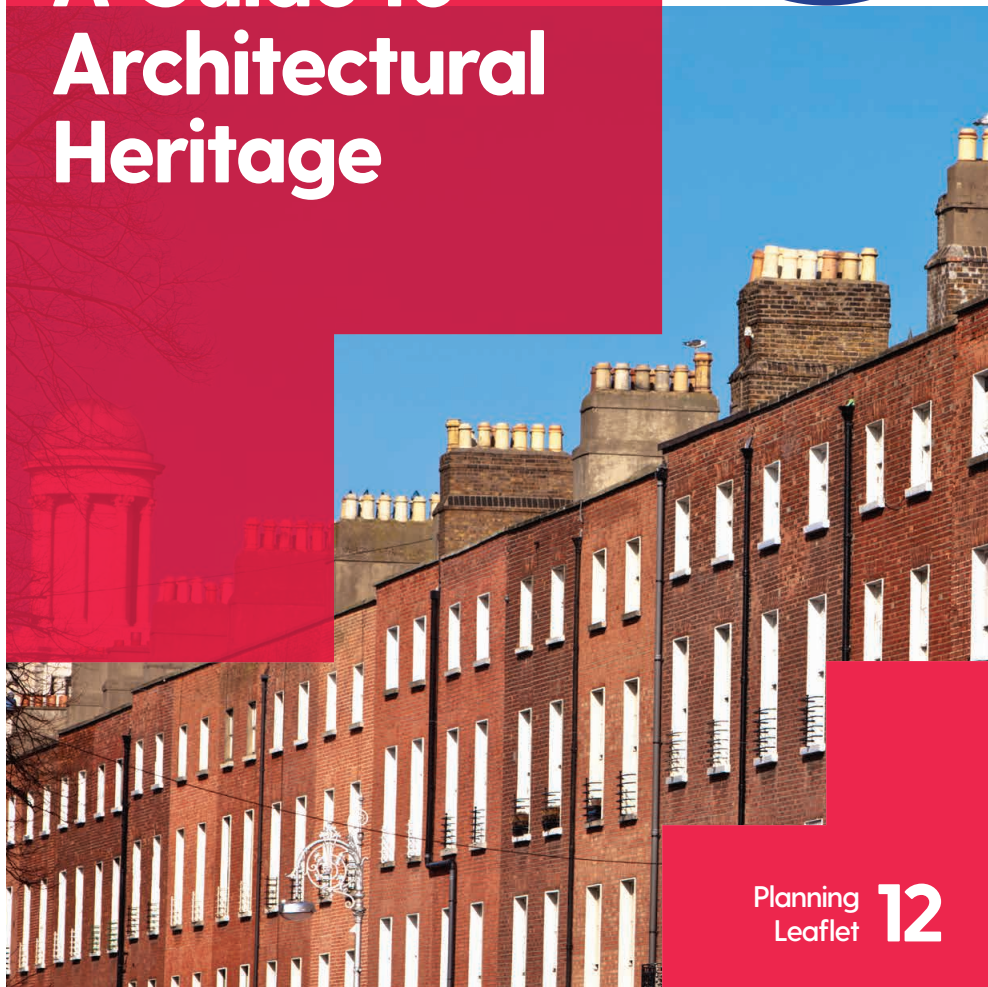
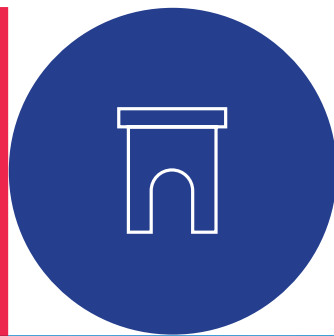


# A Guide to Architectural Heritage



Planning  
Leaflet **12**



Offig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator



An Roinn Tithíochta,  
Rialtais Áitiúil agus Oidhreacht  
Department of Housing,  
Local Government and Heritage



# A Guide to Architectural Heritage

This is a practical guide to help understand how structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest are protected under planning law. This leaflet is not a definitive legal interpretation of planning law. For further information, you should consult your local planning authority (city or county council).

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

The law regarding this subject is set out in the Planning and Development Act 2000, as amended, and the Planning and Development Regulations 2001, as amended. This legislation includes provisions for preserving protected structures and structures in architectural conservation areas (see Question 11 below). Other historic structures may also be protected under the National Monuments Acts 1930 - 2004. Further guidance on the preservation of historic buildings is provided in the ‘**Architectural Heritage Protection – Guidelines for Planning Authorities, 2011**’, published by the Department of Arts, Heritage and the Gaeltacht.

## 2. What is a protected structure?

A protected structure is a structure or part of a structure that a planning authority considers is of special interest from an architectural, historical, archaeological, artistic, cultural, scientific, social or technical point of view.

Details of protected structures are entered by a planning authority in a Record of Protected Structures (RPS), which forms part of the development plan. The RPS is usually recorded in list and map form and is normally included as an appendix to the development plan. If you are an owner and/ or occupier of a protected structure, you are legally obliged to ensure that no damage is caused to the structure.

This obligation applies from the time you, as an owner/occupier, are notified of a proposal to include the structure in the RPS (at which time the structure becomes a ‘proposed protected structure’).

The State also maintains a National Inventory of Architectural Heritage (NIAH). This is a central database for post 1700 architectural heritage. The structures listed in the NIAH do not have statutory protection. However, the guidelines referred to in Question 1 above indicate that, where an NIAH survey has been carried out, those structures which have been given a rating of international, national or regional importance will be recommended by the Minister for Housing, Local Government and Heritage to the planning authority for inclusion on the RPS.

## 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. This includes its interior, all of the 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 within its curtilage (this means any land or outbuildings which are/were used for the purposes of the structure).

There is a mechanism to check if minor works can be undertaken on or in a protected structure. This process is known as a Section 57<sup>1</sup> declaration (see Questions 6 and 7 below). Where such a declaration is sought, 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.

Should the declaration confirm that any interior or exterior features are not part of the protected structure status, then planning exemptions in accordance with the Planning and Development Act 2000, as amended, and the Planning and Development Regulations 2001, as amended will apply to these features.<sup>2</sup>

#### **4. How does a structure become a protected structure?**

A structure becomes protected when it is included in the RPS compiled by the planning authority and adopted as part of its development plan. You should check with your planning authority to find out if a structure is protected or proposed for protection.

Planning authorities must follow certain procedures when they propose to record a structure as protected. These procedures involve notifying owners and occupiers of the structure and other certain interested bodies of the proposal.

The planning authority must also notify the public by publishing an advertisement in a newspaper circulating in the locality. The owner and/or occupier of the structure, along with any member of the public, is entitled to make comments on the planning authority's proposal. These comments are considered before the planning authority's elected members (locally elected councillors) decide whether the structure should become protected. The same process applies to structures proposed for deletion from the RPS. Structures are added or deleted to the development plan on an on-going basis.

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

If you are an owner and/or occupier of a protected structure you must ensure that the structure or any element of it is not endangered. Endangering a structure can mean either directly or indirectly damaging any element of the structure or neglecting the structure to the extent that it is damaged.

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1 Section 57 of the Planning and Development Act 2000, as amended.

2 Refer to Question 6 below.



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

Under planning law, minor works to structures do not normally require planning permission. These works are known as exempted development. However, in the case of a protected structure, planning permission may be required for minor works, unless the planning authority decides that the works would not affect the character of the structure or any element of the structure that contributes to its special interest.

The planning authority advises whether they consider planning permission is necessary in a particular case through the Section 5 and Section 57 declaration processes. The

Section 57 declaration process is described in Question 3 above.

Anyone may seek a Section 5 declaration from a planning authority if they want to establish if a specific development requires planning permission. An owner and/or occupier of a protected structure may seek a Section 57 declaration from a planning authority regarding the type of works which would or would not materially (significantly) affect the character of the structure (see Question 7 below), and which would or would not require planning permission. In the case of structures where the decorative condition is of special interest, planning permission could be required for interior decorating such as plastering or painting.

## 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 under Section 57 regarding the structure and its curtilage (the surrounding land or outbuildings which are/were used for the purpose of the structure).

This will indicate the types of works that can be carried out without affecting the character of the protected structure or any element of it which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social and technical interest, and those which cannot. Works which are normally regarded as exempted development and which do not affect the character of the structure do not require planning permission.

A declaration under Section 57 is issued to the owner or occupant of a protected structure free of charge on application. Your local planning authority will issue this declaration within 12 weeks of receiving a request. It will be necessary for an official of the planning authority to carry out a detailed inspection of the structure. The applicant for a declaration under Section 57 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 office of the planning authority, no information of

a sensitive nature will be included in the publicly available record.

Alternatively, anyone who wishes to query whether a specific development (e.g. works such as roof works, or window repairs to a protected structure, or a structure within an architectural conservation area or change of use) requires planning permission may apply to the planning authority for a declaration on development and exempted development under Section 5.

The applicant must describe in writing the nature of the query on which a declaration on development and exempted development is sought. They must also include any other relevant information required by the planning authority (such as a site location map) and the appropriate fee. The planning authority will issue the declaration within four weeks of receiving a request.

In both cases, if the applicant disagrees with the planning authority on whether planning permission is needed, the applicant can refer the decision of the planning authority to An Bord Pleanála (the Board) on payment of the appropriate fee. The decision must be referred to the Board for review within four weeks of the decision of the planning authority.

Where a planning authority fails to issue a declaration under Section 5 within the four-week period, the applicant can refer

the question to the Board within four weeks of the date the declaration was due to be issued. This provision does not apply under Section 57.

### **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 Planning Leaflet 4 – “A Guide to Making a Planning Application”). However, because of the sensitivity of most protected structures, a

planning application for works to a protected structure is generally more detailed.

The relevant newspaper and site notice for the planning application must indicate that the application relates to a protected structure. Additional information, including plans and documentation, on how the proposed development would affect the character of the protected structure must be submitted with the application. The planning authority notifies other interested bodies, including the Heritage Council and An Taisce, before making a decision on the planning 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 to assist owners and occupiers to preserve a historic structure?**

Yes. There are two schemes, which are funded by the Department of Housing, Local Government and Heritage. The Historic Structures Fund and the Built Heritage Investment Scheme. Applications can only be made via your local authority with applications accepted by local authorities up to the end of January each year.

Full details of the schemes are available from your local authority.

### **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 may qualify 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; *and*
- acquire, by agreement or compulsorily, a protected structure if it considers that this is desirable or necessary to protect the structure. Where a planning authority acquires 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 either of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest in its own rights, or which 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 a group of structures associated with a mill or with a country house estate. An architectural conservation area could also include protected structures.



Planning authorities may designate an area as an architectural conservation area in their development plans to ensure that its character is preserved.

To designate an area as an architectural conservation area, a variation to the development plan is required. This includes a public consultation process and the elected members of the local authority (councillors) ultimately decide on whether the proposed architectural conservation area should be included. Planning permission would normally be required before 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. Additional information on how the proposed development would affect the character of that area must be submitted with the application. The planning authority notifies other interested bodies, including 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 within an architectural conservation area 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. If found guilty, a person could be liable for a significant fine and/or a term of imprisonment. It is also an offence to undertake any work to a protected structure without planning permission, if it is required.

## 13. Where can I get further information?

The law governing protected structures is set out in the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001, as amended. You can purchase these from the Government Publications Office by phoning the call centre on (046) 9423100 or at [publications@opw.ie](mailto:publications@opw.ie) or download them for free from the Department of Housing, Local Government and Heritage's website [www.gov.ie/housing](http://www.gov.ie/housing). Legislation is also available to view and download from: [www.irishstatutebook.ie](http://www.irishstatutebook.ie).

Guidelines on architectural heritage protection have been published and are available at [www.gov.ie/housing](http://www.gov.ie/housing) and from the Government Publications Office. In addition a series of illustrated booklets known as the "Advice Series" was published by Government in 2015 in an effort to guide owners and others responsible for historic structures on how best to repair and maintain their properties. The booklets cover the following topics:

- "Thatch – A Guide to the Repair of Thatched Roofs"
- "Paving – The Conservation of Historic Ground Surfaces"
- "Access – Improving the Accessibility of Historic Buildings and Places"
- "Bricks – A Guide to the Repair of Historic Brickwork"
- "Conservation of Places of Worship"
- "Energy Efficiency in Traditional Buildings"
- "Iron – The Repair of Wrought and Cast Ironwork"
- "Maintenance – A Guide to the Care of Older Buildings"
- "Roofs – A Guide to the Repair of Historic Roofs"
- "Ruins – The Conservation and Repair of Masonry Ruins"
- "Windows – A Guide to the Repair of Historic Windows"

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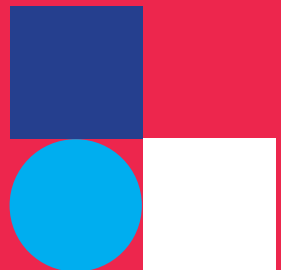
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