



**Comhairle Chontae Dhún Laoghaire–Ráth an Dúin
Dún Laoghaire–Rathdown County Council**

**TAKING IN CHARGE POLICY
FOR
RESIDENTIAL DEVELOPMENTS**

May 2022

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1.0 Introduction

1.1 Interpretation:

For the purposes of this document the following terms shall be interpreted as described below:

County Council: Dún Laoghaire-Rathdown County Council.

Taking in Charge: Taking in charge involves the County Council taking control of certain roads, services and public areas associated with a residential development, and being responsible for their future maintenance – refer to legislation section 1.3 for more detail.

Public Road: Under the Roads Act 1993 means a road over which a public right of way exists and the responsibility for the maintenance lies with a road authority.

Road Definition: Under the Roads Act 1993 a road includes any street, lane, footpath, square, court, alley or passage, bridge, viaduct, underpass, tunnel, overpass, overbridge, flyover, carriageway, pavement or footway, culvert, arch, gully, railing, fence, wall, barrier, guardrail, margin including grass verge, kerb, lay-by, roundabout, pole, ramp, bollard, pipe, wire, cable, sign, lighting forming part of the road and any other structure or thing forming part of the road.

i.e. boundary to boundary.

Private Areas: Areas of a residential development not taken in charge by the County Council.

Private Development: A residential development not taken in charge by the County Council.

Development Works: The development works referred to in this document include roads, public lighting, sewers, watermains, and open spaces.

Building Regulations: The design and construction of buildings is regulated under the Building Control Acts 1990 to 2014, in order to ensure the safety of people within the built environment. Building Regulations generally apply to the buildings. While this document is focused on site development works such as the external common areas of developments.

Public Services: Drainage systems, water distribution systems, public lighting installations, and all ancillary apparatus, which are taken in charge by the County Council.

1.2 Scope:

This document outlines the policy of the County Council in relation to the efficient and timely taking in charge of residential developments, including certain elements in apartment and duplex developments. It is the intention of the County Council to take in charge residential developments as expeditiously as possible upon receipt of a valid request to do so. This document replaces the previous policy dated April 2016. The main focus of this policy is to take into account recent changes such as the Planning And Development Act, 2000 as amended, Health and Safety legislation and Irish Water procedures.

This policy should be read in conjunction with the Council's current "Taking in Charge Development Standards Guidance Document" which will be updated annually or alternatively in accordance with best practice and to align with other approved policies of the Council. The current version of this document is available on the County Council's website at:

https://www.dlrcoco.ie/sites/default/files/atoms/files/draft_update_to_tic_policy_guidance_document_v2_3_1.pdf

Various stakeholders and departments within Dún Laoghaire-Rathdown County Council are involved in the preparation and updating of the Development Standards document. All updated versions will be circulated to relevant industry bodies who may update their membership with the updated standards document.

1.3 Legislative Framework for Taking in Charge Residential Developments:

Where a development for which permission has been granted under Part IV of the Local Government Act of 1963 and section 34 of the Planning and Development Act, 2000 for the construction of two or more houses including the provision of new roads, open spaces, car parks, sewers, watermains, and the development has been carried out and completed in accordance with the granted planning permission and any conditions to which the permission is subject, Section 180 of the Planning and Development Act 2000, as amended, empowers the County Council, where requested by the person carrying out the development, or by the majority of the owners of the houses involved, to initiate procedures under Section 11 of the Roads Act, 1993.

Section 11 of the Roads Act, 1993 empowers the County Council for which a public right of way exists to be a public road, and responsibility for its maintenance shall lie on the road authority. Where a road authority proposes to declare a road to be a public road it shall-

- (i) Satisfy itself that the road is of general public utility.
- (ii) Consider the financial implications for the authority of the proposed declaration.
- (iii) Give a minimum of one month's public notice allowing an additional two weeks where objections or representations may be made in writing to the road's authority.
- (iv) The consideration of the objections and representations including the making of a public road is a reserved function of the elected members.

Any roadway constructed or otherwise provided by a road authority shall be automatically deemed a public road unless otherwise decided by the road authority.

The Law Reform commission have made available a consolidation version of the Roads Act 1993 in the following link:

<http://revisedacts.lawreform.ie/eli/1993/act/14/front/revised/en/html>

Section 180 of the Planning and Development Act 2000, as amended, also states that where a development has not been completed to the satisfaction of the Planning Authority and enforcement proceedings have commenced, then the taking in charge procedure will not commence until the enforcement matters have been regularised. The authority may apply the security given under section 34 of the Planning and Development Act, 2000 to enable the satisfactory completion of the site development works of the development.

Where a road within a development is declared to be a public road in addition to the provision of the Roads Act to be taken in charge (boundary to boundary), the County Council shall also take in charge any sewers, watermains or service connections, public open spaces or public car parks within the attendant grounds of the development (Unless in accordance with subsection 2A where only some or all of the sewers, watermains or service connections some or all of the public open spaces or public car parks within the attendant grounds of the development will be taken in charge). The local authority or Irish Water will also take in charge the relevant water services where applicable as per the Department circular PL5/2014.

Within section 180 ‘public open spaces’ or ‘public car parks’ means open spaces or car parks to which the public have access whether as of right or by permission.

Note under section 180 subsection 3 (c) of the Planning and Development Act, 2000, a planning authority that is not a water services authority within the meaning of the section 2 of the Water Services Act 2007 shall not take in charge any sewers, watermains or service connections at the request of the owners of houses, but shall request the relevant water services authority to do so.

The Law Reform commission have made available a consolidation version of the Planning And Development Act, 2000 in the flowing link:

<http://revisedacts.lawreform.ie/eli/2000/act/30/revised/en/html>

1.4 Required Standards for new Residential Developments:

The standards required by the County Council for completion of new residential developments are those required by the grant of planning permission including the relevant conditions. The County Development Plan sets out the County Council’s policies for continuing sustainable development within its administrative area. Strategic Development Planning Schemes and Local Area Plans set out detailed guidance for development in the relevant areas. The current versions of these documents are available on the County Council’s website at:

<http://www.dlrcoco.ie/aboutus/councildepartments/planning/>

Various government departments have provided various guidance on the design of residential developments, including the following documents:

- Irish Waters ‘Developer Services’ <https://www.water.ie/connections/developer-services/>
- ‘Design Manual for Urban Roads and Streets’ (updated 2019) <https://www.dmurs.ie/>
- Building Regulations and Building Control Legislation

The Council provides guidance on the standards required for site development works within the “Taking in Charge Development Standards Guidance Document”. Designers and developers should refer to this document prior to construction works and during the construction process. This document will remain available as a live document to view on the County Council’s website at:

<http://www.dlrcoco.ie/aboutus/councildepartments/planning/findit/buildingcontrol/>

When a commencement notice is submitted for a new development the current version of the “Taking in Charge Policy” and “Taking in Charge Development Standards Guidance Document” in place at that date shall apply to the development. Additionally, it is also important that both the Designer and Developer engage with the relevant departments within the Council in relation to the development.

It is the policy of this Council that the same standards shall apply in the construction of site development works irrespective of whether a development is to be taken in charge or managed and maintained by a private management company.

1.5 Planning Conditions applicable to Residential Developments

Section 34 of the Planning and Development Act 2000, as amended, provides the legislative basis for attaching conditions to planning permissions. The Planning Authority may attach appropriate conditions to grants of permission for residential development in relation to:

- The giving of adequate financial security (under section 34(4)(g)).
- The phasing of a development, if appropriate (under section 34(4)(h)).
- The completion of a development in accordance with specified standards.
- The evidence to be produced by a developer to demonstrate that a residential development has been completed to the appropriate standards and the time period for the production of such evidence.
- The maintenance by a developer of a residential development until such time as it is taken in charge.
- Details of those areas to be taken in charge and those areas which are to remain private.

2. Taking in Charge of Residential Developments

2.1 Early Identification of the Areas to be Taken in Charge:

In accordance with the department recommendations the Council will seek to address the taking in charge of a development at the pre-planning and/or planning application stage when the type of residential development and the standards proposed can be ascertained and considered.

Applicants will be requested to set out at an early stage a clear delineation between the areas that are proposed to be taken in charge and areas that will remain the responsibility of the property owners (or combinations of property owners who may assemble in their common interest) on a site layout map. Additionally, this layout should include any proposed taken in charge phasing of a development. The submission must consider all relevant legislation and government policy. The proposed taking in charge plan may be revised with initial consultation and/or through planning conditions by the planning authority if the development is granted permission.

It is envisaged that, generally, certain core services will always be taken in charge and the County Council will ensure that the design of the approved development will facilitate this by a clear division of the areas/facilities that will be taken in charge from those that will not. Sewers, water-mains & public lighting should not be located under allocated parking areas, play areas or areas that may not be taken in charge.

2.2 Facilities to be Taken in Charge by the County Council

The following elements of a residential development will be considered for taking in charge:-

- Public roads including footpaths, street trees, margins, street furniture, underground ducting and generally the area between opposite boundaries.
- Unallocated surface parking areas provided no gate or barrier has been erected.
- Water and foul wastewater infrastructure and assets; DLRCC is responsible for the process of Taking in Charge a number of the existing development's water service assets to the point of transfer of these assets to Irish Water, as set out by Circular PL5/2014. This may exclude 'Developer Provided Water Services Infrastructure', such as standalone wells, water treatment plants, wastewater treatment plants that are not connected directly to the public water or wastewater infrastructure.
- Storm water drainage systems including attenuation systems, hydro brakes and SuDs designs.
- Public lighting installations including micro pillars, columns and ducting.
- Public open spaces.
- Playgrounds and play lots, where these are required by condition of a planning permission as facilities for public use.
- Cycle and Pedestrian Access Routes.

2.3 Facilities which may not be Taken in Charge by the County Council:

The County Council will not take in charge the following:

- External private shared facilities or areas in developments, including apartments and duplexes, which are exclusive to the development, e.g. boiler houses, switch rooms, storage areas, bin storage areas, communal private gardens, private open spaces, and private playgrounds.
- Developments where responsibility for future maintenance has been allocated to a private management company by way of the granted planning permission.
- Allocated car parking spaces.
- Shared Private or Communal open spaces.
- Communal Car Parking facilities
- Gated areas or developments
- Boundary walls between private property and public open spaces/roads/footpaths.
- Commercial or Industrial Areas

2.4 Maintenance Services which may be provided by the County Council

Where elements of a residential development are taken in charge by the County Council, the maintenance services that will be provided by the County Council for those elements will include the following:

- Maintenance of roads and footpaths, including unallocated street car parking.
- Maintenance of the public realm including grass verges.
- Maintenance of surface water drainage systems.
- Maintenance of watermains and foul sewer systems by Irish Water.
- Repair and reinstatement of roads, footpaths and public open spaces resulting from repair and/or maintenance of underground services (drainage services, public lighting etc) carried out by the County Council.
- Road sweeping and cleaning services of the principal public routes within the residential development.
- Upkeep and maintenance of public lighting installations.
- Maintenance of public open spaces and, subject to specific arrangements, of monuments and other such structures contained therein.
- Upkeep and maintenance of all surfaces, fixed elements and rigid play equipment in play lots and playgrounds in cases where the playground or play lot was required by condition of a planning permission.

2.5 Private Areas not Taken in Charge by the County Council

2.5.1 Private Areas

Areas designated by way of a planning condition to be managed and maintained by a management company will be considered to be private, and will not be taken in charge by the County Council.

2.5.2 Management Companies

It is the general policy of the County Council not to require by way of a planning condition the establishment of management companies in traditional housing developments, i.e. developments of houses with individual private gardens. Management companies may be required in such developments under certain circumstances, e.g. to maintain a specific facility which is for residents use only (such as a private playground) or in the case of holiday homes.

In residential developments of apartments and/or duplexes of four dwellings or more, management companies are normally required by way of a planning condition to maintain:

- Shared exteriors of buildings, e.g. external walls and roofs.
- Shared internal areas, e.g. stairways, lifts and lobbies.

In residential developments comprising houses, apartments, duplexes or a mix of any of these, the establishment of a management company may be required by way of a planning condition in certain circumstances, including the following:

- To maintain external private shared facilities that are exclusive to the development, e.g. boiler houses, switch rooms, bin storage areas, communal private gardens, private open spaces, private playgrounds.
- To maintain facilities which though not necessarily inaccessible to the general public are not required to be taken in charge, e.g. communal open spaces, allocated car parking spaces.

The developer of a residential development, some or all of which is to be managed and maintained by a management company, is required to comply with the provisions of the Multi-Unit Developments Act 2011. This Act sets out the requirements for, and obligations of, a management company.

2.5.3 Standards of Construction for Development Works in Private Areas

The standards of construction required for site development works within private areas shall be the same as those areas specified to be taken in charge. These standards take into consideration potential future maintenance costs which will be the responsibility of the management company.

2.5.4 Wayleaves for Public Services routed through Private Areas

If at all possible, the need to provide the main public services such as drainage systems, water services, public lighting or sewers through private lands or areas not to be taken in charge should be avoided. However, if agreed with the Council, then wayleaves are required and will be subsequently offered to the County Council prior to taking in charge a development. Drawings showing proposed wayleaves in an agreed format, together with completed Wayleave Agreement Forms, should be submitted for the approval of the Building Control Section prior to construction works commencing on site. Refer to the Council's "Taking in Charge Development Standards Guidance Document". for a draft template of a Wayleave Agreement, this template may need to be modified depending on the requirements of the particular wayleave required. All wayleaves must be incorporated into the Title Deeds of the private properties concerned in favour of the Council. Written confirmation that this has been complied with shall be furnished by the developer to the Building Control Section. **The development will not be taken in charge and the bond monies will not be released until all wayleaves have been registered and submitted.** Wayleaves require a width with a minimum of 6 metres. The developer or responsible party will complete (at no extra cost to the Council) all wayleaves required by the Council, including drainage systems, public lighting and other areas required by the Council.

3. Satisfactory Completion of Residential Developments

3.1 General Principles for Taking in Charge

The County Council will inspect and engage with developments under construction in order to help facilitate developers to comply with the requirements of the granted planning permission and the relevant “Taking in Charge Development Standards Guidance Document” for the duration of the construction process and within the granted planning permission timeframe. A residential development will be taken in charge subject to meeting the following requirements:

- The development, including the development works, must be constructed in accordance with the planning permission(s) granted and any conditions attached thereto.
- The development works must be constructed to the standards required by the County Council, including those set out within the relevant “Taking in Charge Development Standards Guidance Document”.
- All development contributions must be paid in full.
- Part V agreement(s) must be satisfactorily completed.
- All connection fees must be paid in full.
- Bonds/securities must be lodged.

Developments that fail to meet these requirements may be the subject of enforcement action, sequestering the bond/surety could be considered to complete the development and the development may not be considered for Taking in Charge.

3.2 Phased Taking in Charge of Residential Developments

Applications for phased taking in charge of a development should be in line with the agreed phasing during the planning process. A phased taking in charge may be considered in instances where phases are completed and are appropriately isolated and separated from the remainder of the development yet to be completed. Any bond reductions allowing a phased taken in charge must consider the remaining site development works for the uncompleted phases.

3.3 Standards required for Development Works

The standards required for development works are set out in the granted planning permission, relevant “Taking in Charge Development Standards Guidance Document” and building regulations. Developments at the initial design stage should review the Council Development Plan, the standards referenced and set out within the relevant “Taking in Charge Development Standards Guidance Document” and other complementary guidance documents listed in Section 1.4.

3.4 Information to be submitted at Taking in Charge stage

When a developer wishes to have a residential development taken in charge, and is satisfied that the development works have been completed in accordance with the requirements and standards set out in the relevant “Taking in Charge Development Standards Guidance Document”, the developer should submit a fully completed application form for Taking in Charge and/or Release of Bond/Security to the Planning Department of the Council.

The current application form is located within the “Taking in Charge Development Standards Guidance Document” and should be accompanied by the documentation outlined within the applications checklist and the various certificates of compliance outlined within the document.

All drawings submitted for taking in charge must be ‘As Constructed’ and must show all roads, footpaths, verges, open spaces, areas under management, parking areas, houses garden boundaries and site boundary. In particular they must comply with the requirements listed on the next page:

- 1) Drawings to be submitted in AutoCAD (.dwg) format, e-mail, dropbox or sharepoint
- 2) The drawing must be geo-referenced to tie in with the O.S.I. maps
- 3) The areas to be taken in charge ie, carriageway, cycle paths, footway and parking spaces are to be indicated by a solid yellow hatch. If possible, hatching should be completed in small sections to speed up editing if changes have to be made. NOTE - Parking spaces will only be taken in charge if they have not been sold or allocated to home owners – dedicated and non-dedicated/public car parking spaces should be clearly indicated
- 4) Wayleaves locations if applicable
- 5) Refer to the sample drawings within the “Taking in Charge Development Standards Guidance Document” for further guidance.
- 6) Areas that will remain under the control of a management company must be clearly hatched in a different colour.
- 7) The estate boundary to be depicted in red.
- 8) All approved changes made onsite during the construction phase must be recorded and should be reflected on the submitted drawing.
- 9) All road names must be clearly marked
- 10) House numbers must be clearly marked
- 11) The details and locations of road markings and signage including any traffic calming interventions, ramps etc should be included on the drawing
- 12) Total number of units in development required
- 13) The drawings should be to scales 1:1000 or 1:500 with all items, text and symbols etc remaining legible
- 14) North point should be included

Further requirements are outlined within the “Taking in Charge Development Standards Guidance Document”.

3.5 Inspection of Construction Works

During the construction period, the County Council will carry out various inspections on residential developments. It is the duty of the developer to ensure that the development is built and maintained in accordance with its granted planning permission including any conditions to which the permission is subject.

Development works have been designed and constructed in accordance with the guidance within the relevant “Taking in Charge Development Standards Guidance Document” and are performing satisfactorily. As part of the taking in charge process third party certification with professional indemnity must be submitted to the Council.

On receipt of an application form and accompanying documentation, the County Council will carry out additional inspections on the development and may require further tests to be carried out, at no expense to the Council.

Following this, a list of any outstanding and remedial works necessary to bring the development works up to the required standards will be sent to the developer. The County Council will monitor the carrying out of such works and will re-inspect upon confirmation of the third-party certifiers and the contractor that they are satisfied that the additional works have been carried out to the required taking in charge standard and are not contravening any third-party design or specification. The Council will inspect the development once this has been received to ensure that they have been carried out to the required standards.

3.6 Enforcement

In order to avoid the necessity for calling in the bond/security and having to complete a residential development, the County Council may pursue enforcement action in the case of developments that are not completed in accordance with the terms of the granted planning permission or where an unauthorised development takes place. In these cases, the Council will usually take enforcement action under the Planning and Development Act, 2000 as amended. The Council reserves the right to act expeditiously for more serious breaches of the Planning and Development Act, 2000.

The Council may alleviate the above process depending on the level of importance of non-compliance and on how the non-compliance is been dealt with by the responsible parties. Further non-compliances may also alleviate the process taken by the Council.

The County Council reserves the right to act under section 151 or section 160 for more serious breaches under the Planning and Development Act, 2000.

Should a developer fail to construct, complete, make good and maintain the development works in a satisfactory manner, the County Council reserves right to carry out any works, which in the opinion of the County Council are required to remove an immediate danger to the public/residents and cannot wait for the enforcement process, and to recover the cost from either the developer or from the bond/security to ensure that all areas identified for taking in charge are completed to the satisfaction of the Council.

Other enforcement options open to the Council for residential developments may include some of the following options:

- **The Building Control Act, 1990 as amended**
- **The Sanitary Services Act, 1964**
- **The Litter Pollution Act 1997 as amended**
- **The Protection of the Environment Act 2003**
- **The Derelict Sites Act, 1990**
- **The Waste Management Acts, 1996 - 2019**

4. Protocol for Taking in Charge a Residential Development

The Taking in Charge of housing estates protocol is governed by the following Legislation:

- A. Section 180 of the Planning & Development Act 2000 (as amended)

<http://revisedacts.lawreform.ie/eli/2000/act/30/section/180/revised/en/html>

- B. Section 11 of the Roads Act 1993 (As Amended)

<http://www.irishstatutebook.ie/eli/1993/act/14/section/11/enacted/en/html>

4.1 Preferred lodgement period of request for Taking in Charge

Prior to any request to the Council to take in charge, the developer shall maintain the development. Additionally, it is a preference of the Council that the development is maintained by the developer for an 18-month period after the Practical Completion of all site development works including open spaces.

An application form must include the relevant third-party certification to be deemed valid. A taken in charge application should ideally be submitted not later than three years after the substantial planning expiry date in relation to the site development works, failure to lodge a valid application prior to this timeframe could result in the commencement of enforcement under the Planning and Development Act, 2000 (As Amended) against the responsible parties and / or may include calling in the bond / surety if warranted through inspections.

4.2 Timeframe for dealing with a request for Taking in Charge

Under Section 180 of the Planning and Development Act utilising Section 11 of the Roads Act 1993 the following process will be commenced where either:

- The Developer submits full TIC application to the Council **OR**
- The majority of house owners submit a plebiscite to the Council to request their estate commence the TIC process (within 6 months of receipt of request)

Upon receipt of a satisfactory Application Form including certification, as constructed drawings and CCTV surveys for Taking in Charge and/or Release of Bond/Security, the indicative timeframe on the next page will be utilised for the process:

- Within two weeks, the County Council will acknowledge receipt of the request, and will list any further requirements. The submitted application must be an accurate representation of the position of all development works including site services. Inaccuracy may lead to an application be made invalid at the discretion of the local authority.
- Within eight weeks, the County Council will, in conjunction with the developer, carry out inspections of the development where a snag list may be prepared.
- Within two weeks of the completion of the inspections, the County Council will notify the developer in writing of any outstanding and remedial works necessary to effect the satisfactory completion of the development.
- On receipt of notification, the developer will advise the County Council of the period required for the completion of the necessary works. This period should preferably be within four weeks of notification but should not exceed a period of three months. The developer will notify the County Council when the works commence on site, and when they have been completed.
- Within four weeks of being notified of the completion with third party certification of any outstanding and remedial works, the County Council will arrange for a final inspection of the development to confirm the satisfactory completion of the works.
- The developer or responsible party may be required to complete (at no extra cost to the Council) a formal deed of dedication (including the possibility of a formal land transfer) of public open spaces, including relevant drainage systems and other areas required by the Council as outlined within the “Taking in Charge Development Standards Guidance Document”.
- The developer or responsible party will complete (at no extra cost to the Council) all wayleaves required by the Council, including drainage systems, public lighting and other areas required by the Council.

Upon receipt of final third party certification, deed of dedication and/or completed land transfer, wayleave agreements (if applicable), and the completion of a final inspection of the development, or phase of the development, confirming the satisfactory completion of the works, the County Council will commence the statutory procedure to take the development or phase of the development in charge, under the provisions of Section 11 of the Roads Act, 1993 as amended and in compliance with Section 180 of the Planning and Development Act 2000 as amended. All reasonable efforts will be utilised to ensure that formal procedures are completed for the taking in charge process with minimum delay.

4.3 Taking in Charge Council Statutory Formal Process Procedure

Once the procedure within section 4.2 has been completed and section 5.6 for older developments, Dún Laoghaire-Rathdown County Council will enact the following statutory process:

1. The development will be recommended by a Taking in Charge Area Engineer with a report and a map highlighting the area been considered for taking in charge and presented before the Elected Members at the Area Committee Meeting initially. Then brought before the full Council meeting to approve the commencement of the statutory taking in charge process. The Council will consider the declaration and financial implications in making their decision.
2. The development once approved by the Full Council meeting will then proceed to commence the statutory section 11 process by CEO order number 1 (sample attached within appendix 2), which recommends that the statutory process be commenced.
3. A statutory notice (sample attached within appendix 2) of Dún Laoghaire-Rathdown County Council's intention to consider the making of a declaration that the development becomes public is then advertised in one or more newspapers circulated in the local area highlighting the location, date and time where a map showing such development may be inspected.
4. Taking in Charge layouts of each development are placed on public display at the relevant public display offices for the period of one month and are also uploaded to the Council's website.

5. Submissions can be made to the Council for a period of 6 weeks in total with regards to each development (one month during which the TIC layouts are on public display plus a further two weeks).
6. All submissions received by the Council are reviewed by the Council and a report is prepared and presented by the Chief Executive Officer with a recommendation if the development should be taken in charge at a subsequent Full Council meeting.
7. The consideration of objections and representations and the making of an order declaring a public road and/or public open space under section 11 is a ***‘Reserved Function’***.
8. With the approval of the Elected Members that a development is to be taken in charge, a CEO order number 2 (sample attached within appendix 2) is then completed confirming that the development has been taken in charge by the Council.
9. The CEO order is then circulated with a map showing the area taken in charge to the relevant departments. The development is then assigned a public road number, added to the road schedule and the Pavement Management System to ensure it is maintained by the County Council as required. The applicant is notified of the area in charge.

4.4 Release of Bond/Security following Taking in Charge

Following the completion of the taking in charge of a development the bond/security lodged with the Council will be released, provided that the General Principles as set out in Section 3.1 have been met. A partial release of a bond/security may be considered in a situation where individual phases of a development are taken in charge on an incremental basis over time as per Section 3.2.

4.5 Release of Bond/Security not relating to Taking in Charge:

The County Council cannot accept requests for taking in charge developments where responsibility for future maintenance has been allocated to a private management company by way of a condition of the planning permission.

In these developments, which are not proposed to be Taken in Charge by the Council, evidence will be required that an Owners Management Company is set up and the relevant shared common areas and facilities of the development are transferred to the Owners Management Company prior to either the sale of any unit and/or time of completion of the development. Membership shall be compulsory for all purchasers of the property units. The developer must establish a properly constituted Owners Management Company, as provided for in line with the Multi Unit Developments Act 2011.

The Owners Management Company must comply with the specific obligations of the Multi-Unit Developments Act 2011 and the Companies Act 2014.

If a development (or part thereof) is to be Taken in Charge by the Council the applicant shall indicate on a site layout map, which areas have been agreed with the planning authority to be Taken in Charge. All areas not to be Taken in Charge by the Council, shall also be clearly indicated on a site layout plan, and shall be maintained and the responsibility of a properly constituted Private Owners Management Company.

Access for members of the public to the development's public open spaces and links/accesses to and from adjoining public roads and footpaths outside of the development (or public areas as granted by the planning authority), over roads and footpaths which are to be controlled by the Management Company, shall be maintained as a right of way.

All roads, services, boundary walls and open spaces within the privately managed areas, irrespective of the management and maintenance regime to be put in place for these areas, shall be satisfactorily completed in compliance with the granted planning permission and to the standard for development works as set out in the Council's "Taking In Charge Policy Document". Certification from the consultant engineer with professional indemnity insurance confirming compliance with the Granted Planning Permission, Building Control Acts and to the Councils Taking In Charge Policy document must be submitted prior to the release of the Bond or Sureties provided.

On receipt of a completed valid return of bond / taking in charge application form including the certification and relevant documentation as contained within the Councils "Taking in

Charge Development Standards Guidance Document” the Council will implement a similar procedure as outlined within section 4.2 of this document.

Additionally, there may also be **bonds/sureties which relate to specific planning conditions** i.e not related to either taking in charge a development or the establishment of management companies and the completion of private development areas ie link road or tree bonds. These bonds/sureties will be reviewed on a case by case basis on the request of the relevant party or relevant land owners by the Council. A developer can commence the process by submitting the Councils Return of Bond Application as contained within the “Taking in Charge Development Standards Guidance Document”. The requirements for the Council releasing these bonds/sureties will be based on the relevant planning condition, the agreed wording of the relevant bond/surety as signed by the parties and the overall compliance with the relevant planning permission. On receipt the Council will implement a similar procedure as outlined within section 4.2 of this document. Where development bonds are not related to taken in charge, all other types of Bond/Sureties having been positively assessed by the Council shall contain a recommendation from the relevant section recommending the release of the bond/surety, endorsed by an approved Chief Executive Order prior to its release.

5. Taking in Charge of Older Residential Developments

5.1 General:

The adoption and proactive implementation of a taking in charge policy based on the framework set out in this document, in relation to residential developments to be built in the future, will ensure that they are completed in accordance with the planning permission within the lifetime of the permission, or, if they are not, that early enforcement action is taken or the bond is called in, so that the necessary works are carried out promptly. Also, as the prompt production of documents/evidence by the developer to show that the development is completed properly will be a condition of the planning permission, there should be no delays in the production of such documentation in the future. Accordingly, in the future the planning authority should be able to take in charge developments more efficiently when requested.

The Council cannot accept requests for taking in charge developments where responsibility for future maintenance has been allocated to a private management company by way of a condition of the planning permission.

5.2 Assessing / categorizing requests

In relation to those requests for taking in charge estates currently on hand where the planning permission has expired, the Council will continue to assess the status of such estates.

These will generally fall into the following categories:

- Estates which have been completed to taking in charge standard but not yet taken in charge;
- Estates which have not been completed in accordance with the terms of the permission and where enforcement action/calling in the bond is still possible;
- Estates which have not been completed in accordance with the terms of the permission and enforcement action was not taken within the specified period;
- Estates which have not been completed in accordance with the terms of the permission and enforcement action was taken but was unsuccessful.

New requests for taking in charge of estates must be promptly assessed and then dealt with in accordance with the procedures set out below.

5.3 Residential Developments completed satisfactorily

On receipt of a taken in charge application and the Council investigations show that the development has been completed satisfactorily, the Council will endeavour to commence the taking in charge procedure as per the protocol.

5.4 Residential Developments not completed satisfactorily

The Council will maintain a priority list of requests from residents for the taking in charge of developments which have not been completed satisfactorily. This list will be prioritised, taking into account such factors as the date of application, the condition of the development, and the length of time since its construction. New requests for taking in charge such developments will be added to the list, as appropriate.

In relation to these developments, the Council will investigate whether the necessary works can be carried out at the expense of the developer, through enforcement action, or whether a claim can be made on the bond. If these options are not possible, or are unsuccessful, the costs of the necessary works will be funded by the County Council, where such resources are available.

5.5 Action in relation to uncompleted developments

Any of the actions already referred to that are still possible in terms of getting the estate completed other than at the expense of the planning authority should be pursued as a priority.

5.6 Remedial works by the Planning Authority

In accordance with section 180(2) of the Planning and Development Act 2000 and the guidance set out in this document, unfinished estates will have to be taken in charge where the majority of owners of the houses so request and it follows that where enforcement action or calling in the bond is not possible, or has been unsuccessful, the Council may ultimately have to complete such developments to taking in charge standard subject to the availability of sufficient funding resources being available.

5.7 Irish Water involvement in older developments

The Council require a copy of the Conformance Certificate from Irish Water for both the water distribution systems and the foul sewer systems relating to all developments. This provides evidence of a “Self Lay Agreement or Irish Water Lay agreement” in place with Irish Water.

The following is applicable for developments PRIOR to the self-Lay agreements procedure which commenced implementation from approximately April 2018.

For older residential developments Circular PL 5/2014 issued by this Department clarified the agreement of the Memorandum of Understanding (MoU) between Irish Water and the planning authorities. This clarified planning authority procedures for taking in charge residential developments with water services infrastructure (public watermains and foul water sewers within the meaning of the Water Services Act 2007) connected to the Irish Water network followed by transfer of the water services infrastructure within the development by Order to Irish Water.

The Council will comply to the terms of the Memorandum of Understanding as agreed with the CCMA. This relates specifically to older developments where water service infrastructure has not been vested to Irish Water, it will initially be taken in charge by the planning authority pursuant to Section 180 of the Planning and Development Act 2000 as amended and then the Water Services legislation provides that it will subsequently be transferred to Irish Water.

The Council submits the initial TIC application to Irish Water with regards to the foul sewer and water main network utilizing the MOU Schedules 1 & 2. Additional information may be required including as constructed drawings, CCTV surveys, wayleaves and third-party certification.

These older developments will be categorized as

A: Satisfactorily completed or

B: Not Satisfactorily Completed.

Irish Water either issues “no objection” response (satisfied with underground services) or “not accepted” response (remedial works or documentation to be finalised).

Once approval is received from Irish Water and any other outstanding issues have been addressed to the Council’s satisfaction, the estate can be recommended before the Elected Members at the District meeting to commence the TIC process.

Refer to the Council’s “Taking in Charge Development Standards Guidance Document” for further information including a link to the MOU schedules to be completed by the developer in draft format as part of the initial taken in charge application.

Appendix A: Contact details

Planning Department,

Dun Laoghaire-Rathdown County Council,
County Hall,
Marine Road,
Dún Laoghaire,
Co. Dublin.
A96 K6C9

Tel:- 01-205 4700

Email: planning@dlrcoco.ie

Building Control Section,

Planning Department,
Dun Laoghaire-Rathdown County Council,
County Hall,
Marine Road,
Dún Laoghaire,
Co. Dublin.
A96 K6C9

DDI:- 01-205 4392

Email: buildingcontrol@dlrcoco.ie

Appendix B: Sample CEO Orders and Newspaper Wording:

Comhairle Contae Dhún Laoghaire-Ráth An Dúin **Record Of Chief Executive Order**

STATUTORY NOTICE OF CONSIDERATION OF AREAS TO BE MADE PUBLIC

Section 11 of the Roads Act, 1993 (as amended) and in accordance with Section 180 of the Planning and Development Act, 2000 (as amended).

TAKING IN CHARGE OF THE ROADS, FOOTPATHS, PUBLIC LIGHTING, SURFACE WATER SEWER, FOUL SEWER, WATERMAIN AND OPEN SPACE HEREUNDER TO BE MADE PUBLIC

The road listed below has been surveyed and the necessary taking in charge drawings have been prepared and it is now in order for taking in charge of the roads and services listed hereunder under Section 11 of the Roads Act, 1993 as amended.

Development Address, Road Number

Drawing number BC-XXXX-TIC-01 indicates the road, footpath, verges, open space and services to be at Development, Co Dublin currently under consideration for Taken in Charge by the Council.

- **Road, including footpaths and grass verges, coloured yellow**
- **Public lighting coloured pink**
- **Surface water sewer coloured green**
- **Foul sewer coloured red**
- **Watermain coloured blue**
- **Open space coloured grey**

Accordingly, I recommend that Statutory notice be given of Dún Laoghaire-Rathdown County Council's intention to consider the making of a declaration that the services as set out in the map attached hereto, be made public in accordance with Section 11 of the Roads Act, 1993 as amended and in accordance with Section 180 of the Planning and Development Act, 2000 as amended.

Administrative Officer
Planning Department

Date

ORDER:

Publication of a statutory notice of Dun Laoghaire-Rathdown County Council's intention to consider the making of a declaration that the roads (including footpaths, and grass margins) coloured yellow, public lighting coloured pink, surface water sewers coloured green, foul sewer coloured red, watermain coloured blue and open space coloured grey is submitted herewith as set out in the schedule hereunder and shown in the attached drawing to be considered by the Council to be made public, is hereby approved.

Draft Road Schedule

DED –

TL –

Road Name	Length	Description

Total Length =

Number of units =

Approved Officer

Date

Thereunto empowered by order of the Príomhfheidhmeannach, Comhairle Contae Dhún Laoghaire-Ráth An Dúin, Order No. _____, dated _____ delegating to me all of her powers, functions and duties in relation to the County Council of Dún Laoghaire-Rathdown in respect of this matter.

Comhairle Contae Dhún Laoghaire-Ráth An Dúin **Record Of Chief Executive Order**

TAKING IN CHARGE OF DEVELOPMENT, COUNTY DUBLIN

DECLARATION OF ROADS TO BE PUBLIC ROADS

Section 11 of the Roads Act, 1993 (as amended) and in accordance with Section 180 of the Planning and Development Act, 2000 (as amended).

TAKING IN CHARGE OF THE ROADS, FOOTPATHS, VERGES, PUBLIC LIGHTING, SURFACE WATER SEWER, FOUL SEWER, WATERMAIN AND OPEN SPACE HEREUNDER TO BE MADE PUBLIC.

On XXst January 20XX statutory notices were given of Dún Laoghaire-Rathdown County Council's intention to take in charge the Roads, Footpaths, Verges, Public Lighting, Surface Water Sewer, Foul Sewer and Open Spaces as per attached Drawing No. BC-XXXX-TIC-01 in accordance with the provisions of Section 11 of the Roads Act, 1993 (As Amended) and in accordance with Section 180 of the Planning and Development Act, 2000 (As amended).

Dún Laoghaire-Rathdown County Council, at its meeting on XXth October 20XX, stated "it is hereby Resolved that, in accordance with Section 11 of the Roads Act 1993 and Section 180 of the Planning and Development Act, the Roads, Footpaths, Verges, Public Lighting, Surface Water Sewers, Foul sewers, Watermains and Open Space at the locations listed below be taken in charge by Dún Laoghaire-Rathdown County Council."

I recommend that Dún Laoghaire-Rathdown County Council take in charge the roads (including footpaths and grass margins), public lighting, surface water sewers foul sewers, watermains and open spaces as set out in the schedule hereunder and shown on Drawing No. BC-XXXX-TIC-01 be taken in charge and made a public road.

Administrative Officer

Senior Executive Engineer

ORDER:

The report of the Administrative Officer, Senior Executive Engineer and Senior Executive Officer is noted. Following the publication of the Statutory Notice of Dún Laoghaire Rathdown County Council's intention to consider the making of a Declaration that the roads (including footpaths and grass margins), public lighting, surface water sewers foul sewers, watermains and open spaces as set out in the schedule hereunder and shown on Drawing No. BC-1799-TIC-01 been made public is hereby approved.

Road Schedule

DED –

TL –

Road Name	Length	Description
Total Length = Number of units =		

Approved Officer

Date

Thereunto empowered by order of the Príomhfheidhmeannach, Comhairle Contae Dhún Laoghaire-Ráth An Dúin, Order No. _____, dated _____ delegating to me all of her powers, functions and duties in relation to the County Council of Dún Laoghaire-Rathdown in respect of this matter.

DECLARATION OF ROADS TO BE PUBLIC ROADS

In accordance with the provisions of section 11 of the Roads Act, 1993 (as amended), Dún Laoghaire - Rathdown County Council hereby gives notice of its intention to consider the making of a declaration that the open space, roads, footpaths, verges, public lighting, surface water sewer, foul sewer and watermains listed hereunder be taken in charge with roads being declared as public roads.

This matter will be considered by Dún Laoghaire - Rathdown County Council at its meeting to be held on XXXX.

Maps showing the area may be inspected at the Planning Counter, Level 1, County Hall, Dún Laoghaire, Co. Dublin, A96 K6C9 during the office hours 10.00 am – 4.00 pm (including lunchtime), Monday to Friday from Friday XXth November 20XX to Friday XXth January 20XX inclusive.

Alternatively, the map can be viewed at the Council's Dundrum Offices, Dundrum Office Park, Main Street, Dublin 14, D14YY00, during office hours 9.30 am – 12.30 pm and 1.30 pm – 4.30 pm from Monday to Friday from Friday XXth November 20XX to Friday XXth January 20XX inclusive.

Please note that due to restrictions related to Covid 19, all viewings are currently by appointment only. They will also be available to inspect on the Council's online consultation hub – Citizen Space – via the Council's website: - www.dlrcoco.ie.

Roads

- Development location, Co. Dublin
- Development location, Co. Dublin

Objections or representations regarding the above proposal may be made in writing to the Senior Executive Officer, Planning Department, Dún Laoghaire-Rathdown County Council, County Hall, Dún Laoghaire, Co Dublin, A96 K6C9 or via Citizen Space at www.dlrcoco.ie

The latest date for receipt of objections or representations is 4.00 pm on Friday XXth January 20XX.