

KILDARE COUNTY COUNCIL

**TAKING IN CHARGE POLICY &
SPECIFICATIONS**



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Definitions

Taking in Charge

Taking in Charge is a formal legal process by which responsibility for certain public areas, structures and services in a private residential development or estate are transferred to, or put in the charge of, a local authority.

When a residential development is complete, the Developer or the majority (51% or more), of the owners of houses may submit a formal request to the local authority to have the development taken in charge. If the local authority is satisfied that the development has been completed in compliance with the conditions of the planning permission and the local authority's technical requirements, then it is required to take control of the operation, maintenance and upkeep of the public roads, lighting and similar services.

Plebiscite - Under Section 180 of the Planning and Development Act 2000 (as amended):

A written request recording a vote by the owners of houses in an estate, with regard to taking in charge of same, by Kildare County Council.

SuDS

Sustainable Urban Drainage Systems. These systems work by storing or re-using surface water at its source which decreases flow rates to watercourses and improves water quality. Examples of these systems are swales, retention ponds and permeable paving.

Developer

Company or person carrying out the development.

Relevant Development

A housing estate which includes the construction of 2 or more houses and the provision of new roads, footpaths, carparks, watermains, sewers, attenuation systems, SuDs systems, public open spaces and public lighting.

Private Development

Taking in charge does not normally apply to private residential complexes such as multi-unit developments, gated developments, retirement villages and holiday home developments that were granted planning and operate on the basis of a private management company, or other similar such arrangement, for the maintenance of communal assets.

Public Open Space

Public open spaces are green areas which are publicly accessible and have been designed for passive and / active recreation.

Public Road

A road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority.

The Vesting Process

Lands which are contained within the taking in charge boundaries are legally vested to the Local Authority after the taking in charge process.

Taking in Charge Team

In Kildare County Council, taking in charge of roads and services is handled by the Development Control Section.

Memorandum of Understanding (MoU) applicable to estates developed pre-2019

A Memorandum of Understanding (MoU) exists between Uisce Éireann and the Local Authority since 2015. This MoU was developed to provide overall guidance, standards, and co-ordination mechanisms to enhance the clarity and efficiency of the overall taking in charge process for the water services infrastructure on residential estates. An application to a Planning Authority for taking in charge of a residential estate will be processed in accordance with the MoU. The MoU excludes Developer Provided Infrastructure (DPI). Uisce Éireann is responsible for the operation and maintenance of the water services infrastructure, this excludes surface water, of a residential estate from the date of the taking in charge of the estate by the planning authority. Refer to Appendix 16 for a copy of the current MoU.

Developer Provided Infrastructure (DPI)

Developer Provided Water Services Infrastructure is a category of infrastructure in a housing estate served by standalone water services infrastructure, provided by the Developer of the estate. This infrastructure is more commonly called DPI. It is not connected to the public (Uisce Éireann) water services network. The DPI infrastructure consists mostly of wastewater treatment facilities, but a small number consist of drinking water services for the estate. These are privately owned facilities.

Water Services Authority

County Council or a City Council as defined in the Act of 2001, and, subject to such exceptions as may be prescribed, and where the context permits, any references to a sanitary authority or local authority in any legislation, in so far as it relates to functions of that authority in relation to water services, shall be regarded as a reference to a water services authority.¹

¹ Reference: <https://www.irishstatutebook.ie/eli/2007/act/30/section/2/enacted/en/html#sec2>

CCTV Survey

A CCTV survey is an in-depth inspection of a drainage system using specially designed CCTV cameras. CCTV drain surveys also allow for the identification and surveying of potential problems that may arise from the drains. The CCTV surveys shall be completed in accordance with the Water Research centre (WRc) “Manual for Sewer Condition Classification” (MSCC) 5th edition with Sewer Risk Management (SRM) Manual 5 Scoring (SRM5 Scoring), or the latest version of the WRc MSCC at the time of survey.

As Constructed Drawings (ACDs)

ACDs are a set of drawings that are produced by surveying the finished estate. They accurately record how the infrastructure was actually constructed versus the way it was originally designed.

Legacy Developments

Legacy developments are ‘older’ estates where the planning permission has typically expired, the Developer may have ceased trading and there may be inadequate or no bond funds available to complete the estate to a taking in charge standard. Kildare County Council are actively working through legacy estates, where there is a valid taking in charge request.

1 Taking in Charge Policy: Overview

1.1 Introduction

Kildare is an inland county covering an area of 169,550 hectares. It occupies a strategic position within the Eastern Region of the Eastern and Midland Regional Assembly and also forms part of the Greater Dublin Area (GDA). Kildare is both a significant population base and a significant residential base within the State with the eighth largest household stock nationally.

The county has a population of 222,500 (Census 2016). The population of the county has grown more than 7.1% in the last 20 years. The Local Government Reform Act 2014 established a Municipal District system of local administration. There are five Municipal Districts in County Kildare, namely:

- Naas Municipal District;
- Athy Municipal District;
- Clane / Maynooth Municipal District;
- Celbridge-Leixlip Municipal District; and
- Kildare-Newbridge Municipal District



Figure 1.1: Kildare County Council Municipal Districts

1.2 Legislation

The key legislation relevant to the taking in charge of residential estates are the Planning and Development Act, 2000 and the Roads Act, 1993. Specifically, Section 180 of the Planning and Development Act, 2000 (as amended) and Section 11 of the Roads Act, 1993.

1.2.1 Section 180 of the Planning and Development Act, 2000 (as amended)

Where a development includes the construction of two or more houses and the provision of new roads, open spaces, car parks, sewers, watermains or drains, and the development has been carried out and completed in accordance with the planning permission and any conditions to which the permission is subject, Section 180 of the Planning and Development Act 2000 (as amended), empowers the Local Authority, 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 180 of the Planning and Development Act, 2000, as amended, requires that where a road within a development is declared to be a public road, the Local Authority shall also take in charge any public open spaces, public car parks, sewers, watermains or service connections within the development.

For the amended version of the above Act please refer to the Law Reform Commission website:

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

1.2.2 Section 11 of the Roads Act 1993

Section 11 of the Roads Act, 1993 empowers the Local Authority to declare a road to be a public road. The key points under Section 11 include:

- (1) (a) *A road authority may, by order, declare any road over which a public right of way exists to be a public road, and every such road shall be deemed to be a public road and responsibility for its maintenance shall lie on the road authority.*
- (b) *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) *publish in one or more newspapers circulating in the area where the road which it is proposed to declare to be a public road is located a notice indicating the times at which, the period (which shall be not less than one month) during which and the place where a map showing such road may be inspected and stating that objections or representations may be made in writing to the road authority in*

- relation to such declaration before a specified date (which shall be not less than two weeks after the end of the period for inspection)*
- (iv) *consider any objections or representations made to it under paragraph (iii) and not withdrawn.*

For the amended version of the above Act please refer to the Law Reform Commission website:

<https://revisedacts.lawreform.ie/eli/1993/act/14/section/11/revised/en/html>

1.2.3 Departmental Circulars

The Department of Housing, Local Government and Heritage has issued a series of circulars related to taking in charge to local authorities, these include:

- [PD 1/06 Taking in Charge of Housing Estates/Management Companies](#)
- [PD 1/08 Taking in Charge of Residential Developments/Management Arrangements](#)
- [PL 11/2013 Re: Provision of Security provided under Section 34\(g\) of the Planning and Development Act 2000 -2010 for the satisfactory completion of residential housing developments](#)
- [PL 5/2014 Re: Matters related to the Taking in Charge of Residential Developments](#)
- [FPS3/2016 Re: National Taking in Charge Initiative for Residential Estates \(NTICI\)](#)
- [L\(DPI\)01-2020 Re: Approval of projects \(residential estates\) under the Developer Provided Water Services Infrastructure under the Multi-annual Developer Provided Water Services Infrastructure Resolution Programme 2019-2021](#)

1.3 Kildare County Council's Taking in Charge Policy

The following sections of this policy document outline the taking in charge process to be followed by both Developers and internal Kildare County Council stakeholders through the lifecycle of a new development, from pre-planning stage to construction stage, to the conclusion of the taking in charge process (where the responsibility for maintenance can be transferred to Kildare County Council (KCC)). KCC's Taking in Charge Policy gives examples of the infrastructure that may be taken in charge and the associated standards required. The policy also addresses the approach to be taken for existing or legacy developments.

1.4 Infrastructure that can be Taken in Charge

Section 11 of the Roads Act, 1993 and Section 180 of the Planning and Development Act, 2000 (as amended) and Kildare County Council's Taking in Charge Policy define the parameters for the taking in charge of the following services and public areas associated with a development where they are deemed to be providing a 'general public utility' and are built to the correct standard and in accordance with their planning permission:

- Roads (including distributor and estate roads) and their ancillary footpaths, 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.
- Public lighting.
- Public open spaces: spaces to which the general public have access, but taking in charge does **not** include 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 way of a planning permission condition. (Note: grass cutting is the responsibility of the residents of the estate).
- SuDS features above ground such as ponds, swales and detention basins where these SuDS features are located in public areas.
- Surface water infrastructure below ground comprising of assets such as pipes, manholes, attenuation systems, pump stations etc.
- Public open spaces where a maintenance arrangement is in place.
- Fire services including fire hydrants.

Note 1: Since April 2019, all foul drainage and watermains are taken in charge by Uisce Éireann directly under a Self-Lay agreement. See link below for more details: [Technical Guidance | Connections | Uisce Éireann](#)

1.5 Facilities that cannot be Taken in Charge (non-exhaustive list)

The following is a non-exhaustive list of facilities that cannot be taken in charge:

- Boundary walls, or other boundary treatments, between private property and public open spaces / roads / footpaths, to be dealt with on a case-by-case basis.
- Private roads, private sewers etc. (i.e., roads that are not connected to an existing public road, private sewer connections).
- Areas identified as private areas in the agreed taking in charge drawing(s).
- Allocated / privately owned parking areas.
- Electric vehicle charging points and associated infrastructure.
- Gated developments.
- Industrial estates.
- Holiday home estates.
- Commercial centres with no housing attached such as shopping centres.
- Developments that have been conditioned to be private in their planning permission as they have no public utility.
- Developer Provided Infrastructure (DPI) and the associated foul network infrastructure, as this infrastructure will not be taken in charge by Uisce Éireann as per the Memorandum of Understanding [MoU] between Uisce Éireann and the Local Authority.
- Highly landscaped areas in open spaces.
- Private shared facilities in developments such as bin storage areas, boiler houses, switch rooms, 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 a planning permission condition.

1.6 Maintenance Services

The maintenance services that will be provided by the authorities (Kildare County Council and Uisce Éireann) following the completion of the taking in charge process include the following:

- Maintenance of all roads and footpaths, including unallocated on-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 authorities;
- Road sweeping and cleaning services (including the clearing of debris from roadside gullies), as required in consultation with the relevant Municipal District Office, of the principal public routes within the residential development;
- Upkeep and maintenance of all public lighting installations;
- 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.

2 The Planning Process

The planning permission conditions for a development typically define that the Developer is required to submit a proposed taking in charge drawing(s) as part of their planning application compliance submissions. If this condition was not included, it is a requirement of this Taking in Charge Policy that the Developer submit this drawing(s) and a draft vesting drawing at their own expense. Early identification of the areas to be taken in charge is crucial in ensuring an efficient and timely taking in charge process by Kildare County Council. Refer to Appendix 12 of this document.

2.1 Taking in Charge – Pre - Planning Stage

Taking in charge should form an integral part of any pre-planning discussions between the Developer and Kildare County Council's Planning Department. As part of this discussion, the Developer is recommended to provide a site layout drawing detailing the areas to be taken in charge. Developers should refer to the *most recent* version of this "Taking in Charge Policy & Specifications" which will be available for download from the Kildare County Council website.

Note: No element of any services to be taken in charge (such as sewers, watermains & public lighting) should be located under areas to be kept in private ownership. If this is unavoidable, relevant wayleave agreements are required to be provided at the Developer's expense, to the benefit of the relevant Authorities (Kildare County Council, Uisce Éireann, etc.)

2.2 Taking in Charge - Planning Stage

Developers shall be conditioned to submit a taking in charge drawing(s) with their planning permission application, detailing the areas that they wish to be taken in charge by Kildare County Council.

The drawing(s) should clearly differentiate between areas that are to be considered for taking in charge and areas of the development to remain private and be controlled by a management company. The part of the approved development to remain private must be clearly delineated on a site layout map.

If this drawing(s) is / are not submitted at planning stage then a condition may be imposed on all multi-unit developments to be granted permission, that before any development commences, the Developer must submit a plan(s) for the agreement of the Planning Authority that clearly delineates that part of the approved development to be offered for taking in charge and/or in the case of development to be controlled by a management company, that part of the approved development to remain in private ownership. This plan must also consider any revisions required by any other condition of the planning permission for the development.

It is envisaged that, generally, certain core services such as surface water drainage, street lighting and unallocated parking will be taken in charge. As such the Developer's designers should work with Kildare County Council to ensure that the design of the approved development will facilitate this by separating the areas/facilities that will be taken in charge from those that will not be taken in charge.

Where a proposed development is not to be offered for taking in charge, for example a gated type development, it will be an express requirement of Kildare County Council that the areas of the development which will be subject to public use, (including the access, any road widening that has taken place, any roundabout or other such junction arrangement and including any associated drainage, public lighting and other associated services) shall be completed to the standard outlined in this document and its appendices, before any part or section of the development is occupied. The standards and requirements outlined in this document pertain to developments to be offered for taking in charge and **also** developments to be controlled by management agents / management companies.

2.3 Planning Conditions

Section 34 of the Planning and Development Act, 2000 (as amended) provides the legislative basis for attaching conditions to planning permissions. Appropriate conditions will be attached to grants of permission for residential or other use developments in relation to taking in charge including, but not limited to:

- The giving of adequate financial security (insurance bond / cash bond) and the length of time the security must remain in place. The minimum length of time the security must remain in place will be the duration of planning permission and any approved extension of that duration plus 2 years, or, in the case of a private development until it is agreed that the development has been at taking in charge standard and maintained at this standard for a period of 12 months (full certification of the infrastructure shall be provided by an independent Engineer, with Professional Indemnity Insurance). Please refer to Appendix 3, Bond Requirements.
- The maintenance (including wear and tear) by the Developer of the residential or other use development at taking in charge standard until the development is either taken in charge or in the case of a private development a bond release is agreed.
- The completion of the development in accordance with specified standards e.g. this policy document and associated specifications.
- The phasing of the development, if appropriate.
- A taking in charge drawing(s) condition, which defines the areas to be taken in charge and those areas which are to remain private. Please refer to Appendix 12.
- The facilitation of inspections by the Planning Authority.
- A public lighting condition stating that lights must be operational to allow safe access to the buildings before the buildings are occupied.
- A condition stating that all areas and underground services to be taken in charge must be contained in public areas – i.e. that private property does not prevent access for maintenance purposes.
- Public open space condition for transfer of land by vesting.
- A condition stating that all surface treatments/finishes shall be agreed with the Planning Authority.
- A condition requiring CBR's to be carried out and a suitable road pavement design to be submitted for the written agreement of the Planning Authority.

A Developer is obliged to comply with the conditions of the planning permission granted for the estate 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.

The attention of Developers is brought to the provision of Section 35 of the Planning and Development Act, 2000 (as amended) which deals with the failure of a person 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 person has not complied with a previous planning permission or there is a real and substantial risk that a development would not be carried out in accordance with the conditions of such planning permission if granted, the Council may refuse planning permission subject to giving prior notification and an opportunity to respond.

2.4 Conditions in Relation to Phasing of the Development

Kildare County Council may attach a condition regarding the phasing of the development in order to ensure that residents / owners or occupiers do not have to live in uncompleted developments for lengthy periods.

In implementing any phasing arrangement, the Developer will ensure that all the roads, including footpaths, verges, public lighting, open space, sewers and ancillary systems (including pumping stations, attenuation or SuDS systems) watermains or drains, forming part of the development, until taken in charge by Kildare County Council, are completed at an appropriate stage so that the first and each subsequent phase will, on completion, be fully serviced and independent in the event of other phases not proceeding or the planning permission expiring.

2.5 Management Companies

2.5.1 Traditional Housing Developments

Kildare County Council will not require management companies for traditional housing estates (that is estates of houses with individual private gardens) except in the most exceptional circumstances, e.g. to maintain a specific facility in that estate which is for residents use only (such as a private playground) or in the case of holiday homes. It is the responsibility of the Developer to construct and maintain to Kildare County Council's standard for taking in charge all the roads, including footpaths, verges, public lighting, open space, sewers and ancillary systems (including pumping stations, attenuation or SuDS systems) watermains or drains, forming part of the development, until taken in charge by Kildare County Council.

2.5.2 Other Developments

The circumstances where Kildare County Council may attach a planning condition requiring the establishment of a management company may include the following:

- a) In developments comprising houses, apartments, duplexes or a mix of any of these, to maintain external private shared facilities (i.e. not considered to be a

general public utility) that are exclusive to the development (e.g. boiler houses, switch rooms, bin storage areas communal private gardens/private open spaces, private playgrounds), where a management company is considered essential, having regard to the nature and scale of such facilities and where these facilities are not considered to be of general public utility.

- b) In developments comprising houses, apartments, duplexes or a mix of any of these, to maintain facilities which, though not necessarily inaccessible to the general public, are not required to be taken in charge, in accordance with this document, e.g. facilities such as highly landscaped open spaces and allocated car park spaces. These facilities are not considered to be general public utilities.
- c) To maintain holiday home developments. Holiday home development are defined as residential/ or other use developments where planning permission was granted, on the basis that the residential units are holiday homes or residential developments used entirely for short-term letting. These developments must be declared as private areas in the planning permission as they are not general public utilities.

The Multi-Unit Developments Act, 2011 (MUD Act) regulates the ownership and management of the common areas of multi-unit developments.

2.6 Development Construction / Completion

2.6.1 General

The Developer shall ensure that the development is at the taking in charge standard within the duration of the planning permission. This will involve a comprehensive and integrated approach to dealing with the planning process for residential or other use developments.

Kildare County Council will open a folder on the Kildare County Council ShareFile system to allow the Developer to upload the relevant taking in charge information. The Developer can obtain access to this folder by emailing devcontrol@kildarecoco.ie. It is recommended that the Developer obtains access to this folder early during the construction process so that the Developer can upload the relevant documents as the development progresses (please note a 30-day file retention system applies, so you must notify your Development Control Engineer when you are uploading the information, a piecemeal approach will not be entertained). An example of the type of documentation to be uploaded would be as built records, CCTV, health and safety information etc.

2.6.2 Application of Standards

All residential or other use developments must comply with the standard defined by Kildare County Council and the standards published in this document.

Appendices to this document set out Kildare County Council's design and construction standards for various types of infrastructure. The appendices are as follows:

- Appendix 1 Inspection Practice by Kildare County Council during Construction
- Appendix 2 Guidance and Standards
- Appendix 3 Bond Requirements and Bond Wording
- Appendix 4 Taking in Charge (TIC) Checklist
- Appendix 5 Developer Taking in Charge Request Form
- Appendix 6 Transport Infrastructure Construction and Completion Specification
- Appendix 7 Traffic Infrastructure Technical Specification
- Appendix 8 Storm Water Infrastructure Taking in Charge Specification
- Appendix 9 Public Lighting Taking in Charge Specification
- Appendix 10 Requirements for Public Open Space, Landscaping including Boundaries and Taking in Charge (Part 1 and Part 2)
- Appendix 11 Kildare County Council Safety File Requirements
- Appendix 12 Taking in Charge Drawing Requirements
- Appendix 13 Specification for Street Nameplates
- Appendix 14 SuDS
- Appendix 15 Plebiscite Request from Owners of Houses for Taking in Charge a Development (Part 1 and Part 2)
- Appendix 16 Memorandum of Understanding (MoU)

2.6.3 Inspection during Construction

It is the duty of the Developer and their Certifiers (who must possess appropriate Professional Indemnity Insurance) to ensure that the development is built in accordance with its planning permission and in line with the standards set out in this Taking in Charge Policy. Developments that fail to reach this standard will not be considered for taking in charge and may be subject to Planning Enforcement and/or bond sequestering for non-compliance with the development's planning conditions.

Notwithstanding the above legal responsibilities, the following checks **may** be carried out by Kildare County Council during the construction process.

1. Visual checks (Development Control Inspectors **may** carry out limited oversight inspections)
2. The Development Control Inspector shall be given adequate notice (72 hours notice minimum) to complete oversight inspections of:
 - a) All phases of surface water system construction (including attenuation systems, SuDs, pipework, fill material, manholes, gullies, pumping stations etc.), including all air tests on surface water sewers (note: all branch connections shall be installed prior to air testing).
 - b) All phases of road preparation (including testing) and construction.
 - c) All phases of footpath/kerbing preparation and construction.
 - d) All phases of public lighting and open space construction.

Note: Uisce Éireann field engineers complete inspections in line with their requirements and connection agreements for the potable water and foul water infrastructure. See link below for more details: [Technical Guidance | Connections | Uisce Éireann](#)

2.7 Enforcement Action

If Kildare County Council becomes aware of a non-compliance with the development's planning permission, the Developer and his/her agents will be notified immediately. If the Developer fails to address the planning non-compliance, then Planning Enforcement action can be taken by the Planning Authority, in accordance with Part VIII of the Planning and Development Act, 2000 (as amended).

Developments which have a security in place (bond) to ensure compliance with this Taking in Charge Policy, may have their bond sequestered in order to complete the development to the taking in charge standard.

3 Taking in Charge Process

When a development has reached the standard acceptable for taking in charge, then the taking in charge procedure can be initiated either by a Developer or by a plebiscite comprising the majority (51% or above) of the owners of the houses in an estate. These two scenarios are dealt with separately below.

Note: All taking in charge requests and enquires should be emailed to devcontrol@kildarecoco.ie.

3.1 Taking in Charge Request from a Developer

The following procedure shall be followed:

1. The Developer shall submit a written taking in charge request to devcontrol@kildarecoco.ie. The Developer's taking in charge request form (Appendix 5) is available to be downloaded from the Taking in Charge section of Kildare County Council website. This request will be acknowledged and validated by Kildare County Council by return email.
2. The Developer shall be provided with a link to the Kildare County Council ShareFile folder to allow them to promptly upload all the necessary supporting documentation. Please refer to the Appendix 11, Safety File Requirements for a list of the required documentation.
3. The taking in charge process will be managed by the Development Control Team with responsibility for the relevant Municipal District Area.
4. The Developer shall commence the vesting process for the areas to be transferred and shall liaise with the Development Control Team in respect of same.
5. Once a valid taking in charge request is made, the Local Authority shall initiate the taking in charge procedures within 6 months. A **12-month maintenance period** will commence upon the certified completion of the estate by an independent Engineer possessing appropriate Professional Indemnity Insurance. All required certification(s) shall be provided at the Developer's expense. Kildare County Council will commence the process of carrying out checks to ensure that the development is at a taking in charge standard within 6 months of receiving the taking in charge request and all required documents.
6. If a major defect is found, then the 12-month maintenance period will be restarted on completion of the remediation works. Also, if the development is found to be incomplete or still under construction, the 12-month maintenance period will commence on completion of the outstanding works.
7. The Developer shall submit Certification of Compliance with the Planning Permission and all conditions pertaining to same (from their independent Engineer, possessing appropriate Professional Indemnity Insurance). A planning compliance check will be carried out and the Developer notified if there are any planning non-compliances.
8. All surface water CCTV surveys will be assessed, and planning compliance and any other administrative checks will be carried out during this 12-month period.
9. The Developer will arrange for a number of cores of the road to be taken at various points in the development. The number of cores will be kept to a minimum but will include any areas that the Development Control Inspector has

concerns over. These locations may include footpaths under which constructed tree pits are located. The position of these cores will be agreed with the Development Control Inspectors. A copy of the core reports shall be emailed to devcontrol@kildarecoco.ie.

10. Samples may be taken on all surface water outfalls in order to make sure that there is no contamination from the foul water system. The samples shall be taken and tested by an independent testing laboratory (the company selected shall be agreed in writing with the Development Control Inspector), all at the expense of the Developer. The Development Control Inspector shall be invited to witness the sample(s) extraction.
11. All defects identified by the Development Control Inspector must be corrected to the taking in charge standard. The defects identified by Development Control are not a final snag list as they can be added to, if more non-compliances appear; this list of outstanding works may continually be added to until the development is taken in charge.
12. On expiry of the 12-month maintenance period, the Local Authority Development Control Inspector shall walk the site and if all is in order and there is no evidence of any outstanding defects, the housing estate will be recommended for taking in charge without further delay, in line with the procedures outlined in Section 11 of the Roads Act, 1993 and Section 180 of the Planning and Development Act, 2000 (as amended). Should the Council officials encounter multiple defects, the inspection will be suspended until the Developer's independent Certifiers confirm the readiness of the site for a repeat inspection.

The Developer will provide if requested the required personnel to assist the Local Authority staff in checking the information supplied on the As Constructed Drawings' (ACDs). These ACDs shall be as per the specification outlined in Appendix 12.

3.2 TIC Request by a Plebiscite of Owners of Houses

In accordance with Section 180 of the Planning and Development Act, 2000 (as amended), a taking in charge request can be made by a plebiscite comprising of the majority (51% or above) of owners of houses in a development 4 years after the expiry of the planning permission. Upon receipt of a valid taking in charge request via a plebiscite (refer to Appendix 15), the Local Authority will confirm receipt of the application.

Please note the development must be completed to the satisfaction of the Planning Authority to allow it to be taken in charge. This means it must be completed in accordance with the granted planning permission and any conditions attached to the permission.

If the development is not at a taking in charge standard, Kildare County Council may bring the development to a taking in charge standard either by sequestering the bond (if it is available) or carrying out the works necessary to bring the estate to a taking in charge standard, subject to funding.

3.3 Taking in Charge Validation Process

During the taking in charge validation process, the development, including the following infrastructure, is assessed for compliance with its planning permission, this Taking in Charge document (and associated design standards and specifications) and relevant legislation. Inspections will be carried out on:

- Roads
- Footpaths
- Public lighting
- Parking spaces.
- SuDS features.
- Surface water sewers (visual checks on Manholes and CCTV surveys of the sewer lines).
- Attenuation systems, including flow control and petrol interceptors.
- Public Open Spaces, including any play facilities (see Appendix 10).
- Grass verges and incidental open spaces including street tree types and location.
- Existing trees within the site.
- Samples may be taken from all surface water outfalls, in order to make sure that there is no cross contamination from the foul water system.
- A check will be carried out by the Development Contribution Section to confirm that all development levies and fees have been paid by the Developer.
- A check that all Deeds of Dedication documentation for public open space have been submitted to Development Control.
- A check will be carried out to verify that any/all wayleaves that are required are submitted and in order. Additional drawings may be required to assess wayleave requirements, and they shall be produced at the Developer's expense.

Note 1: The inspection by the Council is for the purposes of taking in charge only and does not in any way exonerate the Developer or certifying competent agencies/firms from their liabilities.

Note 2: Where the Development has been constructed in accordance with an Uisce Éireann Self-Lay agreement, all watermain and foul water infrastructure will be taken in charge directly by Uisce Éireann. Uisce Éireann require a separate Insurance Bond in relation to that infrastructure.

3.4 Taking in Charge Statutory Process

The Local Authority shall execute the taking in charge procedures as per Section 11 of the Roads Act, 1993.

Taking in charge is a reserved function, meaning the elected members (County Councilors) vote on whether or not to take a development in charge, their decision is informed by the Report from the Development Control Section. If the elected members agree to take the estate in charge, the roads and services relating to the development are legally taken in charge.

4 Dealing with Requests Relating to Older (Legacy) Estates

4.1 General

Legacy developments are 'older' estates where the planning permission has typically expired, the Developer may have ceased trading and there may be inadequate or no bond funds available to complete the estate to a taking in charge standard. Kildare County Council are actively working through legacy estates, where there is a valid taking in charge request.

Section 180 of the Planning and Development Act, 2000 (as amended) makes provision for taking estates in charge following a request from the majority of owners of houses in an estate. The Council has used this provision in the past to take in charge estates and will continue to do so.

4.2 Assessing/Categorising Requests

In relation to those requests for taking in charge estates currently on hand where the planning permission has expired, the Planning Authority will assess the status of such estates. These will generally fall into one of the following 4 categories:

1. Estates which have been completed to taking in charge standard but not yet taken in charge.
2. 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.
3. Estates which have not been completed in accordance with the terms of the permission and where enforcement action was not taken within the specified period.
4. Estates which have not been completed in accordance with the terms of the permission and where enforcement action was taken but was unsuccessful.

New requests for taking in charge of estates shall be dealt with in accordance with the procedures set out below.

4.3 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.

4.4 Remedial Works by the Planning Authority

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