

Archaeology in the Planning Process



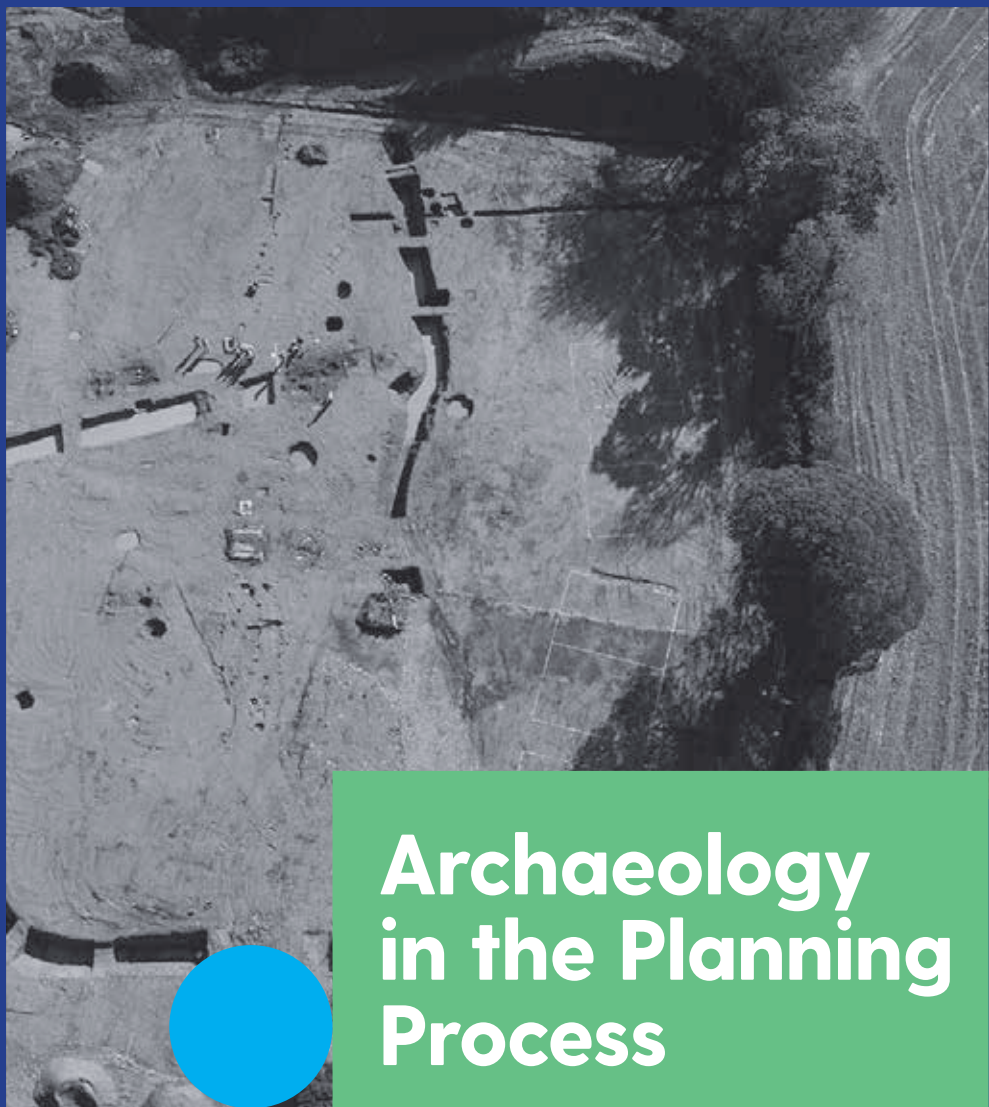
Planning
Leaflet **13**



Oifig an
Rialaitheora Pleanála
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Planning Regulator



An Roinn Tithíochta,
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Department of Housing,
Local Government and Heritage



Archaeology in the Planning Process

This leaflet is a guide to understanding the issues which will arise in the planning process when development is proposed which might affect our archaeological heritage. It is intended as a practical guide and is not a legal interpretation of the legislation referred to.

1. What is archaeology?

Archaeology is the study of past societies through their material remains and the evidence of their environment. It is not restricted solely to ancient periods; it includes the study of relatively recent societies through, for example, industrial and military sites.

2. What is the archaeological heritage?

Archaeological heritage comprises all material remains of past societies, with the potential to enhance our understanding of such societies. It includes the remains of features such as settlements, burials, ships and boats and portable objects of all kinds, from the everyday to the very special. It also includes evidence of the environment in which those societies lived.

The terms 'site' or 'monument' are used generally to refer to fixed structures or areas of activity, as opposed to particular moveable objects. Historic wrecks are also part of the archaeological heritage.

3. Are all archaeological sites and monuments visible?

Many archaeological sites and monuments have no visible evidence on the ground surface but, nevertheless, important archaeological deposits and features forming the site or monument survive below the ground surface. For example the earliest archaeological sites in Ireland, from around 10,000 years ago, survive below ground as pits, stake-holes from temporary dwellings and scatters of stone tools.

Sub-surface sites may sometimes be detected by crop-marks visible from the air or have their presence indicated by the occurrence of artefact scatters in ploughed land, but (in other cases) may remain invisible unless uncovered through ground disturbance. Wetland and underwater environments may contain very well preserved archaeological sites, monuments and objects which are completely invisible from the surface. Urban areas may contain important sub-surface archaeological deposits and apparently modern, or relatively modern structures may contain much earlier fabric.

4. Why protect and preserve archaeological heritage?

Our archaeological heritage not only enriches our landscapes, townscapes and seascapes but is essential to understanding our past. Only a portion of the material remains left by our predecessors has survived, so it is vital that we manage what is left wisely. Since prehistoric people had no written record to leave behind, we are entirely dependent on evidence from the remains of their monuments and artefacts. But it is important to understand that archaeology addresses all periods, and the material remains of all past societies contribute to developing our understanding of such societies. Archaeology attempts to achieve the best possible level of knowledge and understanding of past societies by assembling all available evidence and analysing it.



5. What is the legal protection for archaeological heritage?

The National Monuments Acts

Over 120,000 archaeological sites and monuments are legally protected by way of inclusion in the statutory Record of Monuments and Places, established under Section 12 of the National Monuments (Amendment) Act 1994.

Any person (including a landowner) proposing to carry out, or to cause or to permit the carrying out of, any work at or in relation to a Recorded Monument must give notice in writing to the Minister for Housing, Local Government and Heritage two months before commencing that work. A similar level of protection applies to monuments included in the Register of Historic Monuments, established under Section 5 of the National Monuments (Amendment) Act 1987, but this contains many fewer monuments than the Record of Monuments and Places.

For national monuments in the ownership or guardianship of the Minister or a

local authority or which are subject to a preservation order under the National Monuments Acts, the prior written consent of the Minister is required for works at or in proximity to the monument. Note that this means ground disturbance around or in proximity to such national monument may need consent, not just works to the national monument itself.

All wrecks more than one hundred years old are legally protected, and must not be interfered with except under licence from the Minister for Housing, Local Government and Heritage.

Other than when taking place as part of activity licenced under the National Monuments Acts, all discoveries of wrecks more than one hundred years old or finds of archaeological objects (including those underwater, and irrespective of date) must be reported in accordance with procedures set out in the National Monuments Acts. Archaeological objects must not be altered other than under a licence issued by the National Museum of Ireland.

Archaeological excavation (i.e. digging etc. to identify or uncover archaeological features, deposits or objects) can only be carried out if a licence or consent has been obtained under the National Monuments Acts. This requirement applies whether or not an archaeological excavation relates to a known archaeological site. A licence or consent is required for each particular archaeological excavation, and licences are issued to qualified archaeologists with an appropriate level of experience. A consent under the National Monuments Acts might be in relation to wider non-archaeological works but, if archaeological excavation is authorised under it, there will be a requirement that the latter be carried out by a qualified archaeologist.

Archaeological objects found in the State are State property.

Separate controls apply in respect of archaeological works connected with approved road schemes.

The Planning and Development Act 2000 (as amended)

In addition to the National Monuments Acts, the Planning and Development Act 2000, as amended, plays a central role in protecting our archaeological heritage. In particular, the Planning and Development Act 2000, recognises that proper planning and sustainable development includes objectives for the protection of the archaeological heritage. Local authority development plans are required to include such objectives. This

means that protection of the archaeological heritage will always be an important consideration in planning decisions and that, where planning permission is granted, conditions relating to protection of the archaeological heritage may be attached. Other aspects of planning law as it relates to archaeological heritage are noted further below.

The importance attached to protection of the archaeological heritage under Irish planning law is consistent with Ireland's international obligations as a state which has ratified the 1992 Council of Europe *European Convention on the Protection of the Archaeological Heritage*. The Convention requires states which have ratified it to integrate protection of the archaeological heritage into the planning and development process.

6. Where is national policy on the protection of the archaeological heritage in the course of development set out and what are the key points?

National policy on the protection of the archaeological heritage in the course of development is set out in the **Framework and Principles for the Protection of the Archaeological Heritage** (Government of Ireland 1999), available at: <https://www.archaeology.ie/sites/default/files/media/publications/framework-and-principles-for-protection-of-archaeological-heritage.pdf>. See in particular Part III, "Principles for the Protection of the Archaeological Heritage".

National policy emphasises the non-renewable nature of the archaeological heritage and that there needs to be a presumption in favour of its preservation in-situ. Further, where preservation in-situ is not the option chosen, there must be preservation by record (i.e. archaeological excavation and recording must take place).

The importance of appropriate forms of archaeological assessment being carried out is also emphasised. Such assessment can be in a variety of forms (from non-invasive to the digging of archaeological test trenches, as appropriate), and assists in avoiding impact of development on archaeological heritage or, where that is not possible, ensuring that preservation by record (through archaeological excavation and recording) takes place. It is important to note that archaeological assessment might need to be directed at upstanding structures as well as to archaeological heritage below the ground, for example to determine whether upstanding structures in historic urban areas contain fabric of archaeological significance.

National policy also makes clear that the costs of archaeological work necessitated by development fall appropriately to the developer.

7. What is the Record of Monuments and Places?

The **Record of Monuments and Places (RMP)** is a statutory list of Monuments and places where monuments may exist, established under Section 12 of the National Monuments (Amendment) Act 1994. There are over 120,000 Recorded Monuments (and places) included in the RMP. The RMP consists of a published county-by-county set of Ordnance Survey maps, on which monuments and places are marked by a circle or polygon, and an accompanying book for each county listing the monuments and places. It should be borne in mind that the circle or polygon does not necessarily define the extent of the monument or place. (See Question 16 below).



The RMP is available online in two formats.

PDF versions of the printed maps and books as issued in accordance with Section 12 of the 1994 Act are available at: <https://www.archaeology.ie/publications-forms-legislation/record-of-monuments-and-places>.

The RMP maps can also be viewed as a layer on the Historic Environment Viewer (HEV; for which see further below) at <https://maps.archaeology.ie/HistoricEnvironment/>. As of the date of publication of this leaflet, this feature can be accessed by selecting the RMP layer on the HEV (go to 'Layer List' in top right hand corner) and then:

- (1) moving the cursor to within the relevant area for the RMP map to be viewed;
- (2) clicking within that area to bring up a pop-up window; *and*
- (3) clicking on the link provided in the pop-up window to open a PDF copy of the required RMP map.

The RMP was based on the results of a series of surveys carried out by or on behalf of the National Monuments Service's Archaeological Survey of Ireland. These included the Urban Archaeological Survey, which identified areas within present day towns likely to contain sub-surface archaeological deposits or upstanding structures of archaeological interest (which, as noted above, may be hidden within apparently modern structures). The urban areas so identified are included in the RMP.

8. Is the Record of Monuments and Places a complete list of known archaeological sites and monuments?

No. It is very important to understand that the RMP does not include all known archaeological sites and monuments, given that further such sites and monuments are found on an ongoing basis. For that reason, it is very important (in the context of considering proposed development) to take account of all information available on the **Historic Environment Viewer** (See Question 9).

9. What is the Historic Environment Viewer?

The Historic Environment Viewer (HEV) is the National Monuments Service's online interactive map/search facility, providing access to all records stored on its national database of sites and monuments. It is available at: <https://maps.archaeology.ie/HistoricEnvironment/>.

The HEV will provide information not only on those archaeological monuments included in the statutory RMP, but also in regard to many more which have been identified since the RMP was issued. It is important to take all monuments identified on the HEV into account when planning development.

The HEV has a feature enabling a 'zone of notification' to be generated on screen, in addition to a centre point dot for the site or monument. In due course, revision of the

statutory Record of Monuments and Places (RMP) will ensure consistency between such zones and the way in which monuments and places are marked on the RMP maps. Pending this, it is important to adhere to the areas marked on the RMP maps if these are wider than the HEV 'zones of notification'. The zones on the HEV (or marked on the RMP maps) do not constitute buffer zones completely excluding the possibility of development, though they can be taken as indicating areas for particular consideration in relation to possible impacts on the site or monument in question. (See Question 16).

10. What other online resources exist?

The National Monuments Service has made available online data on known historic wrecks at: <https://www.archaeology.ie/underwater-archaeology/wreck-viewer>.

A range of other online map based data is available at the Heritage Maps website maintained by the Heritage Council: <https://www.heritagemaps.ie/WebApps/HeritageMaps/index.html>.

11. Limitations of online resources

Use of the above online resources is subject to acceptance that they may contain errors and omissions. Furthermore, the importance of seeking appropriate professional archaeological advice must be emphasised, especially in regard to (but not restricted to) larger or more complex development proposals.

Even professional archaeologists engaged to advise on proposed development need to exercise care in using online resources, and be sure to supplement them with appropriate archival research. A particular example of this would be the need for



archaeologists planning pre-development archaeological test excavations to ensure that they have consulted all appropriate National Museum of Ireland records of finds, and not to rely solely on online resources.

12. How do I know if my development site includes or is adjacent to a national monument that is subject to a preservation order or is adjacent to a national monument in the ownership or guardianship of the Minister for Housing, Local Government and Heritage or a local authority?

A non-definitive list by county of national monuments currently in Ministerial ownership or guardianship is available here:

<https://www.archaeology.ie/national-monuments/search-by-county>

A non-definitive list of national monuments subject to preservation orders made under the National Monuments Acts is available here:

<https://www.archaeology.ie/sites/default/files/media/publications/po19v1-all-counties.pdf>

National monuments owned by or in the guardianship of the Minister will likely be identified as such by signage, and are maintained by the Office of Public Works.

A range of monuments in local authority ownership may be considered to be national

monuments in such ownership and therefore subject to consent requirements under the National Monuments Acts. Examples may include medieval churches, graveyards and historic town walls.

13. How do I know whether my proposed development site lies within or close to a Recorded Monument or another known archaeological site or monument and what else should I consider doing in relation to trying to avoid archaeological impacts at the earliest stage?

You should firstly consult the **Historic Environment Viewer** (HEV) as set out above. However, in regard to larger scale developments, engagement of your own archaeological expertise at an early stage is advisable, even in the absence of known archaeological monuments.

14. If my proposed development site lies within or close to a monument or place on the RMP, another known archaeological site, monument or historic wreck, where can I access more detailed information about it?

In the first instance, the **Historic Environment Viewer** (HEV) or online **Wreck Viewer** may have more detailed information available. If such detail is not available, arrangements can be made (subject to certain limits) to access archive material. Inquiries in that regard should be sent to nmarchive@housing.gov.ie. Further

information on accessing the National Monuments Service Archive is available at: <https://www.archaeology.ie/archive-unit>.

15. I'm considering applying for planning permission in relation to proposed works close to a monument in the RMP, other known archaeological monument or historic wreck. Where can I get some advice in relation to my proposals in advance of lodging a planning application?

You should contact the relevant planning authority (city or county council) in the first instance. You may also wish to engage professional archaeological expertise at an early stage.

16. Is there a standard buffer zone around archaeological sites and monuments within which development should not occur or which determines conclusively whether or not a proposed development would have implications for the site or monument?

No. There are many factors which can affect the extent of the archaeological potential in the area around a monument, and which may be relevant as to whether a proposed development will be unsuitable on grounds of archaeological impact (including visual amenity impact in relation to a monument). These factors include the type and condition of the monument, the landscape, the previous land use and the nature and scale



of the proposed development. The ‘zones of notification’ which can be viewed on the Historic Environment Viewer (and the circles etc. drawn on RMP maps), are not definitive one way or the other as to whether development will be permitted, without the factors noted above also being taken into account. They do, however, give an indication that archaeological considerations may be an important aspect in consideration of any development proposed within the ‘zone of notification’ or RMP area.

17. Do particular issues arise in relation to major developments?

Major development projects are generally subject to a requirement, which arises under the European Union (EU) Directive on Environmental Impact Assessment (EIA), as implemented in Irish law, for the carrying out of an EIA. As part of the process, the developer will have to prepare an Environmental Impact Assessment Report (EIAR) setting out details of the project and the likely significant effects of the development on the environment, including archaeological heritage, and the measures proposed to mitigate adverse effects.

The EIA process (and any EIAR) must address impacts and effects on all aspects of archaeological heritage (including historic wrecks), not just impacts and effects in relation to sites and monuments protected under the National Monuments Acts or those identified in the Historic Environment Viewer (HEV). Preparation of an EIAR must therefore involve an appropriate level of

archaeological assessment directed at the identification of previously unidentified archaeological heritage and appropriate mitigation measures in relation to such heritage, including features which might come to light in the course of development.

Even in the absence of a requirement for EIA, large scale development will likely be subject to requirements for archaeological assessment in advance of a grant of permission, by way of requirements for submission of further information. Engaging appropriate professional archaeological expertise at an early stage will assist in dealing with this.

18. Will my planning application be sent to the Department of Housing, Local Government and Heritage to comment on possible archaeological implications?

Under the Planning and Development Regulations 2001, as amended, planning authorities are required to refer planning applications to certain bodies, in specified circumstances. This means that, in summary, any planning application for proposed development on, or in the vicinity of a known archaeological monument (whether or not protected under the National Monuments Acts) is likely to be referred to the Department of Housing, Local Government and Heritage. Also, proposals for large-scale development, even if not impacting on a known archaeological site or monument, are likely to be referred.



19. What happens to my planning application if it is referred by a planning authority to the Department of Housing, Local Government and Heritage?

The Development Applications Unit in the Department of Housing, Local Government and Heritage co-ordinates the Department's evaluation of all referred planning applications. The planning application is examined with reference to possible impact (including the level and extent of impact) on both known and as yet unidentified archaeological heritage. Based on that examination, the National Monuments Service may make recommendations, which are issued to the planning authority by the Department's Development Applications Unit. The relevant planning authority considers these recommendations as part of

its decision making process in relation to the application.

20. Does the planning authority have to adhere to the recommendations made by the Department or otherwise take account of archaeological heritage in deciding on a planning application?

The planning authority decides on the planning application, but key factors in its decision include the objectives set in its own development plan and Government and Ministerial policies. As the recommendations made by the Department will be framed with these in mind, it is likely that the Department's recommendations will strongly guide the planning authority. Where a decision is made which the Department

considers is seriously deficient in the way it deals with archaeological heritage, the Department can appeal to An Bord Pleanála (though Strategic Infrastructure Development applications are decided in the first instance by An Bord Pleanála and therefore are not subject to that appeals process).

21. Do planning authorities have their own archaeological expertise?

Some planning authorities do have professional archaeologists working within them who will review planning applications and advise the planning authority on them.

22. Could my planning application be refused on archaeological grounds?

Yes. Examples of where this could happen would include direct impact on a known archaeological monument, or serious loss of visual amenity of a monument which occupies a prominent position in the landscape. However, in many cases it may be possible to address problems through redesign. Early discussions with the planning authority, the taking into account at an early stage of the presence of archaeological monuments and the engagement of professional archaeological advice, will all contribute to avoiding the submission of planning applications which result in refusal.

23. Why might I be asked to submit “Further Information” in relation to a possible impact on the archaeological heritage and how do I comply with such a request?

This happens where the planning authority considers (possibly arising from a recommendation from the Department) that an application raises questions regarding a possible impact on the archaeological heritage which have not been addressed sufficiently in the application. A requirement for further information will frequently be in the form of a request to submit an archaeological assessment (see Question 6 above for archaeological assessment), and you will therefore have to engage professional archaeological expertise. If, as part of the assessment, it is necessary to carry out archaeological test excavations or to use detection devices for archaeological purposes, relevant licences and consents under the National Monuments Acts will have to be obtained by the professional archaeologists carrying out the assessment. However, while such work will therefore be regulated by the National Monuments Service, the question of whether the further information request has been complied with remains one for decision by the planning authority.

24. If I am granted planning permission could the permission be subject to conditions relating to the protection of the archaeological heritage, and if so what form might these take?

Yes, a grant of planning permission can be subject to such conditions. The form they may take will vary depending on the circumstances.

If it was not possible for necessary archaeological assessment to be carried out before a grant of permission, a condition requiring this might be attached to the permission, requiring the completion of an assessment in advance of the commencement of construction.

This would likely be accompanied by a further condition, requiring redesign to avoid impact on any archaeological heritage identified by the assessment, or archaeological excavation and recording if impact could not be avoided.

If archaeological assessment was carried out before the decision on the application and it identified possible impact on archaeological heritage (but not to an extent necessitating refusal) then conditions which would then be imposed would be directed at minimising impact and mitigating it through the carrying out of archaeological excavation and recording. A variant of this might require certain types of features identified in the course of such archaeological



excavations to be preserved in-situ, e.g. significant masonry remains. In some cases, where there is a possibility of impact on archaeological heritage but it is not certain, a requirement for monitoring by a professional archaeologist of works will be imposed (with a further requirement for preservation in-situ or by record, i.e. through archaeological excavation, of archaeological features etc. identified in the course of the monitoring).

A range of other conditions might also arise, such as preventing accidental damage to archaeological features not intended to be impacted on by the development, or the carrying out of conservation works to above or below ground structures of archaeological interest.

The developer is liable for the costs of archaeological work required under such conditions. This will include the costs that an archaeologist, engaged by the developer, incurs in carrying out licensed archaeological work to the standard required by the National Monuments Service.

However, while archaeological work may be subject to regulation by the National Monuments Service, the latter cannot alter conditions imposed by the planning authority and the planning authority retains its responsibility for enforcement of planning conditions.

25. What are the implications of the presence on lands of Recorded Monuments or other archaeological sites in relation to whether development proposed on those lands is exempted development under planning law?

Article 6 of the Planning and Development Regulations 2001, as amended, provides for a wide range of categories of development to be exempted from the requirement for planning permission which would otherwise arise. However, Article 9 of the Regulations removes this exemption where a number of circumstances apply. These include where the development would consist of or comprise the alteration of any archaeological site, the preservation or protection of which is an objective of the relevant local authority development plan, or consist of or comprise the alteration of any archaeological monument included in the statutory Record of Monuments and Places (other than in the course of works licensed or consented to under the National Monuments Acts).

Accordingly, it is very important to check with the relevant planning authority before proceeding without planning permission with any works which would normally be exempted development, if it appears at all possible that those works could impact on an archaeological site or monument as referred to above.

26. Does having a grant of planning permission mean I don't need any licences or consents under the National Monuments Acts?

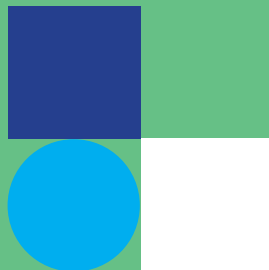
No. A grant of planning permission does not remove the need to comply with other legislation, where applicable. So a grant of planning permission will not, for example, remove the need for consent from the Minister for Housing, Local Government and Heritage in relation to ground disturbance in proximity to a national monument (such as a town wall) in the ownership of a local authority.



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