

North Tipperary Local Authorities



Comhairle Contae Thiobraid Árann Thuaidh
North Tipperary County Council



Taking In Charge Policy **For** **Private Housing Developments**

TABLE OF CONTENTS

	SECTION	PAGE
1.0	Introduction	3 - 5
2.0	General Conditions	5 - 8
3.0	Public Lighting	9 - 9
4.0	Roads and Footpaths	9 - 9
5.0	Water Services	9 - 10
6.0	Open Spaces	10 - 10
7.0	Fire	10 - 10
	Appendix A	11 - 13
	Appendix B	14 - 15
	Appendix C	16 - 16
	Certificates	17 - 19
	Taking in Charge Register	20 - 20

1. INTRODUCTION

This document outlines North Tipperary Local Authorities Policy in relation to Taking in Charge of private housing developments. This Policy shall apply to the administrative area of North Tipperary County Council, Nenagh Town Council, Thurles Town Council and Templemore Town Council and shall be referred to as the Taking in Charge Policy for North Tipperary Local Authorities.

Application Process

Developments for Taking in Charge are divided into two categories, Historical Estates and Current Estates. Historical Estates are defined as those estates on which the Planning Authority can no longer use planning enforcement legislation due to the passage of time. Applications to take Historical Estates into charge will be dealt with as applications arise.

However, as a general rule, any bond or other security still in place will be drawn down and applied to remedy defects.

All other Estates are termed Current Estates for the purpose of this policy.

Application forms are available from:-

- 1) Planning Section, North Tipperary County Council, Civic Offices, Limerick Road, Nenagh, Co. Tipperary or online at www.tipperarynorth.ie
- 2) Nenagh Town Council, Civic Offices, Limerick Road, Nenagh, Co. Tipperary or online at www.nenaghtc.ie
- 3) Templemore Town Council, Templemore, Co. Tipperary or online at www.templemoretc.ie
- 4) Thurles Town Council, Slievenamon Road, Thurles, Co. Tipperary or online at www.thurlestc.ie

Upon receipt of the Taking in Charge Application and associated documents an inspection of the estate will be carried out in line with 2.1.

The local authority will not consider taking any estate development in charge until it determines that the estate has been satisfactorily completed.

Developers are obliged to comply with the conditions of the planning permission granted for Estates including the payment in full of all development contributions. The Council may take enforcement action under planning legislation if the development is not being or has not been carried out in accordance with the permission granted.

Certain private housing developments (e.g. apartment complexes etc.) will have a condition in the planning permission that a properly constituted

management company be established for the purpose of maintaining the public lighting, roads, footpaths, parking areas, services and open spaces. The said public lighting, roads, footpaths, etc. shall be conveyed to the Management Company.

For all housing developments, it will be a requirement of the planning permission that the roads, footpaths, services etc. are constructed in accordance with the "Recommendations for Site Development Works for Housing Areas" (or where otherwise stated in the Planning Permission) as published by the Department of the Environment 1984/1998 (as amended) with the technical standards outlined in this document. Any security lodged with the planning authority for such a development will not be released or reduced until the satisfactory completion of the works and the said roads, footpaths, services etc..

Facilities to be taken in charge

Taking in charge involves planning authorities taking control of the following services and public areas associated with a particular development:

- 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;
- Public open spaces;
- Playgrounds, where these are required by condition of a planning permission as facilities for public use.
- Signage

Applicants 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 North Tipperary Local Authority.

Individual phases of a development will not be taken in charge, only the entire completed development will be considered.

The attention of developers is brought to the provision of Section 35 of the Planning and Development Act, 2000. This section deals with the failure of a developer to comply with the terms of a previous planning permission and allows the Council as planning authority, to refuse a current planning application. If the Council is satisfied that a developer has not complied with a previous planning permission, it may consider that there is a real risk that a proposed development, if granted permission, would not be carried out in accordance with the conditions of the planning permission and therefore may

form the opinion that permission should not be granted. The Council shall serve a Notice in writing on the applicant to that effect.

Developers will be required to submit a Bond in accordance with the form specified in the planning permission.

Maintenance services

The maintenance services that will be provided by the authority following the completion of the taking in charge process include the following:-

- Maintenance of all roads and footpaths, including unallocated 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.

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 residents so request. Priority shall be given to older estates when considering them for taking in charge. The taking in charge process is a reserved function of the Local Authority following on a recommendation of the County Manager.

2. GENERAL CONDITIONS

2.1 For developments which are currently under construction the developer shall notify the Planning Authority upon completion of the conditions of the planning permission/housing estate. All developments shall be completed for 2 years before the Local Authority will consider taking them in charge. For developments which are completed prior to the adoption of this policy planning permission must have expired in excess of 2 years.

- 2.2 As part of the planning application the developer must delineate areas to be taken in charge.
- 2.3 The Developer or majority of qualified electors who are owners/occupies may apply to have the development taken in charge by submitting an application form to the Planning Authority of North Tipperary Local Authority (copy attached in Appendix B of this document or by download on the website) – “Application to have Development taken in charge by North Tipperary Local Authority”, as set out in Appendix B of this document. The application form must be certified by a suitably qualified person, who holds professional indemnity insurance up to €2,600,000 for the purpose of signing such forms. Such cover to be kept in place for a period of 6 years after certification. Evidence of such insurance shall be furnished to the Local Authority. The contents of the application form shall be deemed to be for the benefit of North Tipperary Local Authority.
- 2.4 The development is an authorised development.
- 2.5 The development must be constructed in accordance with the planning permission granted.
- 2.6 All development contributions have been paid in full.
- 2.7 Any bond or security lodged with the Planning Authority will not be released or reduced until the works have been taken in charge.
- 2.8 All connection fees have been paid in full.
- 2.9 The roads, footpaths, sewers, drains and water mains shall be constructed in accordance with
- i) the Planning Permission and drawings submitted and approved by the Planning Authority;
 - ii) the “Recommendations for Site Development Works of Housing Areas” – Department of the Environment and Local Government (1984/1998) (as amended)* (or where otherwise stated in the Planning Permission), save where the conditions of the permission otherwise require. **Available from Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2 – Tel: 01-6613111.*
- 2.10 The Developer shall furnish evidence to the Council that all necessary legal entitlement, including wayleaves, to traverse lands within individual sites and lands outside the site boundaries, in order to facilitate future access for maintenance purposes to services such as sewers, watermains and all associated works. These entitlements shall

be reserved in perpetuity in the transfer documentation to house purchasers.

- 2.11 The Developer shall note that a minimum width of 6 metres shall be required in respect of any Wayleave/entitlement for sewers or watermains in private property. This width may be reduced in certain circumstances only after consultation with the Council. All wayleaves and rights of way shall be accessible to vehicular traffic and registered on the land through which they pass.
- 2.12 Three copies of “as constructed” drawings (scale 1:500) of the development shall be submitted to the Council. The drawings shall indicate the following information:
- (i) The estate boundary depicted in red, open spaces coloured green, all roads, footpaths, public lights, road names and house numbers.
 - (ii) All services including watermains, valves, hydrants, sewers, road gullies, Telecom ducts/poles, ESB ducts/poles, cablelink ducts and all manholes. Digitised layout (DXF Format) of housing estate shall be prepared to national grid co-ordinates.
 - (iii) The invert and cover levels of all manholes shall be indicated relative to Malin Head ordnance datum. The gradients, pipe type, pipe diameter, location of all service connections of all sewer sections shall be indicated on the drawings. Watermain class, diameter, all valves connections, hydrants stopcocks and meters to be indicated on drawings.

All drawings shall be properly titled, numbered and dated. All amendments to have revisions noted and dated.

- 2.13 Where the estate is found on first inspection and second inspection to be incomplete or not up to the required standard, then any subsequent inspections will be carried out at a fee of €1,000 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 the first two inspections, there will be no fee. This charge will be index linked from the 1st January every year in line with the Wholesale Price Index – Building and Construction (published by the Central Statistics Office). These inspections by the Council are only general and do not in any way exonerate the applicant or certifying engineer from his liabilities.

The Planning Authority will notify the Applicant/Developer of any incomplete or outstanding works and these issues must be corrected by the applicant at his own expense. The Developer/Applicant 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.

The Developer shall transfer or convey to North Tipperary Local Authority, at his expense, all of the land contained in the planning permission affected by this policy document.

- (i) Upon a written notification that a housing estate is complete in line with 2.1 above, the Planning Authority will inspect as outlined below.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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).
- (vi) 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.
- (vii) 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.
- (viii) 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).

3. PUBLIC LIGHTING

- (i) Where not previously submitted the Developer shall furnish to the Council, a copy of the public lighting design/layout.
- (ii) The developer shall submit a Certificate of Completion certified from the appropriate provider and clearly demonstrates that a public lighting scheme has been constructed to the required standards and specifications.
- (iii) The Developer shall be responsible for maintenance and charges of the public lighting system until the development has been taken in charge by the Local Authority.

4. 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" – Department of Environment and Local Government (1998) (as amended), (or where otherwise stated in the Planning Permission) with the exception of Section 2.24 (Surface Dressing) as surface dressing will not be accepted as a surfacing layer in Housing Estates.
- (iii) All road signs and markings shall be provided by the Developer as per the Planning Permission.
- (iv) All gullies shall be cleaned and free from obstruction. There shall be no visible evidence of ponding of surface water.

5. WATER AND SEWER SERVICES

Elements under this section include watermains, surface water sewers, storm water attenuation systems, waste water treatment plants and pumping stations, foul sewers, and all associated chambers, pipelines and fittings.

These elements shall be taken in charge in conjunction with roads/footpaths and open spaces and must comply with "Recommendations for site development works for Housing Areas" – Department of Environment and Local Government (1998) (as amended) and planning permission conditions.

Individual sewer and water supply service pipes will not be taken in charge. These connections serving individual houses will remain the responsibility of the individual house owner.

CCTV Survey / Manhole Survey

An appropriate CCTV survey/manhole survey (as defined by the Water Services section of the Local Authority) of the sewer 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 Developers expense. CCTV survey to be carried out in accordance with Water Services policy document "Standard Condition and requirements for CCTV Sewer Network Surveys" (See Appendix C).

The Applicant shall ensure that all Chambers and covers are readily accessible, free from debris and allow easy access for inspection.

6. OPEN SPACES

The development and landscaping of open spaces shall be in accordance with the planning permission granted.

7. FIRE

The development shall be in accordance with the Planning Permission granted and the relevant publication of the "Recommendations for site development works for housing areas" – Department of Environment and Local Government (1998) (as amended) (or where otherwise stated in the Planning Permission).

APPENDIX A

Legislative Requirement In Relation To The Taking In Charge Of Housing Developments

The introduction of Section 180 of the Planning and Development Act 2000 has imposed increased responsibility on local authorities regarding the taking in charge of, both finished and unfinished, estates. Section 180(1) and Section 180(2) of the Planning and Development Act, 2000 provide for 2 different situations.

Section 180(1) refers to a development for which permission is granted under *section 34* Planning and Development Act 2000 or under Part IV of the Act of 1963

- 1) Includes the construction of 2 or more houses and the provisions of new roads, open spaces, car parks, sewers, watermains or drains and
- 2) The development has been completed to the satisfaction of the planning authority in accordance with the permission and any conditions to which the permission is subject.

In the case of such a development, the planning authority must, if requested by the person carrying out the development or the majority of qualified electors who are owners/occupiers to take it in charge, initiate the procedures under Section 11 of the Roads Act 1993 to take the public roads in charge. In this case, under Section 11, the authority must satisfy itself that the road is of general public utility, engage in public consultation and consider any representations made also consider the financial implications of taking the road(s) in charge. The decision as to whether or not to make an order taking the road(s) in charge is a matter for the elected members. Where the local authority does make an order declaring the road(s) to be public, it must also take in charge any open spaces, car parks, sewers, watermains or drains within the attendant grounds of the development (S.180(4)).

Section 180(2) provides for the case of a development which unlike the development referred to in S.180(1), has not been completed to the satisfaction of the planning authority and enforcement proceedings have not been commenced by the planning authority within seven years beginning on the expiration, as respects the permission authorising the development, of the appropriate period, within the meaning of *section 40* or the period as extended under *section 42*, as the case may be, the authority shall, where requested by the majority of qualified electors who own or occupy the houses in question, comply with section 11 of the Roads Act, 1993, except that subsection (1)(b)(ii) of that section shall be disregarded namely *Where a public authority proposes to declare a road to be a public road it shall – (ii) consider the financial implications for the authority of the proposed declaration.*

It is a matter for the planning authority to decide which of the following categories that an estate falls into i.e.:

- (a) completed to the satisfaction of the planning authority in accordance with the permission and any conditions to which the permission is subject and thus is subject to Section 180(1) (financial implications of taking the roads in charge may be considered) or
- (b) not completed to the satisfaction of the planning authority and is thus subject to Section 180(2) (financial implications of taking the roads in charge **may not** be considered).

Irrespective of which category it falls into a planning authority must, if requested to take a development in charge by the majority of qualified electors, who are owners/occupiers, initiate the procedures under S.11 of the Roads Act. However, in the case of an estate which is being considered under Section 180(2), (not been satisfactorily completed and enforcement proceedings not initiated within the appropriate period), the financial implications of taking the road in charge do not fall to be considered. There is no obligation on a local authority to take the roads in any such estate in charge: this is at the discretion of the elected members. However, where the authority does make an order declaring the road(s) to be public in compliance with S.180 of the Planning and Development Act, 2000, it must also take in charge any open spaces, car parks, sewers, watermains, etc.

APPENDIX B

Application to have development taken in charge by North Tipperary Local Authority



Applicant's Name: _____
Applicant's Address: _____

Telephone No.: _____
Developer's Name. _____
(if different from above)
Developer's Address.: _____

(if different from above)
Development Name: _____
Residents Association Contact: _____
Development Location: _____
O.S. Map No.: _____
Planning Reference Numbers: _____
Development Contribution Receipt Numbers: _____
Connection Fee Receipt Numbers _____
No. of Houses: _____
No. of Apartments: _____
No. of Commercial Units: _____
As-Constructed Drawings
Completed By: _____
Qualification: _____

Items Submitted With This Application Form: (Tick As Appropriate ✓)

- As-Constructed Drawing _____
- Public Lighting Design _____
- Third Party Insurances Certificate _____
- Certificates from independent service suppliers
(Bord Gais, Eircom etc.) _____
- Copies of Wayleaves _____
- Drainage Layout Plan (C.D.) _____
- CCTV Survey _____

I the undersigned hereby apply to have the following elements of the above development taken in charge by North Tipperary Local Authority.

Signed: _____ Date: _____
Applicant

1. Public Lighting

No. of Public Lights: _____

Type of Lantern: _____

2. Roads

3. Footpaths

Length of Roadway _____ (metres)

Length of Footpath _____ (metres)

4. Watermains

Lengths (m)	Diameters (mm)	Material	Class
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

5. Foul Sewers

Number of foul sewer manholes: _____

Lengths (m)	Diameters (mm)	Material
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Surface Water Sewers

Number of S.W.S. Manholes: _____

Number of Road Gullies: _____

Lengths (m)	Diameters (mm)	Material
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. Open Spaces

Area (s) _____ (hectares)

8. Performance Bonds

Amount _____

Expiry Date of Bond: _____

Appendix C

Standard Conditions and Requirements for CCTV Sewer Network Surveys

In general the final CCTV survey submitted to the Planning Authority by a private developer is intended to demonstrate that the network surveyed is in compliance with the relevant planning conditions and in particular with the following recommendations and standards:

- 1) The UK WRc publication, Sewers for Adoption 5th Edition.
- 2) Recommendations for Site Development Works for Housing Areas (1988)
- 3) Guidelines for the Opening, Backfilling and Reinstatement of Trenches in Public Roads (April 2002).
- 4) The relevant sections of BS EN 752, EN 1917, IS 420, EN 1916, IS 6, BS 8301, and BS 8005 1987.

The essential survey and reporting requirements for this work are summarised below:

- 1) Two original copies of the completed CCTV recording and inspection/condition report should be submitted to North Tipperary County Council's Planning Department in the case of surveys undertaken outside of Town Council functional areas and to the relevant Town Council in the case of surveys undertaken in these areas. These two copies should be in the form of a VHS high Resolution video tape recording. Additional copies may be submitted in DVD format.
- 2) The survey work and subsequent inspection report should be undertaken by persons suitably trained to WTI standards by a recognised training body, in the use of the survey technology, the interpretation of video evidence and the preparation of inspection and condition reports.
- 3) The inspection/condition report should demonstrate how % height/diameter measurements have been arrived at and how consistency is maintained in this process, by reference to the method set out in the WTI training manual.
- 4) The CCTV camera should have a pan & tilt facility and all connections including those entering manholes should be recorded on video and detailed in the inspection/condition report.
- 5) The CCTV operator should record on video and detail on the inspection/condition report, the internal condition of all manholes on the sewer network.
- 6) The CCTV camera should provide a high resolution sharp image free from shadows.
- 7) Sewer and manholes should be clean, free from debris and deleterious material before the final CCTV recording is made.
- 8) Pipe jetting units should not be in operation in the same sewer as the one in which the CCTV survey is taking place.
- 9) A representative of North Tipperary County Council Water Services should be attendance at the commencement of each survey.

THIRD PARTY CERTIFICATION

Certificate No. 1

For the benefit of North Tipperary Local Authority, this is to certify that:

- (a) Sewers have been tested and passed tested and passed in accordance with the requirements of Clause 3.20 of “Recommendations for Site Development Works for Housing Areas” – Department of Environment and Local Government (1984/November 1998) (as amended) (or where otherwise stated in the Planning Permission).

- (b) Water pipes have been tested, passed and sterilised in accordance with the requirements of Clause 4.18 of “Recommendations for Site Development Works for Housing Areas” – Department of the Environment and Local Government (1984/November 1998) (as amended) (or where otherwise stated in the Planning Permission).

Subject to the following limitations/variations:-

COMMENTS

This Opinion is issued solely for the purpose of providing evidence to North Tipperary Local Authorities of the compliance with the relevant requirements of the Planning Permission(s). Except in so far as it relates to such compliance, it is not a report on the condition of buildings within the Relevant Development, nor a Valuation Report in connection with such.

I hereby accept that I shall be responsible in the event of any claims or losses arising from any inaccuracies or derivations from the “as constructed” drawings as certified above following the taking in charge of the estate.

Signed: _____
Third Party

Date: _____

Qualification: _____

Details of Professional Indemnity Insurance (copy to be attached)

THIRD PARTY CERTIFICATION

Certificate No. 2

I, _____, have been asked to furnish an Opinion on the compliance with the Planning Permission(s) of the development at

(hereinafter called the Relevant Development)

to which the following the following planning permission(s) refer

This Opinion is issued solely for the purpose of providing evidence to North Tipperary Local Authorities of the compliance with the relevant requirements of the Planning Permission(s). Except in so far as it relates to such compliance, it is not a report on the condition of buildings within the Relevant Development, nor a Valuation Report in connection with such.

I have provided the following professional services in connection with the Relevant Development

I hereby certify that the roads and footpaths within the Relevant Development are in substantial compliance with the requirements of North Tipperary Local Authority's "Taking in Charge Policy for Private Housing Developments" document and that the Relevant Development has been constructed in substantial compliance with the Planning Permission(s) granted, subject to the deviations as set out in Schedule 1 to this certificate.

Signed: _____ Date: _____

Qualification: _____

Details of Professional Indemnity Insurance (copy to be attached)

SCHEDULE 1

Subject to the following limitations/limitations:-

COMMENTS

Taking in Charge Register

Estate Name/Development Name:

Estate Location/Development Location:

Applicant Name: (requesting the taking in charge)

Residents Association Contact:

Developer:

Planning Reference Number: _____

Development Description:

Date of Receipt of Taking in Charge Application: _____

Status of the Taking in Charge Application:

Date of Initial Inspection	Date of Development was taken in charge