

Appendix 12.6

Legislative Framework
Protecting the Archaeological
Resource

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Protection of Cultural Heritage

The cultural heritage in Ireland is safeguarded through national and international policy designed to secure the protection of the cultural heritage resource to the fullest possible extent (Department of Arts, Heritage, Gaeltacht and the Islands 1999a, 35). This is undertaken in accordance with the provisions of the European Convention on the Protection of the Archaeological Heritage (Valletta Convention), ratified by Ireland in 1997.

The Archaeological Resource

The National Monuments Act 1930 to 2014 and relevant provisions of the National Cultural Institutions Act 1997 are the primary means of ensuring the satisfactory protection of archaeological remains, which includes all man-made structures of whatever form or date except buildings habitually used for ecclesiastical purposes. A National Monument is described 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’ (National Monuments Act 1930 Section 2).

A number of mechanisms under the National Monuments Act are applied to secure the protection of archaeological monuments. These include the Register of Historic Monuments, the Record of Monuments and Places, and the placing of Preservation Orders and Temporary Preservation Orders on endangered sites.

Ownership and Guardianship of National Monuments

The Minister may acquire national monuments by agreement or by compulsory order. The state or local authority may assume guardianship of any national monument (other than dwellings). The owners of national monuments (other than dwellings) may also appoint the Minister or the local authority as guardian of that monument if the state or local authority agrees. Once the site is in ownership or guardianship of the state, it may not be interfered with without the written consent of the Minister.

Register of Historic Monuments

Section 5 of the National Monuments (Amendment) Act 1987 provides that the Commissioners of Public Works are required to establish and maintain a Register of Historic Monuments. Historic monuments and archaeological areas present on the register are afforded statutory protection under the 1987 Act. Any interference with sites recorded on the register is illegal without the permission of the Minister. Two months’ notice in writing is required prior to any work being undertaken on or in the vicinity of a registered monument. The register also includes sites under Preservation Orders and Temporary Preservation Orders. All registered monuments are included in the Record of Monuments and Places.

Preservation Orders and Temporary Preservation Orders

Sites deemed to be in danger of injury or destruction can be allocated Preservation Orders under the National Monuments Act 1930. Preservation Orders make any interference with the site illegal. Temporary Preservation Orders can be attached under the 1954 Act. These perform the same function as a Preservation Order but have a time limit of six months, after which the situation must be reviewed. Work may only be undertaken on or in the vicinity of sites under Preservation Orders with the written consent, and at the discretion, of the Minister.

Record of Monuments and Places

Section 12(1) of the National Monuments (Amendment) Act 1994 requires the Minister for Arts, Heritage, Gaeltacht and the Islands (now the Minister for the Environment, Heritage and Local Government) to establish and maintain a record of monuments and places where the Minister believes that such monuments exist. The record comprises a list of monuments and relevant places and a map/s showing each monument and relevant place in respect of each county in the state. All sites recorded on the Record of Monuments and Places receive statutory protection under the National Monuments Act 1994. All recorded monuments on the proposed development site are represented on the accompanying maps.

Section 12(3) of the National Monuments (Amendment) Act 1994 provides that ‘where the owner or occupier (other than the Minister for Arts, Heritage, Gaeltacht and the Islands) of a monument or place included in the Record, or any other person, proposes to carry out, or to cause or permit the carrying out of, any work at or in relation to such a monument or place, he or she shall give notice in writing to the Minister of Arts, Heritage, Gaeltacht and the Islands to carry out work and shall not, except in the case of urgent necessity and with the consent of the Minister, commence the work until two months after the giving of notice’.

Under the National Monuments (Amendment) Act 2004, anyone who demolishes or in any way interferes with a recorded site is liable to a fine not exceeding €3,000 or imprisonment for up to 6 months. On summary conviction and on conviction of indictment, a fine not exceeding €10,000 or imprisonment for up to 5 years is the penalty. In addition they are liable for costs for the repair of the damage caused.

In addition to this, under the European Communities (Environmental Impact Assessment) Regulations 1989, Environmental Impact Statements (EIS) are required for various classes and sizes of development project to assess the impact the proposed development will have on the existing environment, which includes the cultural, archaeological and built heritage resources. These document’s recommendations are typically incorporated into the conditions under which the proposed development must proceed, and thus offer an additional layer of protection for monuments which have not been listed on the RMP.

The Planning and Development Acts 2000-2018

Under planning legislation, each local authority is obliged to draw up a Development Plan setting out their aims and policies with regard to the growth of the area over a five-year period. They cover a range of issues including

archaeology and built heritage, setting out their policies and objectives with regard to the protection and enhancement of both. These policies can vary from county to county. The Planning and Development Acts 2000-2018 recognises that proper planning and sustainable development includes the protection of the archaeological heritage. Conditions relating to archaeology may be attached to individual planning permission.

Arklow and Environs Development Plan 2018-2024

Arklow has a wealth of buildings of architectural merit (See map No. 2(a) and 2 (b) Heritage Objectives), including one of Wicklow's most impressive churches, St. Saviour's Church, erected in 1899 -, one of Wicklow's few post disestablishment Church of Ireland churches. There are 39 structures within the LAP boundary recorded for heritage value and listed on the Wicklow Record of Protected Structures (see appendix 4 of the Wicklow County Development Plan). The historic core of Arklow is designated as an 'Area of Archaeological Potential or Significance' and is on the list of Recorded Monuments (WI040-029). There are numerous other recorded monuments throughout the settlement. Despite growth over the years, the town centre has generally retained its compact form and essential architectural qualities, while the main street still retains its medieval layout.

Heritage Objectives

HT1 To maintain the favourable conservation status of all proposed and future Natural Heritage Areas (NHAs) in the plan area in particular the Arklow Marsh and to support environmentally sensitive measures to enhance the understanding and enjoyment of such natural areas.

HT2 To protect the listed prospect of special amenity (from the R750/coast road towards the sea) from development that would either obstruct the prospect from the identified vantage point or form an obtrusive or incongruous feature in that prospect. Due regard will be paid in assessing development applications to the span and scope of the prospect and the location of the development within that prospect.

HT3 Protect and enhance the character, setting and environmental quality of natural, architectural and archaeological heritage, and in particular those features of the natural landscape and built structures that contribute to its special interest. The natural, architectural and archaeological heritage of the area shall be protected in accordance with the objectives set out in the Wicklow County Development Plan

HT4 To consolidate and safeguard the historical and architectural character of Arklow town centre through the protection of individual buildings, structures, shopfronts and elements of the public realm that are of architectural merit and/or contribute greatly to this character.

HT5 To maintain the coastal character of the settlement and to provide for its enjoyment as a recreational and natural asset.

HT6 To facilitate the enhancement of facilities such as the Arklow Maritime Museum which increase public awareness and appreciation of the town's maritime heritage.

HT7 To facilitate the development of initiatives to highlight Arklow's maritime heritage in the public realm.

HT8 To facilitate the development and enhancement of green infrastructure resources, including access to, connectivity between areas of interest and linkages between green spaces including the coast, where feasible within Arklow and environs settlement boundary (see Map No. 10.1).

HT9 To maintain the conservation value of all proposed and future Natural Heritage Areas (NHAs) and to protect other designated ecological sites in Arklow and Environs.

Wicklow County Development Plan 2015-2021

10.2.2 Archaeology

Archaeology Objectives

BH1 No development in the vicinity of a feature included in the Record of Monuments & Places (RMP) will be permitted which seriously detracts from the setting of the feature or which is seriously injurious to its cultural or educational value.

BH2 Any development that may, due to its size, location or nature, have implications for archaeological heritage (including both sites and areas of archaeological potential / significance as identified in Schedule 10.01 & 10.02 and Map 10.01 & 10.02 of this plan) shall be subject to an archaeological assessment. When dealing with proposals for development that would impact upon archaeological sites and/or features, there will be presumption in favour of the 'preservation in situ' of archaeological remains and settings, in accordance with Government policy. Where permission for such proposals is granted, the Planning Authority will require the developer to have the site works supervised by a competent archaeologist.

BH3 To protect previously unknown archaeological sites and features, including underwater sites, where they are discovered during development works.

BH4 To facilitate public access to National Monuments in State or Local Authority care, as identified in Schedule 10.02 and Map 10.02 of this plan.

BH5 To protect the Hillforts in west Wicklow and to engage with the relevant central Government

department to seek to undertake a detailed study of their importance.

BH6 To facilitate the designation of the Glendalough Monastic Settlement as a UNESCO World Heritage Site.