

Appendix

RPS – advice notes

The legal framework governing the protection of structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest is set out in the Planning and Development Act, 2000, and the Planning and Development Regulations, 2001.

The Department of Environment, Heritage and Local Government has also published *Architectural Heritage Protection – Guidelines for Planning Authorities* (2004).

In addition, a departmental leaflet, *PL 12 – A Guide to Architectural Heritage*, has been produced as a practical guide to understanding the protection of structures. The leaflet is available free of charge from the Planning Office of Sligo County Council. The information contained in this leaflet is set out below. This leaflet is not a definitive legal interpretation of the legislation in force and owners or potential buyers of existing and proposed protected structures are advised to consult with the Planning Authority with regard to any works that they might wish to undertake on such structures.

PL 12 - A Guide to Architectural Heritage

This is a practical guide to understanding the protection of structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest under the Planning and Development Acts, 2000 and 2001, and the Planning and Development Regulations, 2001 to 2002.

The leaflet is intended as a practical guide. It is not a definitive legal interpretation of planning law. For further information, you should consult your local authority.

1. What laws are there in relation to the preservation of historic buildings?

The law in relation to this subject is set out in the Planning and Development Acts, 2000 and 2001 and the Planning and Development Regulations, 2001 to 2002. Under new arrangements which came into operation on 1 January 2000, the system of listing buildings has been replaced with strengthened procedures for the preservation of protected structures and structures in architectural conservation areas.

Other historic structures may alternatively, or in addition, be protected under the National Monuments Acts 1930 - 1994.

2. What is a protected structure?

A protected structure is a structure or part of a structure that a planning authority considers to be of special interest from an architectural, historical, archaeological, artistic, cultural, scientific, social or technical point of view. Details of protected structures are entered by the authority in its Record of Protected Structures, which is part of the Development Plan. The owner and/or occupier of a protected structure are legally obliged to ensure that no danger is caused to the structure. This obligation applies from the time when an owner or occupier is notified of a proposal to include a structure in the Record of Protected Structures (at which time a structure becomes a “proposed protected structure”).

3. What parts of a protected structure must be preserved?

The obligation to preserve a protected structure applies initially to all parts of the structure, including its interior, all land around it, and any other structures on that land and their interiors. The obligation also applies to any exterior or interior fixtures and fittings of a protected structure or of any structure on land immediately within its curtilage. If a declaration is sought (see section 7 below), the planning authority can clarify which, if any, parts of the structure or its surrounding curtilage are not of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and therefore do not require special protection.

4. How does a structure become a protected structure?

A structure becomes a protected structure when it is included in the Record of Protected Structures compiled by the planning authority. You should check with your planning authority if you would like to know if a structure is protected or proposed for protection.

A planning authority must follow certain procedures if it proposes to deem a structure to be a protected structure. These involve notifying the owners and occupiers of the structure and certain interested bodies of the proposal and also notifying the public by means of a newspaper advertisement. The owner or occupier of the structure, along with any member of the public, is entitled to make comments on the proposal to the authority. These comments are taken into account before the planning authority's elected members decide whether or not the structure should become a protected structure.

5. What obligations fall on owners and occupiers to ensure the preservation of protected structures?

An owner or occupier of a protected structure must ensure that the structure or any element of it is not endangered.

Endangering a structure can mean either directly or indirectly damaging the structure, or any element of it, by neglecting the structure to such an extent that it is damaged.

6. Can I carry out development to a protected structure without planning permission?

Under the planning system, many minor works to structures do not normally require planning permission. These works are known as exempted development (see PL 7). However, for a protected structure, such works can be carried out without planning permission only if the works would not affect the character of the structure or any element of the structure that contributes to its special interest. You may seek a declaration from the planning authority as to the type of works which would or would not materially affect the character of the structure (see section 7 below) and which would or would not require planning permission.

7. How does an owner or occupier know which works require planning permission?

An owner or occupier of a protected structure may request the planning authority to issue a declaration regarding the structure and its curtilage. This will indicate the types of works that could be carried out without affecting the character of the protected structure or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and those which cannot. Works which are normally exempt and which do not affect the character of the structure would not require planning permission.

However, owners or occupiers who carry out such works without a specific exemption in a declaration from the planning authority do so at their own risk. An owner or occupier may request a declaration from the planning authority at any time, even where no works are contemplated.

7a. How is a declaration issued?

A declaration is issued to the owner or occupant of a protected structure free of charge on application. A local planning authority will issue such a declaration within twelve weeks of receiving a request. It will be necessary for an official of the authority to carry out a detailed inspection of the structure. The applicant for a declaration may be asked to state the extent of the property in their control, and to submit a drawing or map outlining its extent. Although the declaration is available to be inspected at the planning office, no information of a sensitive nature will be included in the record available to the public.

8. How does an owner or an occupier apply for planning permission to carry out works to a protected structure?

A planning application involving a protected structure is made in the same way as any other planning application (see PL 2). However, because of the sensitivity of most protected structures to inappropriate works, a planning application for works to a protected structure will be

generally required to be more detailed. The relevant newspaper and site notice for the planning application must indicate that the application relates to a protected structure. Additional information on how the proposed development would affect the character of the structure must be submitted with the application. The local authority will notify other interested bodies, including Dúchas, the Heritage Council and An Taisce, before making a decision on the application. It may be advisable to check with your planning authority in advance of applying for permission for development to make sure that your application is complete.

9. Are there any measures in place to assist owners and occupiers to preserve a protected structure?

Yes. A scheme of grants is operated by county councils and county borough councils, to assist the owner or occupier of a protected structure to undertake necessary works to secure its conservation.

The standard amount of grant is 50% of the approved cost of works, up to a maximum of €13,000. A planning authority may, at its discretion, vary this amount downwards or, in exceptional circumstances, upwards, subject to a maximum allowable grant of 75% of the approved cost of works, or €25,000, whichever is the lesser. Any grant greater than €13,000 requires the prior approval of the Department of the Environment and Local Government. Full details of the scheme are available from the relevant authorities.

10. Do planning authorities have special powers in relation to protected structures?

Yes. A planning authority may:

- require an owner or an occupier of a protected structure to carry out works if it considers that the structure is or may become endangered. Where a planning authority requires works to be carried out to prevent a protected structure from becoming or continuing to be endangered, the owner or occupier concerned may be eligible for financial assistance from the planning authority;
- require an owner or an occupier of a protected structure to carry out works if it considers that the character of the structure ought to be restored. The Planning Authority will in certain circumstances pay the reasonable expenses of carrying out the works required;
- acquire, by agreement or compulsorily, a protected structure if it considers that this is desirable or necessary in relation to the protection of the structure. Where a local authority acquire a protected structure compulsorily, compensation equal to the value of the structure may be payable.

11. What is an architectural conservation area?

An architectural conservation area is a place, area, group of structures or townscape which is of either special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest in its own right or contributes to the appreciation of protected structures. This could include, for example, a terrace of houses, buildings surrounding a square, or any group of buildings which together give a special character to an area. In a rural setting an architectural conservation area could include for example a group of structures associated with a mill or with a country house estate. An architectural conservation area could also include protected structures. The planning authority may designate an area as an architectural conservation area in its development plan to ensure that its character is preserved. Planning permission would normally be required before any works can be carried out to the exterior of a structure in an architectural conservation area.

A planning application involving a structure in an architectural conservation area is generally made in the same way as any other planning application. The relevant newspaper and site notice for the planning application must indicate that the application relates to a structure in an architectural conservation area. Additional information on how the proposed development would affect the character of that area must be submitted with the application. The planning authority will notify other interested bodies including Dúchas, the Heritage Council and An Taisce, before making a decision on the application.

It may be advisable to check with your planning authority in advance of applying for permission for development to make sure that your application is complete.

12. Are there penalties for causing damage to protected structures?

Yes. Any person who damages a protected structure or proposed protected structure commits an offence. It is also an offence to undertake any work to a protected structure which requires planning permission without obtaining that permission.

13. Can I get further information?

The law governing protected structures is set out in the Planning and Development Acts 2000 to 2001 and the Local Government (Planning and Development) Regulations 2001 to 2002 which may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2, Telephone (01) 6476995/4 or downloaded from www.environ.ie.

Draft guidelines on architectural heritage protection have been published and are available on request in electronic form from "guidelines@calga.ie."

The Department of Environment, Heritage and Local Government also produces several leaflets in a series called Conservation Guidelines.

These are:	No. 1	<i>Conservation Principles/General Information</i>
	No. 2	<i>Sources of Information</i>
	No. 3	<i>Windows</i>
	No. 4	<i>Mortars, Pointing and Renders</i>
	No. 5	<i>Interior Joinery and Fittings</i>
	No. 6	<i>Decorative Plasterwork</i>
	No. 7	<i>Stone-walling</i>
	No. 8	<i>Brickwork and Stonework</i>
	No. 9	<i>Paving and Street Furniture</i>
	No. 10	<i>Roofs and Rainwater Goods</i>
	No. 11	<i>Rising Damp and Timber Decay</i>
	No. 12	<i>Interior Decoration and Finishes</i>
	No. 13	<i>Ironwork</i>
	No. 14	<i>Shopfronts</i>
	No. 15	<i>Settings and Landscapes</i>
	No. 16	<i>Fire Safety, Security and Maintenance</i>