



**Fingal County Council**

**Taking in Charge Policy**  
**In Compliance With the Requirements**  
**of**  
**Circular Letter PD 1/08**  
**DoEHLG**

**2008**

## **Framework for a Comprehensive Taking in Charge Policy**

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- Specifications for particular elements in landscaped areas, such as play equipment
- Standards for the Location of waste Storage and collection facilities
- Pumping Stations
- Water mains Networks/Services including regime of testing
- Drainage Networks/Services including regime of testing
- Surface water retention and disposal systems including attenuation areas
- Health and Safety File requirements
- Construction Products Directive
- The location of services provided and maintained by other service providers (telephone, cable television, broadband services etc.) in relation to those provided and maintained by the authority;

## **1. Taking in Charge Policy: Overview**

### **1.1 Legislative framework**

Section 180 of the Planning and Development Act 2000, requires planning authorities to commence taking in charge procedures in relation to residential developments, finished or unfinished, where certain conditions have been met. Section 34(4)(i) of the Act provides the legal basis for a planning authority to attach to a planning permission “conditions for the maintenance or management of the proposed development (including the establishment of a company or the appointment of a person or body of persons to carry out such maintenance or management)”.

### **1.2 Policy framework**

The Department’s<sup>1</sup> February 2007 statement on Housing Policy “*Delivering Homes, Sustaining Communities*” sets out a number of actions focused on building sustainable communities. These include building on the current suite of best practice guidance on urban planning, and developing new comprehensive planning guidelines on interrelated housing and planning matters to address emerging needs. The new guidelines include:

- a. Guidelines on Quality Housing for Sustainable Communities (March 2007);
- b. Guidelines for Planning Authorities on Design Standards for New Apartments (September 2007);
- c. Updated Residential Density Guidelines (*Draft Guidelines on Sustainable Residential Development in Urban Areas currently available for public consultation*); and
- d. Guidance in relation to a framework policy for the taking in charge of residential developments by planning authorities (February 2008).

### **1.3 Key Elements of The Taking In Charge Process**

- Statement of the facilities to be taken in charge and of the maintenance services to be provided by the authority;
- Measures to ensure the satisfactory completion of residential developments by developers; Guidelines and Standards
- Protocol to be followed in response to a request for taking in charge;
- Planning conditions relating to management arrangements;
- Dealing with requests in relation to older residential estates.

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<sup>1</sup> Department of Environment Heritage and Local Government

## 2. Taking in Charge

### 2.1 Facilities to be taken in charge

Fingal County Council requires the Taking in charge all services and areas used in common in residential development: These services may include;

- Public roads and footpaths;
- Unallocated surface parking areas;
- Public lighting;
- Fire services including fire hydrants;
- Public water supply, foul and storm water drainage;
- Wastewater treatment plants and associated buffer zones;
- Potable water treatment plants and any associated protection zones;
- Pumping stations necessary for the maintenance of the area
- Public open spaces;
- Playgrounds, where these are required by condition of a planning permission as facilities for public use.

### 2.2 Facilities which will not be taken in charge

Fingal County Council will not take in charge the following:

- a. Structures of buildings within which more than one dwelling is accommodated , the common areas in the immediate vicinity of these buildings giving access to common facilities for these buildings such as storage areas, refuse storage areas, boiler and plant rooms, private or incidental landscaped areas or open space, designated car-parking or car-parking structures: and
- b. The totality of the development, including roads, services, landscaped areas, boundaries etc in the case of developments that are exclusively “Gated Communities”.
- c. Highly ornate ornate/landscaped spaces in certain circumstances or locations-specified in planning conditions

### 2.2 Maintenance services

Taking in charge means the provision of the following services by the Council:

- Maintenance of all roads and footpaths, completed in any materials including communal street car-parking
- **Maintenance of water mains and drainage services;**

- Repair and reinstatement of roads, footpaths and landscaped areas resulting from repair and/or maintenance of underground services (water mains and drainage services) carried out by the authority;
- Road sweeping and cleaning services of the principal public routes within the residential development;
- Upkeep and maintenance of all public lighting installations including non-standard light fittings;
- Maintenance of public open spaces (that is, spaces to which the general public have access), not including grass cutting or maintenance of grass verges, incidental ornamental/landscaped areas, shrubberies or playgrounds, unless such playgrounds are required, as a facility which will be available to the general public, by the planning authority by way of planning condition;
- 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;
- Upkeep and maintenance of other monuments or structures where provided in Class 2 open spaces, and following a specific arrangement in communal open spaces;

### 2.3 **Extent of the Area To Be Taken in Charge**

The extent of the area that will be taken in charge by the Council will be determined in accordance with this policy in discussions prior to the receipt of planning applications and will be delineated clearly on a site layout drawing, complete with accompanying descriptions that will form part of the Planning Application documentation.

### 2.4 **Boundaries**

The council shall take in charge boundary, walls, fences and pillars where they form the boundary between two areas that are in charge of the Council.

## 3. **Measures to ensure satisfactory completion of residential developments**

### 3.1 **General**

In order to implement a comprehensive taking in charge policy, Fingal County Council will take all steps to ensure that developers complete the residential development to taking in charge standard within the duration of the planning permission. This includes a number of key elements as set out in this section.

### 3.2 **Adoption of standards for external works**

It is essential that public roads, footpaths, services and open spaces in residential developments are finished by the developer to a standard acceptable to the Fingal County Council for taking in charge and long term maintenance. Fingal County Council has specified construction and design standards in this taking in charge policy.

### 3.3 **Application of standards**

Fingal County Council has determined and has published the Standards to which the following elements of the Development must comply, prior to being taken in charge:

- “Road and hard surface construction and completion standards”;
- “Public lighting installations”;
- “Public Open Space Landscape Works Specifications for inclusion in contract documentation for Housing Schemes which will be taken in charge by Fingal County Council”
- Specifications for particular elements in landscaped areas, such as play equipment
- Standards for the Location of waste Storage and collection facilities
- Pumping Stations
- Water mains Networks/Services including regime of testing
- Drainage Networks/Services including regime of testing
- Surface water retention and disposal systems including attenuation areas
- Health and Safety File requirements
- Construction Products Directive
- The location of services provided and maintained by other service providers (telephone, cable television, broadband services etc.) in relation to those provided and maintained by the authority;

### 3.4 **Early identification of the areas to be taken in charge –pre-planning**

Fingal County Council will address the taking in charge issue at pre-application consultation stage, when the type of residential development and the standards proposed can be discussed.

- The Council requires that, to the greatest extent possible, there is clear, discernable and practical delineation between the areas that will be taken in charge and those areas that will remain the responsibility of householders or combinations of householders who may assemble in their common interest.

- Sewers and water mains should not be located under landscaping or allocated parking area that will not be taken in charge.

### 3.5 **Appropriate planning conditions**

Section 34 of the Planning and Development Act 2000 provides the legislative basis for attaching conditions to planning permissions. Fingal County Council will attach appropriate conditions to grants of permission for residential development in relation to:

- The giving of adequate financial security (S.34(4)(g)) and the length of time the security must remain in place;
- The facilitation of inspections by the planning authority;
- The phasing of the development, if appropriate (S.34(4)(h));
- The completion of the development in accordance with specified standards;
- The evidence to be produced by the developer to demonstrate that the residential development has been completed to the appropriate standards (see section 4.2) and the time period for the production of such evidence;
- The maintenance by the developer of the residential development until taking in charge; and
- The vesting in the authority by the developer, upon taking in charge, of the areas to be taken in charge.

As these issues will be covered in this Fingal County Council's taking in charge policy - e.g. the standards to be met, the evidence to be produced by the developer to demonstrate completion - Fingal County Council will in as far as possible group conditions under the general heading of compliance with the planning authority's taking in charge policy.

#### 3.51 **Fingal County Council Planning Conditions**

Fingal County Council may incorporate the following planning conditions to cover the requirements set out in this taking in charge policy:

- **Condition in relation to standards**  
 "The development hereby permitted shall be carried out and completed at least to the construction standards set out in Fingal County Council's Taking in Charge Policy. Prior to commencement of development, the developer shall agree with the authority, in writing, the procedures for inspection and monitoring of the development by the authority to ensure compliance with these standards, and shall thereafter comply with the

agreed procedures during the construction of the overall development. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** To ensure that the development, is carried out, and completed to an acceptable construction standard.”

- ***Condition in relation to vesting of the public areas***

“The open spaces shall be developed for, and devoted to, public use and shall be kept free of any development. When the development is being taken in charge, the public areas including open spaces that have been designated for taking in charge shall be vested in the planning authority, at no cost to the authority.

**Reason:** In order to ensure the proper development of the public open space areas and their continued use for this purpose.”

### 3.6 **Inspection of construction**

Ensuring that residential developments are completed in accordance with the planning permission is an essential part of this comprehensive taking in charge policy.

The construction of the development may be regularly inspected by the Planning and/or Building control authority to ensure satisfactory completion in accordance with the permission/building regulations.

The developer should notify the planning and/or building control authority when construction has ceased or construction is complete.

On receipt of the Commencement notice by Fingal County Council a procedure for inspecting the construction of residential developments, as set out in this protocol or otherwise agreed will progress.

### 3.7 **Enforcement action**

Fingal County Council, to avoid the necessity for calling in the security given and having to complete residential developments themselves, will pursue early enforcement action in the case of developments that are not completed in accordance with the terms of the permission.

## **4. Responding to a request for Taking in Charge**

### **4.1 Adoption of a procedure/protocol**

As part of their taking in charge policy, Fingal County Council has adopted a procedure/protocol for the actual taking in charge of a residential development in response to a request from either a developer or a majority of the residents<sup>2</sup>.

The request for Taking in Charge should be addressed to the SE Building Control, who will deal with all correspondence, whether from residents or developers, in accordance with the protocol.

## **5. Dealing with requests relating to older estates**

### **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 residential developments 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 in a position to take in charge residential developments promptly upon request to do so.

### **5.2 Assessing/categorising requests**

In relation to those requests for taking in charge estates currently on hand where the planning permission has expired, Fingal County Council will set out a programme to assess the status of such estates. These generally fall into the following categories:

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<sup>2</sup> The majority of the owners/occupiers who are qualified electors – section 180(1) of the Planning and Development Act 2000.

- 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 **Estates satisfactorily completed**

Where an estate is completed in accordance with the terms of the planning permission, it should be taken in charge without delay on foot of a request to do so, but not later than 6 months from the date of the request.

### 5.4 **Priority list for estates not completed satisfactorily**

Fingal County Council will draw up a priority list of requests from residents for the taking in charge of uncompleted estates, taking into account such factors as the date of application, the condition of the estate and the length of time it has been left unfinished. New requests for the taking in charge of unfinished estates will be added to the priority list, as appropriate.

All unfinished estates which are the subject of a request to be taken in charge will be kept on this list, including estates where it may be possible to have the estate completed at the expense of the developer, through enforcement action or calling in the bond so that these estates remain on the priority list for remedial works by the planning authority in the event that enforcement action or calling in the bond fails.

### 5.5 **Action in relation to uncompleted estates**

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 Fingal County Council will be pursued as quickly as possible. When the estate is brought to a satisfactory standard it should be taken in charge promptly.

### 5.6 **Remedial works by the planning authority**

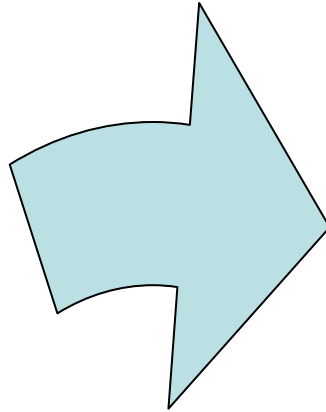
In accordance with section 180(2) of the Planning and Development Act 2000 and the guidance set out in this document, unfinished estates will be taken in charge

where the majority of residents so request and it follows that where enforcement action or calling in the bond is not possible, or has been unsuccessful, Fingal County Council will ultimately have to complete such developments to taking in charge standard and sufficient funding will have to be provided from planning authority resources to enable this to be done. A priority list should be maintained of all such estates and remedial works carried out in that order of priority.

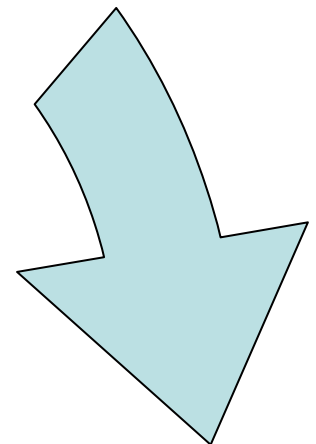
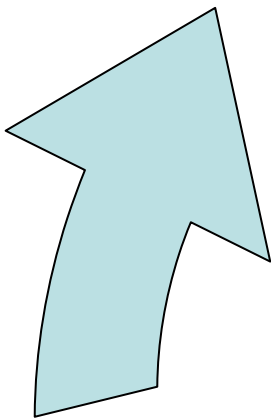
# Taking In Charge (TIC) Roadmap

- (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 acknowledged;
- (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

**(1) Pre-Planning Stage**  
Planning Legislation  
Development Plan  
2005-2011  
Fingal Protocol, TIC  
Developer & Planning  
Authority  
Agree areas to be TIC

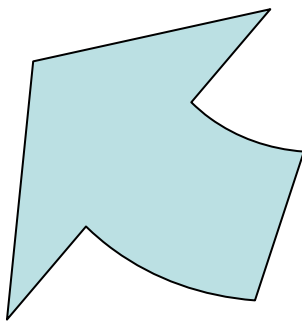


**(2) Planning Stage Conditions**  
Protocol for TIC  
Phased Development  
Timeframe

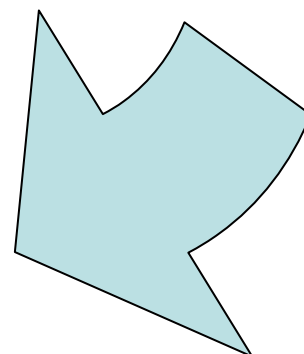


**(5) TIC Legislative Procedure**  
**S11 Roads Act 1993,**  
**S180 P&D Act 2000**  
Request Received  
from Developer or  
Plebiscite 85%  
residents  
Agree areas as per  
protocol  
Council notice of

**(3) Construction Stage**  
Commencement  
Notice  
Open TIC File  
Prepare Planning &  
Building Control  
Inspection Protocol



**(4) Taking in Charge Checklist**  
Cross-Compliance  
BC & Planning  
As constructed Dwgs  
Test Results  
Deeds of Dedication





## **8 Taking in Charge Timeframe**

(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 no 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).