

KERRY COUNTY COUNCIL

POLICY ON TAKING IN CHARGE OF HOUSING ESTATES

1. INTRODUCTION

This document outlines Kerry County Council's Policy in relation to Taking in Charge of housing developments built by both Private Developers and the Local Authority itself.

The taking in charge of any road by a Local Authority is a Reserved Function for the Elected Members of the Authority. The legislative provision for such taking in charge procedure is set down in the Roads Act, 1993, Section 11, and the Planning and Development Act, 2000, Section 180. The Roads Act states that a Road Authority may by order declare a road over which a public right of way exists to be a public road. It also states that any road constructed or otherwise provided by a Road Authority, shall, unless otherwise decided by the Road Authority, be a public road, without the requirement to make an order.

This document has had regard to Circular Letter PD1/08 issued by the Department of Environment, Heritage and Local Government in February 2008 which requires all Local Authorities to develop and update their Policy on Taking in Charge by the end of June 2008.

The Planning Act states that where a development includes the construction of two or more houses and where the development, including all site works infrastructure etc., is completed to the satisfaction of the Planning Authority, the Authority shall where requested (a) by the person carrying out the development or (b) by the majority of the qualified electors who are owners or occupiers of the houses, as soon as may be, initiate the procedures under Section 11 of the Roads Act, 1993.

2. FACILITIES TO BE TAKEN IN CHARGE

It is the policy of Kerry County Council to take in charge private residential housing developments, where certain conditions have been met. It is also the policy of the Council in accordance with Section 5 of Circular Letter PD 1/08, not to take in charge holiday home developments or residential housing developments used entirely for short-term letting, gated residential housing developments, developments of multi-unit structures (i.e. apartments and duplex houses) of four dwellings or more and any of these elements of mixed type developments, as these are maintained by management companies.

For all private housing developments, the following elements of a development will be considered by the Council for taking in charge, subject to the conditions and requirements indicated below:

- Waste water treatment plants and associated buffer zones
- Public lighting
- Roads and footpaths
- Watermains
- Surface Water Sewers
- Foul Sewers
- Open Spaces
- Unallocated surface parking areas
- Fire Services including fire hydrants
- Playgrounds, where these are required by a condition of planning as facilities for public use
- Potable water treatment plants and any associated protection zones

The Local Authority will incorporate these elements of any estate taken in charge in its normal annual maintenance program and carry out any repairs/upgrades as required and as resources permit. However, grass cutting or maintenance of grass verges will not be carried out by the Local Authority (or the Developer once the Estate is Taken in Charge.)

Developers shall note that **liability for the above elements of a development shall remain with the Developer** until such time as they are taken in charge by Kerry County Council.

Individual phases of a development may be taken in charge, if appropriate and this will be addressed at Planning Stage.

Developers will be required to submit a Bond (index linked) in accordance with the form specified in the planning permission and the length of time the security will remain in place will normally be the duration of the Planning Permission plus seven years.

3. CONDITIONS FOR TAKING CURRENT ESTATES IN CHARGE

a) The Developer or majority of qualified electors who are owners may apply to have the development taken in charge by submitting an application form to the Planning Department of Kerry County Council. Copy attached in Appendix A of this document or by download on the Kerry County Council website. The application form must be certified by a suitably qualified person, who holds professional indemnity insurance up to €1 million for the purpose of signing such forms. Evidence of such insurance shall be furnished to the Council. The contents of the application form shall be deemed to be for the benefit of Kerry County Council. This application shall be accompanied with a fee of €500. This fee is refundable, if on first inspection everything is to the satisfaction of the County Council.

b) The development is an authorized development.

c) The development must be constructed in accordance with the planning permission granted.

- d) All development contributions have been paid in full.
- e) Any Bond or security lodged with the Planning Authority will not be released until the satisfactory completion of the works
- f) All connection fees have been paid in full.
- g) The roads, footpaths, sewers, drains and water mains shall be constructed in accordance with the 'Recommendations for Site Development Works of Housing Areas' – Department of the Environment and Local Government (1998), save where the conditions hereunder otherwise require. (Available from Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2 – Tel: 01 6613111). The developments should also comply with the Disability Act and the NDA Publication "Building for Everyone 2002".
- h) The Developer shall furnish evidence to the Council that all necessary wayleaves for services are reserved forever in the transfer documentation to house purchasers or the Council as necessary.
- i) The Developer shall note that a minimum width of 10 metres shall be required in respect of any Wayleave for sewers or watermains. This width may be reduced in certain circumstances only after consultation with the Council.
- j) The developer shall submit three copies of site location map (Scale 1:2500 or 1:1000) with the overall development (site) clearly outlined in red.
- k) The developer shall submit three copies of site location map (Scale 1:2500 or 1:1000) with only the area to be taken in charge clearly outlined in red.
- l) The Developer shall submit three copies of 'as constructed' drawings (scale 1:500) of the development and an electronic copy on a CD to the Council.

The drawings shall include the following information:

- The estate layout with only the area to be taken in charge outlined in red and way leaves outlined in yellow.
- Open spaces coloured green showing specification detail.
- The location of boundaries and structures within the site.
- Road layouts including all details of pavement construction, road width, junction details etc.,
- Footpaths showing width, surface type and depth of finished surface.
- (Note: Footpath widths and construction must comply with the Disability Act)
- Public lighting, including pole locations, types and size of columns, type of light fitting and lighting levels.
- Water main layout, including all valves, hydrants and stopcocks, indicating water main type, class and diameter.

- Surface water pipe layout indicating manhole locations, pipeline routes, pipe size, invert levels of pipes, pipe gradients, road gullies and location and extent soakaways. The invert and cover levels of all manholes shall be indicated.
- Sewerage layout indicating manhole locations, pipeline routes, pipe sizes, invert levels of pipes and gradients. The invert and cover levels of all manholes shall be indicated.
- Details of all underground services showing lines of ducting and the approximate range of depths and what utilities are using them.

All of the above shall be certified as correct by a “Suitably Qualified Person” with public indemnity insurance cover as already specified.

A “suitably qualified person” is either an Engineer or Architect with a Level 8 Degree and/or membership of the IEI or RIAI.

m) The Planning Authority will arrange to carry out an inspection of the estate for the purpose of taking it in charge after the receipt of a formal application together with the appropriate drawings and particulars outlined above. The Developer shall facilitate the inspection of the estate and provide manpower for the removal of manholes to enable the inspection of sewers. Kerry County Council reserves the right to check construction depths and materials and may request the Developer / Applicant to excavate trial holes in the road or footpath.

n) The Developer shall transfer or convey to Kerry County Council at his expense, all of the land contained in the planning permission affected by this policy document.

4. INSPECTIONS DURING CONSTRUCTION

Regular inspections of the Development by Local Authority staff will take place as construction progresses and particularly when construction is completed in order to determine at an early stage if Enforcement action is needed. The general procedure shall be as follows:

- (i) On receipt of the Commencement Notice a Taking in Charge file is opened for each residential development;
- (ii) The commencement notice and all requests for inspections and other correspondence arising from the process are formally acknowledge;
- (iii) A calendar of inspections, tied to the projected completion of the development, including such phasing as may be conditioned in the Grant of Permission or agreed by the Planning Authority, is set out in the Taking in Charge file at the outset;
- (iv) The record of such inspections and/or testing is held on the Taking in Charge file;
- (v) Failure to adhere to programmes, to notify the authority in relation to inspections and testing or other such breaches is referred for Enforcement Action commencing with the issuing of the statutory Warning Notice, copies of which are held in the Taking in Charge file;
- (vi) The record of such Final Inspections and/or Testing is kept on file and the file is retained by the authority for future reference.

5. INSPECTIONS AT TAKEN IN CHARGE STAGE

Where the estate is found on first inspection to be incomplete or not up to the required standard, then this inspection will be carried out at a fee of €500 and any subsequent inspections will be carried out at a fee of €200 per inspection until the final inspection where taking in charge can be recommended. Where the estate is found to be satisfactory in all respects of first inspection, there will be no fee. This inspection by the Council is only general and does not in any way exonerate the developer or certifying Engineer from his liabilities.

The Planning Authority will notify the developer of any incomplete or outstanding works and these issues must be corrected by the developer at his own expense. The developer shall notify the Planning Authority that these issues have been dealt with. Upon receipt of this notification the Planning Authority will re-inspect the development – see timeframe below.

6. INFRASTRUCTURE REQUIREMENTS:

Public Lighting

To ensure that Public Lighting shall be properly designed in relation to the application site and surrounding area's and provide for proper Asset Management and Energy Sustainability the following shall be met;

- Lighting designs for schemes shall be in accordance with ISO EN 13201 and BS5489 and should be designed by a competent lighting engineer.
- Lighting Units to have Full Electronic Control Gear.
- Lamps to be SON type (unless by prior agreement with the Local Authority Public Lighting Section).
- All Fittings to be Irish WEEE Compliant.
- Lamp fittings to have min. I.P. 66 rating.
- Lighting Columns to be Steel Columns to EN 40 standard.
- All residential/commercial developments to install a meter on the public lighting scheme and shall have a roadside location (unless by prior agreement with the Local Authority Public Lighting Section).
- As part of the 'as built' drawing submissions on completion of the development, the developer shall show **and certify** compliance with the above. A separate drawing for the Public Lighting element shall be submitted, which shall clearly indicate the locations and numbering sequence of lights, the exact specification of lamps, columns (including wattage and column heights) and locations of all mini-pillars, micro-pillars and meters.
- The developer shall be responsible for the payment of all public lighting bills until the public lighting has been shown to be in compliance with the foregoing and will then be taken over by the Local Authority including associated ongoing financial costings.

Roads and Footpaths

(i) The roads and footpaths shall be taken in charge in conjunction with watermains, sewers and open spaces.

(ii) The roads and footpaths shall be constructed in accordance with Section 2 of 'Recommendations for Site Development Works for Housing Areas' with the exception of Section 2.24 (Surface Dressing) as **surface dressing will not be accepted as a surfacing layer in Housing Estates.**

(iii) During footpath construction, all pre-cast kerbs shall be laid on edge and **not** on the flat. Wheelchair / pram accesses shall be provided at all roadway junctions. There shall be no steps incorporated in the footpath construction. Where necessary, a ramp shall be provided with a maximum gradient of 1 in 20.

(iv) All road signs and markings shall be provided by the Developer, as directed by Kerry County Council.

(v) Developers shall note that a number of core samples shall, at the Developers expense be taken for testing purposes, prior to taking in charge.

(vi) The developer shall submit a plan which clearly indicates the length and width of the road to one decimal place.

Water and Sewer Services

Elements under this Section include water mains, surface water sewers and foul water sewers.

These elements shall be taken in charge in conjunction with roads / footpaths and open spaces.

(i) Water main

- The water service connection in each house shall be taken in charge as far as the stop cock / water service control unit.
- Full details (plan and section) of any pump sump provided. Full details of any pumps provided, including specification and manufacturers manuals. Full detail of control panels and system.

(ii) Collection Systems

- Collection systems which shall be connected to an existing Local Authority system shall be taken in charge, subject to them complying with the requirements of this document.
- Foul sewage collection systems which shall in the future be connected to a public system shall not be taken in charge until the Local Authority system is in place. The developer shall be required to enter into a satisfactory arrangement for the maintenance and operation of the system in the interim. No new connections may be made to the system without the express written approval of the Local Authority.
- The following minimum specific requirements shall apply:
 - (a) A separate storm water and foul water system shall be provided.
 - (b) Separate sewer service connections shall be provided for each dwelling house.
 - (c) All surface water collection systems discharging to a soakpit shall have trapped gullies rather than untrapped gullies.

(iii) Pumping Stations and Treatment Plants

The developer shall submit full details of all items provided, including specification and manufacturers manuals. Full detail of control panels and systems shall also be provided.

Commissioning of Plant: A commissioning report from the plant supplier or from an agreed third party shall be prepared to the satisfaction of the Local Authority before the plan is brought into operation. The developer will be required to obtain the necessary feed source for the plant in order to enable its performance to be measured.

Safety Requirements: Each plant shall have a safety statement and safe work practice sheets which will be the responsibility of the plant operator to implement and update as required and must conform with the National Disability Associations document "Building for Everyone".

(iv) CCTV Survey / Manhole Survey

- A CCTV survey / manhole survey of the collection systems will be submitted to the Council prior to lodging an application form for taking in charge. The survey shall be completed at the Developer's expense. The Council shall be notified two weeks in advance of the survey and may attend. The Council's representative on site may make reasonable requests of the operator.
- The sewers to be surveyed shall be thoroughly cleaned out first.
- The CCTV Survey shall be carried out using a camera, which is capable of measuring distance from one manhole to another.
- The CCTV Survey report shall conform to the standards set out in the WRC Manual on Sewer Condition Classification. The report shall include a summary of any defects in the system. Any defects in the system shall be corrected by the Developer at his own expense, prior to taking in charge. The printed report shall be supplemented by high resolution photographs and quality CCTV/DVD recordings.
- A drainage layout plan of as-constructed sewers shall be submitted on disk showing a detailed survey of each manhole, sewer structure and a digitized layout of the asconstructed housing estates. The manhole survey and digitized layout (DXF Format) of the estate shall be prepared to national grid co-ordinates. The invert and cover levels of the manholes shall be indicated relative to Malin Ordnance datum.

(v) Open Spaces

Grass cutting in open space within the estate, will **not** normally be carried out by the Council but shall be the responsibility of the residents of the Estate.

7. APPLICATION PROCEDURE

A bona fide request to have a particular estate taken in charge will be made on an official application form and accompanied by all of the required documentation. The Planning Section will then arrange to have the estate inspected by all of the relevant sections of the Council, i.e., Roads and Water Services and Planning. When all sections are satisfied that the estate infrastructure is acceptable for take over the Section 11 procedure will be commenced. The timescale to this point will be very much dependant on the condition of the estate infrastructure and how speedily any deficiencies are addressed by the developer. It would be hoped, however, that this phase would be completed within 18 weeks if possible of the application date.

When the Council is satisfied to proceed with the taking in charge of an estate, it will place an advertisement in local press stating its intentions as required under the Roads Act, 1993. The notice will state that details of the taking in charge of the estate can be inspected in the offices of Kerry County Council and persons / bodies can make submissions to the Council within a certain timeframe which shall be not less than 6 weeks, which will be considered by the Council. When that statutory time period for making submission has lapsed, the consideration on the taking in charge of the estate will be placed on the Agenda of the next monthly meeting of the Council for decision by the Elected Council. The members will then consider the taking in charge of the estate and if resolved by them, then the formal procedure has been completed and the Estate is deemed to be in the charge of the Council from that date.

8. PROJECTED TIMEFRAME FOR TAKING IN CHARGE

PROCESS SHALL BE AS FOLLOWS:-

- (i) Within 2 weeks from receipt of the request for taking in charge, the Planning Authority will acknowledge receipt of the request and the “as constructed drawings” and any way leaves submitted.
- (ii) Within 8 weeks of receipt of the request for taking in charge, the Planning Authority will in conjunction with the developer, carry out a comprehensive inspection of the development or phase of development; and notify the developer in writing of all outstanding issues remaining to be addressed in relation to the satisfactory completion of the development.
- (iii) The developer will within 4 weeks of receipt of details of outstanding issues from the Planning Authority, arrange for completion of the said works, and notify the authority when works are completed. If works cannot be carried out within that period the developer must notify the authority as to when the works will be completed.
- (iv) The authority will, within 4 weeks of being notified of completion of the works at (iii), arrange for final inspection of the development to determine the satisfactory completion of the said outstanding issues as identified at (ii).
- (v) Upon final inspection of the development or phase of the development and satisfactory completion of the works, the Planning Authority will release that element of the security lodged to secure completion of the works and proceed to take the development or phase of the development in charge. All reasonable efforts shall be utilised to ensure that formal procedures are completed for the taking in charge process with minimum delay.
- (vi) The developer will vest in the Planning Authority (at not cost to the authority) the public areas, including open spaces, which have been designated for taking in charge.
- (vii) Following the decision to take the development in charge, details will be entered in the planning register. A Manager’s Order will then be prepared with map attached, stating that the area defined on the map has been taken in charge and this will be recorded in the register (which is available for public inspection).

9. REGISTER

Kerry County Council will maintain a Register outlining the progress of an Estate including site inspections during construction and taking in charge process.

10. REPORT TO COUNCIL

Progress on the taking in charge of estates will be reported, at least annually, to the Elected Council.