

# Kildare Local Improvement Scheme (LIS) Guidelines

## 1. Eligible and Non-eligible Road Projects

### Eligible Road Projects

Eligible road projects are those that involve the construction or improvement of **non- public** roads which provide access:

- to parcels of land, of which, two or more are owned or occupied by different persons, **one of which must be** engaged in separate agricultural activities; or
- for harvesting purposes (including turf or seaweed) for two or more persons; or
- to at least one parcel of land owned or occupied by a person engaged in agricultural activities **and** which separately provides access for harvesting purposes (including turf or seaweed) for at least one other person.

In addition, works can also be carried out on Amenity Roads. Amenity Roads are non- public roads leading to important community amenities such as graveyards, beaches, piers, mountain access points or other tourist/heritage sites. Such roads may not account for more than 25% of the annual allocation provided to each local authority. The requirement for agricultural activity/BISS numbers shall not apply to applicants in the case of roads coming within the scope of the Amenity Roads provision.

Applicants should provide current (within the current or previous year) documentation to verify that they are engaged in agricultural activities on the parcel of land accessed by the road project e.g. a herd/flock number and a copy of the maps associated with their Basic Income Support for Sustainability (BISS) Scheme application provided by the Department of Agriculture, Food and the Marine, or equivalent documentation. The onus shall be on individual applicants to submit the required documentation in support of their eligibility.

**The Local Authority should demonstrate a degree of flexibility in relation to this requirement if alternative documentary evidence can be provided.**

The Department recommends that a parcel of land is at least 1 hectare in size. Where the occupier of the land is not the registered owner, the occupier should provide a copy of the lease agreement in place for the land in question together with confirmation of the consent of the registered owner (or beneficial owner in the event that the registered owner is deceased).

### **Non-eligible road projects**

The following road projects are not eligible for funding under the Scheme:

- A road serving only houses or buildings occupied or used by persons not engaged in agriculture, save for those **non-public** roads that in the opinion of the local authority are necessary for use by the public.
- A road serving only Local Authority properties.
- A road leading to bogs developed commercially for large scale turf production.
- Projects involving drainage works only.
- A road leading to commercial enterprises.
- A road involving minor works which is within the competence of the applicants to do themselves.
- A road which, because of its small size, would involve work which the local authority would consider as being uneconomic to carry out. The Department recommends that a parcel of land is at least 1 hectare in size.

## **2. Types of Works**

LIS funding may be used for the construction, improvement or reconstruction of roads or bridges on LIS road. The works should not involve ordinary maintenance which the applicants could reasonably be expected to do themselves, but should provide for essential works of a more substantial nature such as strengthening weak sections, rut filling, resurfacing and opening water channels.

Existing fences may be removed, or set back and new fences provided as part of the road project, where necessary and feasible at reasonable cost. The provision of new fencing or replacement of existing fencing on its own is not eligible for grant assistance.

A road project may be extended to include a spur road or terminal section serving only one user if the particular road or section thereof forms an integral part of the whole road and the cost of including it is not disproportionate to the cost of the road project as a whole.

Kildare County Council in their discretion will decide on the specification of the work to be done and the best manner of carrying it out. The applicants shall not have any claim against the Kildare County Council for any imperfections which may exist in the finished work nor for any failure to complete the full amount of the work which was envisaged.

Particular care should be taken with proposed works in designated areas, such as Special Areas of Conservation (SAC), Special Protection Areas (SPA), etc. Any necessary screening for appropriate assessments and/or other ecological assessments/ approvals/ planning permission/ Part 8 planning consent etc. that need to be obtained must be in place prior to any works commencing.

Regard should also be had to the requirements of section 47 and 50 of the Arterial Drainage Act, 1945, which impose restrictions on the erection, alteration, reconstruction etc., of certain weirs and bridges without the consent of the Office of Public Works (OPW). When carrying out drainage and bridge works, special attention should be directed to the requirements of legislation in relation to the protection of fish life, particularly during the spawning and the nursery season from October to June. Inland Fisheries Ireland should be consulted in advance where works are likely to affect fish life or waterways.

### **3. Local Contributions**

The local contribution is an integral part of the Local Improvement Scheme. The local contribution must be paid before any works commence and the local authority may not proceed with a road project where the local contribution has not been paid by the beneficiaries. Free labour or materials are not acceptable as part of the local contribution.

The local contribution should be calculated after adding the 10% for local authority expenses to the estimated 'net cost'.

The local contribution is set at 10% for eligible roads with up to and including five beneficiaries and is set at 15% for those with six or more beneficiaries. The total contribution is based on the estimated cost of the project.

Provided that all beneficiaries are contributing to the cost of the works, the maximum amount that any beneficiary is required to contribute is capped at €1,200. Where all beneficiaries are not willing to contribute, the voluntary contribution should still be calculated on the basis that all of the beneficiaries are contributing as outlined in the following example:

Road with 5 beneficiaries where the cost of the works is €100,000 would require a local contribution of €10,000 based on a contribution rate of 10%. If all beneficiaries are willing to contribute, the maximum that each shall pay is set at €1,200 (capped amount) resulting in a total contribution of €6,000. If only 4 beneficiaries are willing to contribute, the total contribution shall still be €6,000 i.e. the beneficiaries that contribute would be required to contribute €1,500 each.

The local authority is responsible for paying the local contribution in respect of an Amenity Road. This contribution amount is set at 15%. However, if there are other beneficiaries on an Amenity Road, the local authority may seek a portion of the local contribution from the other beneficiaries, subject to the €1,200 cap noted above. This is at the discretion of each local authority.

The local contribution should be paid as a single sum – the arrangement for payment by the individual beneficiaries is a matter to be decided between those beneficiaries.

In circumstances where the land/property is rented/leased, the local contribution may be paid by the landowner and/or the occupier/leaseholder. The decision in this regard is a matter for agreement between the landowner and the occupier/leaseholder.

Where the final cost of completing the works is higher than the initial estimated cost, the Local Authority must fund the shortfall in the local contribution provided. Where the final cost is lower than the initial estimated cost, the Local Authority must refund the excess in the local contribution provided.

Notwithstanding the provision of Section 81(3), a local authority should not contribute financially to the cost of projects (other than Amenity Roads) unless the road also serves local authority property, e.g., rented local authority houses, water or waste-water installations, cemetery etc. In such circumstances a local authority may pay a portion of the beneficiaries' contribution proportionate to its benefit from the works.

#### **4. Agreement with the Beneficiaries**

Section 81(4) (a) of the Local Government Act, 2001 requires a prior written agreement between the beneficiaries and the road authority as well as detail of a financial contribution to be made by the beneficiaries to the road authority towards the planned works. A project cannot commence without such agreement being in place. Kildare County Council's official LIS application form, once submitted, will act as this agreement and shall hereafter be referred to as "the Application."

While the precise procedure in this regard is a matter for each local authority, a formal application form should be used in which the local authority is asked to undertake the work as agents of the beneficiaries.

The Application should provide for the planned works being undertaken by the local authority itself or by contractors engaged by the local authority. The local authority must adhere to national procurement requirements in respect of the engagement of any third party contractors.

A local authority may, at its discretion, allow beneficiaries who express an interest in undertaking part of the work themselves or through a third party. In exercising such discretion, a local authority will have due regard to its obligations under health and safety legislation. No grant payment arises in respect of such works.

The Application should be signed by all the proposed beneficiaries. The beneficiaries should nominate one of their number to act as the Applicant's Representative to deal with payment of the local contribution and other project related issues.

By submitting the Application the beneficiaries understand that when the project is completed, to thereafter maintain the work in good order and repair at their own charge and expense, and that the carrying out of any further works will not involve any liability on the part of the local authority for subsequent maintenance.

The submission of the Application and its acceptance by the local authority will constitute an agreement for the purpose of Section 81(4) (a) of the Local Government Act, 2001.

**Written consent should be obtained from all parties whose land or interests are likely to be affected, including:**

- in the case of road works, the owners of property on which the road is situated;
- in the case of drains, all riparian owners, owners of downstream lands likely to be affected by the carrying out of the work, and
- in certain cases upstream landholders who may have a claim that their interests would be adversely affected by the lowering of water levels.

Applicants must arrange among themselves for the provision of any land required for the construction or widening of a road for drainage works associated with a Local Improvement Scheme and no compensation for such land may be charged to the project. Local Authorities should not contribute towards compensation for land or rights of way required for the purposes of the project.

On completion of a project, the beneficiaries should be notified that the responsibility of the local authority has ended and all future maintenance of the works is their responsibility – See Section 81(5) of the Local Government Act, 2001.

Incomplete applications will not be considered for LIS and will be returned to the application representative.

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## GLOSSARY

- **Agriculture:** The science or practice of farming including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool and other products.
- **Allocation:** The total amount of money allocated by the Minister for the scheme for the year. The total allocation is broken down on a county by county basis.
- **Amenity Road:** Amenity roads are non-public roads leading to important community amenities such as graveyards, beaches, piers, mountain access points or other tourist/heritage sites, or any other such non-public road that in the opinion of the local authority is necessary for use by the public.
- **Beneficiary:** Any owner or occupier of agricultural land or resident on the road that benefits from the improvement works.
- **Harvesting:** Harvesting is the process of gathering a ripe crop from the fields. In the context of LIS, this includes harvesting of peat and seaweed.
- **Herd/Flock Number:** The Herd/Flock number is required by law and issued by the Regional Veterinary Office (RVO) to the keeper of either cattle or sheep.
- **Householder:** the owner or occupier of a property.
- **Landowner:** the owner of a farm holding actively engaged in agricultural activities.
- **Non-public road** means a road which is not a public road within the meaning of the Roads Act, 1993. In practice, roads that are not normally maintained by the Local Authority.
- **Occupier:** the person(s) who, by agreement, is using the parcel of land for agricultural or harvesting purposes.
- **Owner:** the registered owner(s) of the land.
- **Parcel of Land:** is any owned or occupied land that is accessed by the road and that it may be used for agricultural purposes. It is recommended that the parcel is at least 1 hectare in size.
- **Priority List:** The proposed list of projects to be completed within the funding allocation.



- **Public Road** means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority.
- **Secondary List:** A proposed list of projects to be completed and substituted in the event of a road on the priority list not proceeding.
- **Spur Road:** A spur road is a short road forming a branch from a longer, more important road.

# Kildare Municipal District Areas

