclusive access, and to facilitating the improvement of the quality of the public realm.

Objective EH 3: Protected Structures

It is the objective of the Council to protect structures entered onto the Record of protected structures, or listed to be entered onto the Record and to encourage their appropriate re-use and restoration. The Council shall resist;

- a) Demolition of protected structures, in whole or in part;
- b) Removal or modification of features of architectural importance;
- c) Development that would adversely affect the setting of the protected structure.