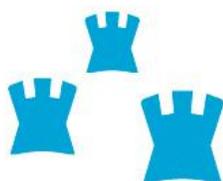


**POLICY
FOR THE
TAKING IN CHARGE
OF
RESIDENTIAL DEVELOPMENTS**



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

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1.0 INTRODUCTION

- 1.1 This document sets out Dublin City Council's policy in relation to the efficient and timely taking in charge of residential developments, including the public services relating to apartment blocks.

This section sets out the circumstances in which a request for the taking-in-charge will be considered. The conditions to be met and procedures to be followed are set out in the later sections of this policy document.

- 1.2 Section 180 of the Planning & Development Act 2000, as amended, provides for the taking in charge of residential developments by local authorities. This section provides that when a development¹ has been completed in accordance with planning permission, the planning authority shall initiate procedures under Section 11 of the Roads Act 1993 to take it in charge, if requested to do so by the developer or by a majority of owners of the houses involved. A mandate from owners may be requested or a plebiscite of owners may be held to confirm their intent.

- 1.3 When a request for taking in charge has been received within 7 years of the date of expiry of the planning permission, and the development has been completed in compliance with the permission granted, with no enforcement proceedings having been commenced, the authority must comply with the requirements of Section 11 of the Roads Act 1993. Where an order is made under the Roads Act,

¹ A development is defined as a permission granted under section 34 or Part IV of the Act of 1963 involving the construction of 2 or more houses and the provision of new roads, open spaces, car parks, sewers, water mains or service connections (within the meaning of the Water Services Act 2007)

roads, public open spaces, public car parks², sewers, watermains and service connections and other services as outlined in this policy document shall be taken in charge.

1.4 When a request for taking in charge has been received within 7 years of the date of expiry of the planning permission and the development has not been completed in compliance with the planning permission granted, enforcement action may be instigated against the developer.

1.5 Where the development has not been completed to the satisfaction of the planning authority and;

- Enforcement action has been commenced within 7 years of the date of expiry of the planning permission or
- The planning authority considers that enforcement proceedings will not result in the satisfactory completion of the development by the developer, then

The planning authority may, at its absolute discretion, initiate the relevant procedures under the Roads Act 1993 to take some or all of the services in charge, at any time after the expiry of the planning permission when requested to do so by the majority of the owners of the houses in question.

1.6 When a request for taking in charge has been received more than 7 years after the expiry of the planning permission and the development has not been completed in compliance with the planning permission granted, enforcement action cannot be commenced. The authority must comply with the requirements of Section 11 of the Roads Act, and where an order is made under the Roads Act

² Public open spaces and public car parks are defined as open spaces or car parks to which the public have access whether as of right or by permission

open spaces, roads, car parks, sewers, watermains and service connections and other services shall be taken in charge.

1.7 Taking in charge can also be instigated outside of the provisions of Section 180 of the Planning & Development Act 2000, as amended, where the authority is obliged to do so by condition of the final grant of permission. Taking in charge procedures are commenced following a request by the developer. The development must be completed in compliance with the planning permission granted prior to release of security or the commencement of any taking in charge procedures.

1.8 Recovery of Costs

- Where the planning authority incurs costs in taking in charge a development in the circumstances outlined in 1.5 and 1.6, the planning authority may apply any security or bond lodged for the satisfactory completion of the development
- In addition, where the planning authority undertakes works necessary for the completion of services to be taken in charge within attendant grounds of the development or works necessary to make the development safe, in the circumstances outlined in 1.5, the planning authority may recover the costs of works from the developer as a simple contract debt

1.9 Management Companies

- Where, following receipt of a developer's proposal during the planning process for establishment of a management company for a development, a condition is included in the planning permission that a properly constituted

management company, as provided for in the Multi Unit Developments Act 2011, be established for the purpose of maintaining the public lighting, roads, footpaths, parking areas, services and open spaces within the development, the said public lighting, roads, footpaths etc. shall, on completion of the development, be conveyed to the management company.

- Any security lodged with the planning authority for such a development shall be released upon the completion of works to the satisfaction of Dublin City Council.

1.10 Other Private Residential Developments

For all other private residential 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:

- Public roads and footpaths
- Watermains and service connections within the meaning of the Water Services Act 2007
- Surface Water and Foul Sewers
- Public open spaces/landscaping
- Public Lighting
- Unallocated surface parking areas
- Wastewater treatment plants and associated buffer zones
- Fire services, including fire hydrants
- Playgrounds, where these are required by condition of a planning permission
- Potable treatment plants and any associated protection zones
- Site boundaries which are abutted by open spaces, public roads or public footpaths, either existing or proposed. Boundaries between private property

and public open spaces, roads, footpaths will remain the responsibility of the property owner.

- 1.11 Liability for elements of a development to be taken in charge shall remain with the developer, Management Company and/or property owners until such a time as Dublin City Council takes them in charge.

2.0 GENERAL CONDITIONS TO BE MET

- 2.1 The development is an authorised development, constructed in accordance with the planning permission granted (allowing for the instances outlined in sections 1.5 and 1.6).
- 2.2 All development contributions and connection fees have been paid in full (allowing for the instances outlined in sections 1.5 and 1.6).
- 2.3 The developer may request to have the development taken in charge by written submission to the relevant local authority.
- 2.4 Any bond or security lodged with the Planning Authority will be released on completion of the works to the satisfaction of Dublin City Council.
- 2.5 All infrastructure and services to be taken in charge shall be constructed in accordance with the planning permission granted and all associated conditions.
- 2.6 The standards for completion will be those applicable at the date of grant of planning permission unless otherwise agreed.
- 2.7 The developer shall furnish evidence to the Council that any necessary wayleaves for services affecting the lands concerned are reserved forever in the transfer documentation to house purchasers.

- 2.8 When a taking in charge request is being made, three copies of "as constructed" drawings (scale 1:500) of the development shall be submitted to the Council. At the request of Dublin City Council these drawings may be required in digital format. The drawings shall indicate the following information:
- The estate boundary depicted in red, open spaces coloured green, all roads, footpaths and public lights.
 - All services including watermains, valves, hydrants, sewers, road gullies, Telecom ducts/poles, ESB ducts/poles, cablelink (NTL) ducts and all manholes.
 - The invert and cover levels of all manholes shall be indicated relative to Malin Ordnance. The gradients of all sewer sections shall be indicated on the drawings.
- 2.9 Subsequent to a request being lodged with the Council for taking in charge of an estate, the Council will, in conjunction with the Developer, carry out inspections of the estate.
- 2.10 The phased taking in charge of a development may be considered where phases are completed and which are in isolation of the remainder of the development, have unique access points onto the public road and there is a clear demarcation between the phases. Any bond or security lodged with the planning authority attributable to such phases of a development will be released on satisfactory completion of the works.
- 2.11 Under current Health & Safety legislation, a safety file containing information relevant to the development works must be submitted to the planning authority, on completion of a development, with any request for the development to be taken in charge.

3.0 TIMEFRAME FROM DATE OF APPROACH

3.1 Upon receipt of a request to have a residential development or a phase of a residential development taken in charge, the following timeframe shall apply to the overall process:

(i) Within two weeks of receipt of the request for taking in charge, the local authority shall acknowledge receipt of the request and outline any requirements.

ii) Within two months of receipt of a valid request for taking in charge, the local authority shall, in conjunction with the developer, carry out a comprehensive inspection of the development or phase of development and notify the developer in writing of any outstanding issues associated with the satisfactory completion of the development, within one month of the relevant inspection.

(iii) The developer shall within one month of receipt of details of outstanding issues from the local authority, arrange for completion of the said works, and notify the local authority when works are completed. If works cannot be carried out within that period the developer must notify the local authority as to when the works will be completed. That period shall in any event not exceed six months from the date of receipt by the developer of outstanding issues from the local authority.

(iv) The local authority shall, within one month of being notified of completion of the works at (iii), arrange for final inspection of estate to determine the satisfactory completion of the said outstanding issues as identified at (ii).

(v) Upon final inspection of estate or phase of estate and satisfactory completion of the works, the local authority shall release that element of the security lodged to secure completion of the works and proceed to take the residential development or phase of the residential 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) Where the development is found on the first two inspections to be incomplete then any subsequent inspection will be carried out at a fee of €50 per residential unit (minimum fee of €2,000) until the final inspection where taking in charge can be recommended.

3.2 The Developer shall transfer or convey to the Council, by deed of dedication, all of the land contained in the planning permission that are to be taken in charge.

3.3 In the event that land to be used as open space is to be taken in charge, the title of any such land must be transferred to Dublin City Council at the time of taking in charge.

4.0 STANDARDS REQUIRED

- 4.1 The roads, public lighting and footpaths shall be taken in charge in conjunction with watermains and service connections, sewers and public open spaces. All services and infrastructure to be taken in charge shall be constructed in accordance with the planning permission granted.

5.0 SECURITY BOND

- 5.1 The bond/security will only be released when the development has been taken in charge by Dublin City Council and/or on completion of works to the satisfaction of Dublin City Council.
- 5.2 Where the local authority incurs any cost in association with the taking in charge of a development, the bond/security shall be forfeited in whole or in part.

6.0 ENFORCEMENT

- 6.1 In the event that a development has not been completed within the appropriate period, enforcement procedures in accordance with the Planning and Development Acts 2000, as amended, will be commenced.