
ATTACHMENT 11.1

- LEGAL STATUS OF SITES -

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National Monuments Acts 1930-2004

The term ‘National Monument’ was initially defined by the 1930 National Monuments Act as:

‘a monument or the remains of a monument the preservation of which is a matter of national importance by reason of the historical, architectural, traditional, artistic, or archaeological interest attaching thereto.’

Four subsequent Amendment Acts 1954-2004 widened the content and scope of the Act. This definition does not restrict inclusion based on date and includes land adjacent to a national monument, which is required to preserve the amenities of the monument. National monuments may be acquired by the Minister by agreement or compulsory order. A national monument (excluding dwellings) in the ownership/guardianship of the State or Local Authority may not be interfered with without written consent of the Minister.

Record of Monuments and Places

The Record of Monuments and Places (RMP) was established under Section 12 of the 1994 National Monuments (Amendment) Act. Under the terms of this Act, the Minister is required to establish and maintain a record of the monuments and places where the Minister believes there are monuments present. This RMP gives protection without having to establish that a monument is falling into decay. The term ‘monument’ as used in this Act encompasses all artificial structures, regardless of date, whether or not they are of archaeological or architectural interest, but excludes buildings used for ecclesiastical purposes. All monuments, whether or not they are in State ownership/guardianship, or can be designated or subject to any legal protection, could potentially be classed as ‘National Monuments’. A ‘Historic Monument’ includes:

‘a prehistoric monument and any monument associated with the commercial, cultural, economic, industrial, military, religious or social history of the place where it is situated or of the county.’

Any monument pre-dating AD1700 is automatically protected as a historic monument. Monuments post-dating AD 1700 have been increasingly included in the RMP, mostly represented by architectural and industrial heritage sites.

The earlier Sites and Monuments Record (SMR) and the Archaeological Survey of Ireland, both initiated after the 1930 National Monuments Act, form the basis of the statutory RMP. Therefore, the RMP includes all previously known archaeological sites, but also potential archaeological sites. As a result of this Act, it is unlawful to carry out work on a Recorded Monument without the consent of the Department of Culture, Heritage and the Gaeltacht. Written consent for any development on such a site must be sought.

Should finds or features of archaeological significance be identified at the proposed development site, they would be legally protected under the National Monuments Acts 1930-2004.

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Heritage Act 1995

‘Architectural heritage’ is defined in the Heritage Act 1995 as:

‘all structures, buildings, traditional and designed, and groups of buildings including streetscapes and urban vistas, which are of historical, archaeological, artistic, engineering, scientific, social or technical interest, together with their setting, attendant grounds, fixtures, fittings and contents, and, without prejudice to the generality of the foregoing, includes railways and related buildings and structures and any place comprising the remains or traces of any such railway, building or structure.’

The Act created the Heritage Council and also protects all heritage buildings held by a local authority.

Architectural Heritage (National Inventory) & Historic Monuments Act, 1999

‘Architectural heritage’ is defined in the Architectural Heritage (National Inventory) & Historic Monuments Act, 1999, as meaning all:

- (a) Structures and buildings together with their settings, and attendant grounds, fixtures and fittings,*
- (b) groups of such structures and buildings, and*
- (c) sites, which are of architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.*

The Act requires the Minister to establish a survey that will identify, record and assess the architectural heritage of the country. The survey is known as the National Inventory of Architectural Heritage (NIAH).

National Inventory of Architectural Heritage

The National Inventory of Archaeological Heritage (NIAH) Surveys are designed to assist local authorities with the compilation of a Record of Protected Structures (RPS). However, the inclusion of a structure in the NIAH does not in itself provide statutory protection.

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Planning & Development Act 2000 (as amended)

Under Section 2 of the 2000 Planning and Development Act a ‘Protected Structure’ is defined as:

(a) a structure, or

(b) a specified part of a structure which is included in a record of protected structures, and, where that record so indicates includes, any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition.’

Local planning authorities have an obligation under Section 51(1) of the Planning and Development Act 2000 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. The RPS forms part of a planning authority’s development plan.

Record of Protected Structures in City/County Development Plan

Each City/County Development Plan is compiled in accordance with the requirements of the Planning and Development Act 2000 (as amended). The plans set out each City/County Council’s policy for the conservation and enhancement of a city’s natural and built environment and lists items of special environmental or archaeological interest. The inclusion of archaeological objectives by planning authorities in their statutory development plan provides the basis for such authorities to provide for the protection of the archaeological heritage. The majority of sites recorded in the Register of Historic Monuments are generally listed for protection in the City/County Development Plan. In certain circumstances, the City/County Councils highlight certain archaeological sites in their respective areas for protection from development under the provisions of the National Monuments (Amendment) Acts. However, these methods of protection can be applied at any stage should the relevant authorities feel a site or monument is in sufficient danger. The 2000 Local Government (Planning & Development) Act introduced a range of new measures for the protection of architectural heritage,

‘for the purpose of protecting structures, or parts of structures, which form part of the architectural heritage and which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest’.

Provision was made for the compilation of a Record of Protected Structures (RPS), a list of buildings which may not be materially altered or demolished without grant of permission under the Act. Protection extends to the interior of the structure, to the land in its curtilage¹, and to any other structures on that land and their interiors. This protection also applies to all fixtures and features forming part of the interior and exterior of the protected structure, or any structure on the grounds attached to it. Such structures, which include vernacular and country houses, churches, mills, bridges and other notable buildings, are generally listed in the relevant City/County Development Plan in terms of their international, national, regional or local significance. It is the policy of each Council to seek the preservation of listed structures.

¹Curtilage means the land and outbuildings immediately surrounding a structure which is (or was) used for the purposes of the structure.

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Local Area Plan

A Local Area Plan (LAP) sets out a strategy for the proper planning and sustainable development of a specific area within a local authority and for a timescale as specified by the authority. The policies or objectives contained in an LAP must be consistent with the objectives of the Development Plan and must include information on the likely significant effects on the environment of implementing the Plan. LAPs are prepared and adopted in accordance with Part II Section 20 of the Planning and Development Act, 2000 and as amended 2002. When considering an application for permission within the boundary of an LAP, the Planning Authority or An Bord Pleanála shall have regard to the provisions set out in the LAP.

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