

Policies and Priorities for the National Heritage

Building Regulations and the National Heritage

The Heritage Council

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Foreword

1. Introduction

2. Guiding Principles

3. Recommendations

Acknowledgements

Foreword

There is an acceptance in Government policy and certain legislation that there is a range of cultural historic values represented by the existing building stock. Thus, National Monuments are afforded a high degree of protection, Historic Monuments a lesser degree, and the scale of prescribed requirements in respect of works to existing buildings generally is less than for new buildings. It is generally agreed that one can introduce into this hierarchy of classes an additional class, which is that sub-set of all existing buildings which are of architectural or historical merit. This subset would attract special consideration in terms of planning and building control. This report addresses this class of buildings, their protection and the issues arising.

This report has been compiled from research commissioned by the Heritage Council. Paul Arnold and Eoin O'Cofaigh, acting as consultants to the Heritage Council, carried out the research and prepared the report. The brief to the consultants was to examine the impact of building construction law, regulation and practice on historic buildings, to investigate the situation elsewhere, and to make recommendations, where judged appropriate, for policy initiatives which might be taken in the area. Work was undertaken with the involvement of a Working Party which has representatives from the Department of the Environment and Local Government, the Department of Arts, Heritage, Gaeltacht and the Islands, the Office of Public Works, architects and other design professions, An Taisce, the Irish Georgian Society, and Dublin Corporation Planning and Building Control Departments.

Research work was undertaken in several directions: drafting and circulation of a questionnaire on Building Regulations and their impact on historic buildings to the construction design professions -architects, engineers, and surveyors; drafting of a similar questionnaire and its circulation to Building Control, Fire and Planning Authorities throughout the State; interviews with interested individuals; and analyses of legislation, regulation and practice here and in selected countries abroad, notably the United Kingdom and the United States.

The work of the consultants has been monitored by a Steering Group nominated by the Heritage Council, comprising Professor Loughlin Kealy (Chairman and member of the Heritage Council's Standing Committee on Architecture), Mr. Arthur Hickey, architect, Mr. Peter Pearson, Mr. Derek Tallant, engineer (Office of Public Works) and assisted by Ms. Mary Hanna, architectural officer with the Heritage Council.

The Council extends its thanks to all those who participated in this work and especially those involved in the Steering Group. The recommendations proposed will, when acted upon, assist immeasurably in the identification, protection, preservation and enhancement of our national heritage.

A handwritten signature in black ink, reading "J. Rountree". The signature is written in a cursive, flowing style with a large initial 'J'.

Freda Rountree
Chairperson
The Heritage Council
February 1999

1. Introduction

1.1 The Building Regulations and related technical guidance have impacts far beyond those foreseen in their parent legislation. The effect of introducing Building Regulations and technical guidance has been to establish standards for all buildings which, although intended to control new work, are also invoked in other areas. These include:

- Fire Safety under the Fire Services Act;
- Health and Safety at Work under social legislation and regulation;
- Civil litigation; and
- General public policy on accessibility and safety.

1.2 It can be anticipated that such Technical Guidance as is now proposed to be introduced by the Minister for the Environment will have such a widespread application. If historic fabric is not to be needlessly destroyed, public authorities, as well as building owners and their agents must be able to rely on the guidance being adequately directive so as to give reasonable legal comfort, that is, that compliance with the guidance constitutes adequate action on the part of the prudent owner or agent.

2. Guiding Principles

2.1 The following principles apply to all buildings and works. The Heritage Council recommends that these principles be applied to historic buildings, and makes recommendations on how they might be adopted in a changed set of provisions.

2.2 Balance

The regulatory regime should identify, and then protect the public interest, which lies in achieving the optimum balance between a building's cultural-historic value and the performance of its construction.

Improvements in safety and accessibility should be proportional to the nature and extent of the underlying conservation works.

2.3 Clarity

People should be able to determine that they are complying with their statutory duties.

Having identified the public interest in regard to regulations to be applied, persons who seek to abide by the law should be able to know that they are so doing. This involves as much clarity as possible in all aspects of law, regulation, and technical guidance .

This need for clarity is common to building owners, designers, contractors, and control authorities alike.

2.4 Effectiveness

The Building Control regime should be effective.

Persons who abide by the law and comply with Regulations are entitled to know that Authority penalises those who ignore the law. Otherwise, the law falls into disrepute. This is true in respect of works to historic buildings as it is true generally.

2.5 Correlation of building typology and use

Building use, plan form, construction, and management combine to achieve adequate levels of public safety and accessibility.

At present the Guidance Document to Part B (Fire) of the requirements of the Building Regulations assumes an 'adequate level of management'. Permitted use varies with structural capacity (construction) or travel distance (plan form). Conversely, certain uses are unachievable with certain plan forms (e.g., residential institutional use in a single-stairs multi-storey building).

If levels of management were better than 'adequate', it might be possible to vary the standards applied in the areas of building use, building form and plan, and construction while achieving an equivalent level of safety. This might improve the

protection of historic fabric without other compromise and hence advance the overall public good.

3. Recommendations

The Recommendations below relate to the following areas:

- Legislation
- Regulation
- Published Guidance
- Other Guidance
- Personnel
- Financial policy
- Proposed Technical Guidance Documents

It should be noted that the Recommendations are quite specific, and that the number of changes recommended is not large. However, it should also be noted that a new Technical Guidance Document alone is not an adequate response - changes are also needed to the Regulations, and in particular to altering the scope of exemption under the Planning Acts.

Legislation

L.1 As a prelude to defining the interests to be balanced, the State should identify all buildings which are of historical or architectural importance.

L.2 A clear correlation between the classification of 'Historic building' for Building Control and 'Protected structure' for Planning Permission purposes is required.

L.3 The exemption under Section 4 (1)(g) of the Local Government (Planning and Development) Act, 1963 should be removed in relation to historic buildings. Side by side with this, there is a need for repair works on historic buildings to be exempted from planning control. Definitions of maintenance, renewal and repair works will need to be inserted as a result. The definition of "alteration" at Section 2 of the Act will need reconsideration.

L.4 The Fire Services Act, 1981 should be amended to include a definition of 'historic building' and to refer to the new Technical Guidance Document for historic buildings as being a relevant standard for determining safety.

L.5 Consideration might be given to removing the category of Material Change of purpose under Section 3 (3)(c) of the Building Control Act, 1990.

Regulation

R.1 Development consisting of repairs or renewal to listed buildings is currently exempted from planning control through the various exemptions and restrictions on exemption, under the Planning Acts and Regulations. The exemption should be altered so that only minor replacement work on a like for like basis is exempted development. There should be a requirement that all other works be subject to planning permission.

R.2 An Bord Pleanála's remit and expertise with regard to works on historic buildings should be strengthened.

R.3 An alternative board for adjudication on technical matters, perhaps an extension of the Building Regulation Advisory Body, should be considered. **R.4** The following definitions in the Building Regulations and Building Control Regulations should be revised for greater clarity: "Material Change of Use"; "Material Alteration"; "Repair and Renewal", and the meaning of other terms defined and clarified.

R.4.1 The definition of Material Change of Use at Article 5 of the 1997 Building Control Regulations should be amended to omit category (a).

R.4.2 The definition of Material Alteration at Article 5 of the 1997 Building Control Regulations should be reconsidered. At present almost any alteration can be deemed to be a material alteration (see below).

R.4.3 The definitions of Repair and Renewal should be separated. This will improve clarity.

R.4.4 "Like for like" means using materials matching the original in terms of provenance, quality, appearance, configuration and size.

R.4.5 The definition of Repair should be amended to read: " Work of maintenance relating to keeping a building in good condition or working order, involving patching and or minor replacement of the materials and services comprising the fabric of a building on a 'like for like' basis."

R.4.6 The definition of Renewal should be amended to read: "Work comprising the change, strengthening or addition of load bearing elements, the refinishing, replacement or extensive repair of existing materials comprising the fabric of a building on a 'like for like' basis."

R.4.7 The definition of Minor Works should be amended to read: "Work comprising decoration, or the installation, alteration or removal of a fixture or fitting."

R.4.8 The definition of Alteration should be amended to read: "Work to an existing building which is not a renewal, a repair, or minor works."

R.4.9 The definition of Material Alteration should be amended to read: "Any Alteration to the building or structure, or involving an increase in the structural loading on the building, or a worsening of performance in respect of any of the following: the provisions for escape in case of fire; the fire rating of internal linings; the performance with regard to fire of the structure; the performance with regard to fire spread of the external linings; the provision for access and facilities to the fire service."

R.5 Additional terms should be defined so as to have common meaning within Planning and Building control codes: "like for like"; "Repair"; "Renewal"; "Minor Works"; "Fixture or fitting".

R.6 While it would be possible to amend the building regulations so as to introduce an approvals system for all works connected with historic buildings, it is recommended, in the context of the implementation of other recommendations in this report, that this not be done .

R.7 The Safety Health and Welfare at Work (General Application) Regulations, 1993 should be amended in relation to workplaces in historic buildings.

Technical Guidance

TG.1 A new Technical Guidance Document is necessary

Whilst this synoptic report has produced only the broadest outline of recommendations to complement the main report, it is appropriate to give a more detailed account of the proposed new Technical Guidance Document for works to historic buildings. Such a new Guidance Document is necessary, but will not, on its own, solve all the issues for historic buildings.

This Technical Guidance Document should contain a statement of purpose for the document

The Building Regulations generally require reasonable levels of performance. The Guidance Document for historic buildings interprets reasonable performance in a context where the conservation of historic fabric is another goal of public policy. This should be stated at the outset. A general statement on the need to balance these potentially conflicting requirements should be provided. The principle of minimal interference with historic fabric should be stated.

The contents of the Technical Guidance Document should include the following:

- Definition of the scope of application of the TGD
- Bringing together of all relevant definitions
- Guidance in respect of Material Alterations
- Guidance in respect of Material Changes of Use

Definition of the scope of application of the TGD

The category of buildings to which the guidance applies must be defined. Because Technical Guidance is optional and not mandatory, the use of this Document will not be mandatory. However its use might be recommended in respect of certain categories of buildings.

Bringing together of all relevant definitions which are found in different sections of the following documents:

- Building Control Act, 1990
- Building Control Regulations
- Building Regulations

The interlocking nature of these definitions makes their interpretation difficult. It will help to have them all in one place. It will also help to have definitions consistent with those in the Planning Acts and Regulations. (This is without prejudice to

recommendations in the consultants' report on the definitions of *Material Alteration* and *Material Change of Use*).

The structure of the guidance

The guidance should be structured on a requirement-by-requirement basis and give concrete advice, with measurements where appropriate, on how to meet each requirement in the historic building. The precise structure of the new guidance is obviously a matter for detailed discussion by interested bodies, and particularly the State. The most important thing is that, whatever the structure adopted, the guidance has a status equal to that of the other TGDs. With this in mind, a TGD consisting of worked examples of a dozen or so heritage buildings which have been successfully conserved and converted to modern uses within the Building Control System is not the best possible structure. The Statutory Duty is to comply with individual requirements of the Building Regulations and guidance is to be given on compliance with the Statutory Duty. To this end:

- The document should contain guidance in respect of Material Alterations
- The document should contain guidance in respect of proscribed uses
- The document should contain guidance in respect of Material Changes of Use and other parts of the Requirements
- There should be a statement on the Requirements in respect of which the already-published Guidance will suffice
- The Guidance Document should be complete and stand-alone. However, about half of the requirements of the Regulations have relatively little impact on historic fabric. The already-published guidance will generally suffice in respect of: A2; B5; F1; F2; G1; G2; H1; H2; J1; J2 and J3.

Requirements in respect of which dedicated Guidance is now needed

A significant number of the difficulties in respect of "Building Regulations and historic buildings" stem from inadequate understanding of what is required under the Regulations. This understanding should be improved by a guidance document structured as outlined. Almost all other difficulties arise in respect of just seven requirements in a situation of material change of use. These are:

A1: A building shall be so designed and constructed that the combined dead, imposed and wind loads are sustained and transmitted to the ground safely, and without causing such deflection or deformation of any part of the building, or such movement of the ground, as will impair the stability of any part of another building.

- Realistic guidance on the values of imposed loads to be assumed in respect of common uses will reduce the need for structural intervention and upgrading.
- Any available realistic guidance on timber engineering : connections and joints, strapping, deductions for defective timbers will also reduce such needs.
- Guidance in respect of softer, lime-based mortars used in structural walling.

B1: *Means of escape in case of fire: A building shall be so designed and constructed that there are adequate means of escape in case of fire from the building to a place of safety outside the building, capable of being safely and effectively used.*

This requirement is that for which dedicated historic buildings guidance is most needed.

- Guidance on travel distances, lobby protection of protected shafts, protection of escape routes, requirements for escape lighting, fire detection and alarms, occupant capacities, direction of opening of doorway and all other matters which arise in guidance on this requirement must be provided. The guidance should follow the same headings as those in the TGD-B. The guidance must be numerically explicit in the same places where existing guidance is explicit, for instance in relation to travel distances and occupant capacities and width of doorways. Trade-offs between higher levels of protection or detection and e.g. travel distance should be offered where appropriate. Guidance on limiting numbers of room occupants and direction of opening of doors might be addressed.
- The removal of historic doors to upgrade fire performance is common and of considerable adverse impact. Guidance might be provided on what constitutes a reasonable period of stability in respect of historic buildings where this can differ from the tables in TGD-B, perhaps where backed by active fire suppression measures. Guidance on the retention of historic doors should be provided with advice to the effect that all doors provide a measure of resistance to fire. The latest research indicates that the provision of door closers alone, with no other measures, is often adequate. Guidance on historic glazed doors is also required.

B2: *For the purpose of inhibiting the spread of fire within a building, the internal linings shall offer adequate resistance to the spread of flame over their surfaces; and shall have, if ignited, a rate of heat release which is reasonable in the circumstances.*

- Guidance should indicate that all historic panelling is to be maintained. Guidance on balancing measures can be given if necessary.

B3: A building shall be so designed and constructed that, in the event of fire, its stability will be maintained for a reasonable period.

- Advice on incombustibility might be considered.

B4: *The external walls and roof of a building shall be so designed and constructed that they afford adequate resistance to the spread of fire to and from neighbouring buildings.*

- Most historic external walls and roofs are of materials of low or no fire spread: stone, rendered earth and slates. A very few historic buildings have thatched roofs or other combustible materials. In respect of these buildings, guidance should indicate that existing historic thatched roofs

may be kept, and any restrictions on proposed uses can be given, with requirements for external sprinkler protection if considered useful.

C4: *The floors, walls and roof of a building shall be so designed and constructed as to prevent the passage of moisture to the inside of the building or damage to the fabric of the building.*

- Guidance should be given to promote understanding of the performance of masonry in relation to moisture. Guidance should make it clear that the existing construction will suffice and that maintenance work alone is to be undertaken.
- Practical and appropriate advice on the insertion of damp-proof courses in old buildings is needed.

L1: *A building shall be so designed and constructed as to secure, insofar as is reasonably practicable, the conservation of fuel and energy.*

- The conservation and re-use of old buildings is more inherently sustainable than the provision of new buildings. The Guidance Document should dispose of any lingering concern that the provision of new buildings is somehow more environmentally sound and a better generator of employment, neither of which suppositions is true.

M1: *Reasonable provision shall be made to enable disabled people to have safe and independent access to a building and to those parts of the building to which it is appropriate to have access.*

- Although Part M of the Building Regulations does not apply to material alterations or material changes of use, nonetheless it might well be useful, for broader reasons of public policy, to provide guidance on how reasonable access and facilities for disabled persons might be provided in respect of historic buildings.

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The Heritage Council
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