



An Roinn
Cultúir, Oidhreacht agus Gaeltachta

Department of
Culture, Heritage and the Gaeltacht

Standard Operating Procedure

for

The Determination of Approved Buildings

and/or

Approved Gardens

Under Section 482 of the Taxes Consolidated Act 1997

November 2013

Revised: October 2017

CONTENTS

1.0	Introduction	3
1.1	Legislative Context and Overview	
1.2	Approved Building	
1.3	Approved Garden	
1.4	Approved Object	
2.0	Application Process	5
2.1	Pre-Application	
2.2	Application	
2.3	Application Assessment	
3.0	OPW Inspection Process	8
3.1	Assessment Criteria	
3.2	OPW Assessment and Recommendation	
4.0	The Determination	11
4.1	The Record of Protected Structures (RPS)	
5.0	Spot Checks	12
6.0	Proposed Works	13
7.0	Revocation	14
8.0	Appeals Process	15

1.0 INTRODUCTION AND OVERVIEW

This document sets out the Standard Operating Procedure for the application and the assessment criteria of Section 482 determinations for buildings or gardens. A separate Standard Operating Procedure will issue for the application and the assessment criteria for Section 482 determinations for objects.

The owner/occupier of a property, which is determined by the Minister for Culture, Heritage and the Gaeltacht to be a property which is intrinsically of significant architectural, aesthetic, scientific, historical or horticultural interest **and** which is determined by the Revenue Commissioners to be a property to which reasonable assess is afforded to the public or is a tourist accommodation facility as defined in the Act, can apply under Section 482 of the Taxes Consolidation Act 1997, for relief for expenditure incurred in the repair, maintenance or restoration of the property. Ultimately the decision to allow tax relief in respect of an approved building or garden is a matter for the Revenue Commissioners.

1.1 LEGISLATIVE CONTEXT

The scheme was first introduced in the 1982 Finance Act and was superseded by Section 482 of the Taxes Consolidation Act 1997 as amended. (<http://www.irishstatutebook.ie/1997/en/act/pub/0039/sec0482.html>) Section 482 (Relief for expenditure on significant buildings and gardens) provides a tax relief from income or corporation tax to the owner/occupier of an **approved building** (including surrounding garden) or an **approved garden** existing independently in respect of expenditure incurred on the repair, maintenance or restoration of the approved building and/or garden.

Determinations made by the Minister for Culture, Heritage and the Gaeltacht under this section are confined to determining the intrinsic significant architectural, aesthetic, scientific, historical or horticultural interest of the property and do not purport to determine the entitlement of owners/occupiers to claim tax relief under the Act.

Tax relief is not available in respect of expenditure recoverable through grants.

A determination made by the Minister for Culture, Heritage and the Gaeltacht attaches to the property and not to the owner/occupier.

Properties do not need to be listed on the Record of Protected Structures (RPS) to be considered but they do need to be deemed an 'approved building' or 'approved garden'.

1.2 APPROVED BUILDING

An approved building is a building and/or garden which the Minister for Culture, Heritage and the Gaeltacht has determined is intrinsically of significant ***architectural, aesthetic, scientific, or historical interest*** and which is determined by the Revenue Commissioners to be a building to which reasonable access is afforded to the public or which is a tourist accommodation facility.

1.3 APPROVED GARDEN

An approved garden is a garden (other than a garden, being land occupied or enjoyed with an approved building as part of its garden or grounds of an ornamental nature) which the Minister for Culture, Heritage and the Gaeltacht has determined is intrinsically of significant ***horticultural, scientific, historical, architectural or aesthetic interest*** and which is determined by the Revenue Commissioners to be a garden to which reasonable access is afforded to the public.

1.4 APPROVED OBJECT

An approved object is an object (including a picture, sculpture, print, book, manuscript, piece of jewellery, furniture, or other similar object) or a scientific collection which is owned by the owner or occupier of the approved building and which is determined by the Minister for Culture, Heritage and the Gaeltacht to be an object which is intrinsically of significant national, scientific, historical or aesthetic interest. The approved object(s) must be contained within an approved building – the building must have already had, or simultaneously receive, a determination.

A separate document will issue in relation to the Operating Procedures for the determination of approved objects.

2.0 THE APPLICATION PROCESS

2.1 PRE-APPLICATION

There is a dual application process:

- An application is made to the Minister for Culture, Heritage and the Gaeltacht for a determination that the building and/or garden is/are intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest;

and

- An application is made to the Revenue Commissioners for a determination that the building and/or garden will be afforded reasonable access by the public / or is a tourism accommodation facility.

The two applications may be made simultaneously but the process can only be fully completed by the Revenue Commissioners on receipt of a determination (if granted) from the Minister for Culture, Heritage and the Gaeltacht.

The Revenue Commissioners are the authority for determining in the case of such a property whether reasonable access is afforded to the public or, in the case of a tourist accommodation facility, whether it is open for at least 6 months in any calendar year of which 4 months must be the period 1st May to 30th September. As part of the 40 day opening requirement during the period 1st May to 30th September, access must be available during all of National Heritage Week (National Heritage Week usually takes place towards the end of August).

Application forms in respect of determinations by the Revenue Commissioners may be obtained from: Office of the Revenue Commissioners, Income and Capital Taxes Division, 1st Floor, Stamping Building, Dublin Castle, Dublin 2.

For more information see <http://www.revenue.ie/en/tax/it/leaflets/it30.html#section1>

2.2 APPLICATION

An application in respect of a **building** (and surrounding garden) is made on the Application Form (Buildings).

The form can be downloaded at <http://www.chg.gov.ie/heritage/built-heritage/financial-assistance-for-architectural-heritage/s-482-tax-relief/>

An application in relation to a **garden** is made on the Application Form (Gardens).

The form can be downloaded at <http://www.chg.gov.ie/heritage/built-heritage/financial-assistance-for-architectural-heritage/s-482-tax-relief/>

Note: Applications in relation to **an approved object** are made to the Department of Culture, Heritage and the Gaeltacht. The inspections are carried out by the National Museum of Ireland, the National Gallery of Ireland or the National Library of Ireland as applicable.

In completing the forms the following steps should be carried out:

- Supply a list of all the structures and other building(s)/feature(s), included within the area for which that application is being made (e.g. garden, walled garden, garden features/follies, outbuildings, gate lodge, entrance gates/pillars, estate walls, etc).
- Indicate/delineate on an Ordnance Survey map extract (1:2500 or 1:5000) the following where appropriate:
 - i) the extent of the **area** for which the application is being made;
 - ii) the **building(s)/feature(s)**, included within the area for which that application is being made, that you wish to include in your application (e.g. house, gates/pillars, mills, mill races, weirs, veteran trees, landscaping, ha-has etc);
 - iii) any **archaeological monument(s) or feature(s)**¹ on the applicant's grounds (although not included in the application).
- Supply a recent report with photographs from a relevant expert(s) that demonstrates that the building(s)/feature(s)/garden(s) is/are intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest.

¹A National Monument, a Registered Monument, or a site included on the Record of Monuments & Places

Note: The supporting documentation is particularly important. Inclusion in the National Inventory of Architectural Heritage or the Record of Protected Structures is not sufficient to demonstrate that the building / features(s) / garden is/are intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest.

- If it is anticipated that works will be carried out to the building /feature(s), please provide either an outline specification of such works or a scope of works statement
- Provide information of any recent or planned development applications for the property which was made to a planning authority, including planning reference numbers

Once completed, forms are submitted to: **Built Heritage and Architectural Policy, Department of Culture, Heritage and the Gaeltacht, Custom House, Dublin 1.**

2.3 APPLICATION ASSESSMENT

On receipt of a validly completed application form, the Department carries out the following internal administrative assessment to:

- Ensure that the form is completed fully and all supporting documentation (maps and expert report) is included - incomplete applications will be returned to the applicant
- Check the application with the Development Application Unit (DAU) within the Department to ascertain whether the property has a planning history
- Cross-check to see if the property is on the National Inventory of Architectural Heritage (NIAH)

On completion of this assessment, the application is passed to Architectural Services, Office of Public Works (OPW) within 10 working days.

3.0 OPW INSPECTION PROCESS

The OPW assigns an expert professional officer to carry out an inspection of the property and provide a report and assessment.

3.1 ASSESSMENT CRITERIA

The property is assessed under the following criteria:

- Architectural
- Aesthetic
- Scientific
- Historical

Garden applications are assessed under the above criteria with the addition of:

- Horticultural

Architectural qualities may be defined as the blend of the artistic, design, spatial, visual and technical characteristics of the building(s) and their relationship to each other.

Aesthetic qualities relate to the intrinsic beauty or elegance of the building(s) and/or garden.

Scientific qualities are the characteristics where the results of scientific research and/or innovation can be seen in the execution of the building and/or garden.

Historical associations must relate to a particular event or series of events or personalities which specifically relate to the house and /or garden.

Horticultural qualities relate to the assessment of garden applications only. Such qualities relate to the importance of plants, including veteran plants and trees, their cultivation and their use for sustainable human existence.

Note: *Archaeological interest* as a criterion for assessing Protected Structures under Section 51(1) of the Planning and Development Act 2000 is **not** one of the categories under the Act for which a Section 482 assessment applies.

To rank as ***intrinsically significant*** the building(s) and/or garden must possess clear characteristics of the total individual design concept or an amalgam of concepts. Generally, these will be the work of an eminent architect, engineer, gardener, designer or craftsman, but the quality of the executed work must speak for itself. It is not essential, however, that the names of such persons are recorded, nor that every example of their work would be necessarily deemed significant.

The following attributes and their combined contribution may be assessed in determining whether a building(s) and/or garden warrants the term significant and granted a positive determination.

Does the property:

- Show the development of a style(s) including the relationship between differing styles;
- Exhibit fine craftsmanship in design, setting, garden layout, materials such as stonework, timberwork, plasterwork, metalwork, decorative ornamentation, decorative coatings (paintwork etc), fixtures and fittings, modern materials (concrete, steel etc), other media and their relationship to each other and the whole;
- Demonstrate scientific or technical innovation;
- Show innovation in construction techniques;
- Exhibit rarity;
- Add value to and be part of an important streetscape, landscape or historic landscape/ensemble;
- Have an association with personalities and historic events. It is not sufficient for a building and or garden merely to have a significant history to qualify. That history must be capable of substantial illumination through the observation and experience by visitors of a building/garden's intrinsic historic features and character.
- Illustrate a particular lifestyle, era or social condition;
- Display factors intrinsic and particular to an individual case.

The physical condition of the property is also considered. Buildings in poor or dilapidated condition can often be of greater merit, as they may not have been subjected to inappropriate interventions.

The building(s) should be treated as an integral whole, rather than a series of isolated individual parts. Ancillary structures such as the garden, walled garden, garden features/follies, outbuildings, gate lodge, entrance gates/pillars, estate walls, etc. should be considered as part of the overall property complex.

3.2 OPW ASSESSMENT AND RECOMMENDATION

The OPW report should be as precise as possible but should relate, nevertheless, to the interiors and exteriors of all the buildings covered under the application. All elements that are mentioned in the determination application should be inspected, described and photographed.

The photographic record should contain as much detail as possible. All elements that are mentioned in the determination application should be photographed, e.g., garden, walled garden, garden features/follies, outbuildings, gate lodge, entrance gates/pillars, estate walls, etc. A set of good interior shots should also be taken of all the buildings mentioned and, where interior elements are mentioned as being significant, these elements should be photographed in detail.

If one does not already exist, a NIAH Survey Form is also completed for each property. This facilitates the inclusion of the record within the overall NIAH survey of the country.

The inspection will have regard to the impact that any proposed interventions would have on the architectural importance of the building.

On completion of the assessment, the OPW writes a report recommending whether to grant or refuse the determination. The report will logically follow from the inspection and the examination based on the above criteria.

4.0 THE DETERMINATION

The OPW report and recommendation is returned to the Built Heritage and Architectural Policy section in the Department of Culture, Heritage and the Gaeltacht. If the determination is recommended, a map is prepared of the application area and a submission is prepared for the Minister for his/her approval, signature and sealing.

On receipt from the Minister of the signed and sealed determination the original copy and a copy of the map will be sent to the owner/occupier of the property within ten working days. A copy of the determination and map will also be sent to the Revenue Commissioners.

4.1 THE RECORD OF PROTECTED STRUCTURES (RPS)

A distinction is made between the inclusion of a property on the RPS under the Planning and Development Act, 2000 and making a determination under Section 482 of the Taxes Consolidation Act, 1997. The former refers to structures of ***special*** *architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest*, whereas Section 482 refers to structures which are ***intrinsically of significant*** *historical, horticultural, architectural, aesthetic or scientific interest*.

Note: While a property may be included on the RPS, it may not necessarily be deemed to be intrinsically of significant interest to warrant a Section 482 determination.

In the event of a determination being made on a property which is not on the RPS, a separate recommendation will be made by the Minister for Culture, Heritage and the Gaeltacht (under Section 53 of the Planning and Development Act, 2000 as amended) to the relevant planning authority that the property be placed on the RPS.

5.0 SPOT CHECKS

All buildings or gardens, in respect of which determinations have been made, are subject to a spot check **every two years**. 2 - 5 % of sites will be spot checked annually. Under S.482 (7) of the Act an authorised officer from Revenue or an officer authorised by the Minister for Culture, Heritage and the Gaeltacht, may at any reasonable time inspect a building, garden or object in respect of which a claim has been made.

An owner / occupier will be advised at least one week in advance of a spot check by a person authorised by the Minister for Culture, Heritage and the Gaeltacht.

The purpose of the spot check by a person authorised by the Minister for Culture, Heritage and the Gaeltacht is to ascertain that there have been no alterations or any deterioration to the property that would warrant the revocation of the determination. The spot check carried out by the Revenue Commissioners is to determine that reasonable access to the property is afforded to the public.

An authorised person is obliged, on request, to produce her/his authorisation. Under S.482 (7) of the Act any person who obstructs or interferes with an authorised person in the course of exercising a power conferred on her / him shall be guilty of an offence and be liable on summary conviction to a fine.

6.0 PROPOSED WORKS

In the case where works are proposed to a property, the proposals should be carefully examined to ensure that they will not damage the overall significance of the building. The local planning authority should be consulted and planning approval applied for if required. All works should be carried out in accordance with the procedures in the Planning & Development Act 2000, as amended, and in accordance with best practice as set out in the Department of Culture, Heritage and the Gaeltacht's document *Architectural Heritage Protection Guidelines for Planning Authorities (2011)*.

In the event of an inspection indicating that works have been carried out which damage the property to such an extent as to undermine its significance, a recommendation may be made to revoke the determination.

7.0 REVOCATION OF DETERMINATION

The legislation provides for the Minister for Culture, Heritage and the Gaeltacht or the Revenue Commissioners to revoke their respective determinations for an approved building or garden where the conditions for granting the determination cease to exist.

S.482 (5c) of the Act makes provision for the Minister to revoke a determination where an alteration has been made to a property or where due to the deterioration of the property the Minister no longer considers the property to be intrinsically of significant architectural or aesthetic, scientific, historical or horticultural interest.

The revocation takes effect from the date the Minister considers the property not to be an approved building or garden.

8.0 APPEALS PROCESS

There is no statutory process for making an appeal. In the event, however, that an owner/occupier wishes to appeal the decision not to grant a determination, he/she may lodge an appeal, in writing, with *Built Heritage and Architectural Policy, Department of Culture, Heritage and the Gaeltacht* within twenty calendar days of the date of notification of the decision. In such instances, the file will be referred to an appropriate professional officer within the Department of Culture, Heritage and the Gaeltacht, who has not been involved in the initial assessment of the application, for review.