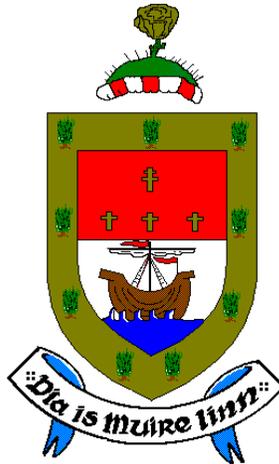




COMHAIRLE CONTAE MHAIGH EO

MAYO COUNTY COUNCIL



Taking In Charge Policy

For

Housing Developments



TABLE OF CONTENTS

Section

- 1.0 Introduction**
- 2.0 Housing Estates**
- 3.0 General Conditions for Taking in Charge of a Development**
- 4.0 Procedure for Taking in Charge of a Development**
- 5.0 New Powers to Authorities to Refuse Planning Permission**
- 6.0 Measures to Ensure the Satisfactory Completion of the Development.**
- 7.0 Enforcement**
- 8.0 Timeframe from Date of Approach**
- 9.0 Maintenance Services**
- 10.0 Management Companies**
- 11.0 Appropriate Planning Conditions**

Appendices

Application Form



1.0 Introduction

This document outlines Mayo County Council's policy in relation to taking in charge of housing developments /estates.

Section 180 of the Planning & Development Act provides for the taking in charge of housing estates by local authorities.

Section 180 provides;

"Where a development for which permission is granted under *section 34* or under Part IV of the Act 1963 includes the construction of 2 or more houses and the provision of new roads, open spaces, car parks, sewers, water mains, or drains, and 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, the authority shall, where requested by the person carrying out the development, or, subject to **subsection (3)**, by the majority of the qualified electors who are owners or occupiers of the houses involved, as soon as may be, initiate the procedures under section 11 of the Roads Act, 1993."

subsection (3) states;

- (a) The planning authority may hold a plebiscite to ascertain the wishes of the qualified electors.
- (b) The minister may make or apply any regulations prescribing the procedure to be followed by the planning authority in ascertaining the wishes of the qualified electors.

The following requirements apply under Section 11 of the Roads Act 1993:

- A public right of way must exist over the area in question.
- The road authority shall satisfy itself that it is of general public utility.
- The road authority shall consider the financial implications for the authority.
- A public consultation process must be initiated and all representations/objections must be considered.

Where an order is made under the Section 180 of the Planning & Development Act and Section 11 of the Roads Act 1993, open spaces, roads, car parks, sewers and watermains shall be taken in charge.



When the development has not been completed to the satisfaction of the planning authority and enforcement proceedings have not commenced within 7 years of the expiry of the planning permission, the authority shall comply with the requirements of Section 180 of the Planning & Development Act and Section 11 of the Roads Act 1993 to take it in charge.

NB: The authority, in this case, will, in effect, bear the expense of bringing the estate up to the required standard.

This document outlines Mayo County Council policy in relation to the efficient and timely taking in charge of housing developments. It should be noted that these procedures apply to housing estates and not apartment blocks where management companies are responsible for roads, services, open spaces etc, relating to apartment blocks. The standards for completion of developments to meet the taking in charge requirement of the local authority shall be those applicable at the date of grant of planning permission unless otherwise agreed.



2.0 Residential Estates (Developments)

A residential estate means a development which;

“includes the construction of 2 or more houses (as defined in section 180 Subsection (1) of the Planning and Development Act 2000 i.e. includes apartments and other dwelling units) and the provision of new roads, open spaces, car parks, sewers, water mains or drains”.

For all housing developments, the following elements of a development will be considered by the Council for taking in charge, subject to the conditions and requirements indicated below;

- Public roads and footpaths.
- Unallocated surface parking areas.
- Public lighting.
- Fire services including fire hydrants.
- Public water supply, foul and storm water drainage.
- Wastewater pumping stations
- Public Water Supplies
- Public open spaces.
- Playgrounds, where these are required by condition of a planning permission as facilities for public use.

Any security/Bonds lodged with Mayo County Council's planning authority for such a development will not be released until the satisfactory completion of the works and the said roads, footpaths, services etc. are conveyed to Mayo County Council.

Applicants /Developers shall note that liability for the above elements of a development shall remain with the Developer until such time as Mayo County Council takes them in charge.



3.0 General Requirements for Taking in Charge of a Development

- The development has planning permission.
- All development contributions have been paid in full.
- All connection fees have been paid in full.
- The Developer may apply to have the development taken in charge by written submission to the relevant local authority. The application must be certified by a suitably qualified person.
- The development must be constructed in accordance with the planning permission granted.
- Any bond or security lodged with the Planning Authority will be released on satisfactory completion of the works as certified by Mayo County Council or in agreement the developer's architect / agent.
- The standards for completion will be those applicable at the date of grant of planning permission unless otherwise agreed.
- The Developer shall furnish evidence to the Council that any necessary wayleaves for services are reserved in the transfer documentation to house purchasers.

4.0 Procedure for Taking in Charge of a Development

- When a taking in charge application is being made, three copies of "as constructed" drawings (scale 1:500) of the development shall be submitted to the Council. At the request of Mayo County Council these drawings may be required in digital format. The drawings shall indicate the following information:
 - 1) The estate boundary depicted in red, open spaces coloured green, all roads, footpaths and public lights.
 - 2) All services including watermains, valves, hydrants, sewers, road gullies, Telecom ducts/poles, ESB ducts/poles, cablelink (NTL) ducts and all manholes. The invert and cover levels of all manholes shall be indicated relative to Malin ordnance. The longitudinal sections of all sewer line (both foul and storm) shall be indicated on the drawings along with their diameter.
- 3 copies of a recent CCTV survey/manhole survey of the collection systems will be submitted to the Council along with the application form for taking in charge. The survey shall be completed at the Applicants expense. The sewers to be surveyed shall be thoroughly cleaned out first. The CCTV Survey shall be carried out using a camera, which is capable of measuring distances from one manhole to another.



The report shall include a summary of any defects in the systems. Any defects in the systems shall be corrected by the Applicant at his own expense, prior to taking in charge. High-resolution photographs and quality DVD recordings shall supplement the printed report.

- Subsequent to an application being lodged with the Council for taking in charge of an estate, the Council will in conjunction with the Developer carry out an inspection of the estate.
- A letter of confirmation/certification is required from the E.S.B. that they are satisfied with the public lighting on the development.
- The developer and/or his agent shall be responsible for any costs or losses whatsoever arising in the event of discovery of inaccuracies or derivations from the certified "as constructed" drawings following the taking in charge of the development.
- Subject to endorsement from the planning enforcement section and the relevant areas
- (i.e. Area, Engineers, Sanitary, Planning, etc) item to be included on the council agenda seeking the members consent to take the estate in charge.
- Following consent on the members to take the estate in charge, Roads department to instigate procedures under the roads Act 1993, to declare the estate road a public road.

5.0 New Powers Available to Authorities to Refuse Planning Permission

The amended section 35 of the Planning and Development Act 2000. This provision gives a new power to planning authorities, to refuse planning permission, without recourse to the High Court, to a developer who has substantially failed to comply with a previous planning permission. It reversed the burden of proof applying under the previous provision, under which the planning authority had to apply to the High Court for consent to refuse permission in such circumstances.



6.0 Measures to Ensure the Satisfactory Completion of the Development

The following procedure for inspecting the construction of residential developments shall be used by Mayo County Council to ensure its satisfactory completion.

- On receipt of the Commencement Notice a Taking in Charge file is opened for each residential development;
- (The commencement notice and all requests for inspections and other correspondence arising from the process are formally acknowledged;
- 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;
- The record of such inspections and/or testing is held on the Taking in Charge file;
- The record of such Final Inspections and/or Testing is kept on file and the file is retained by the authority for future reference.

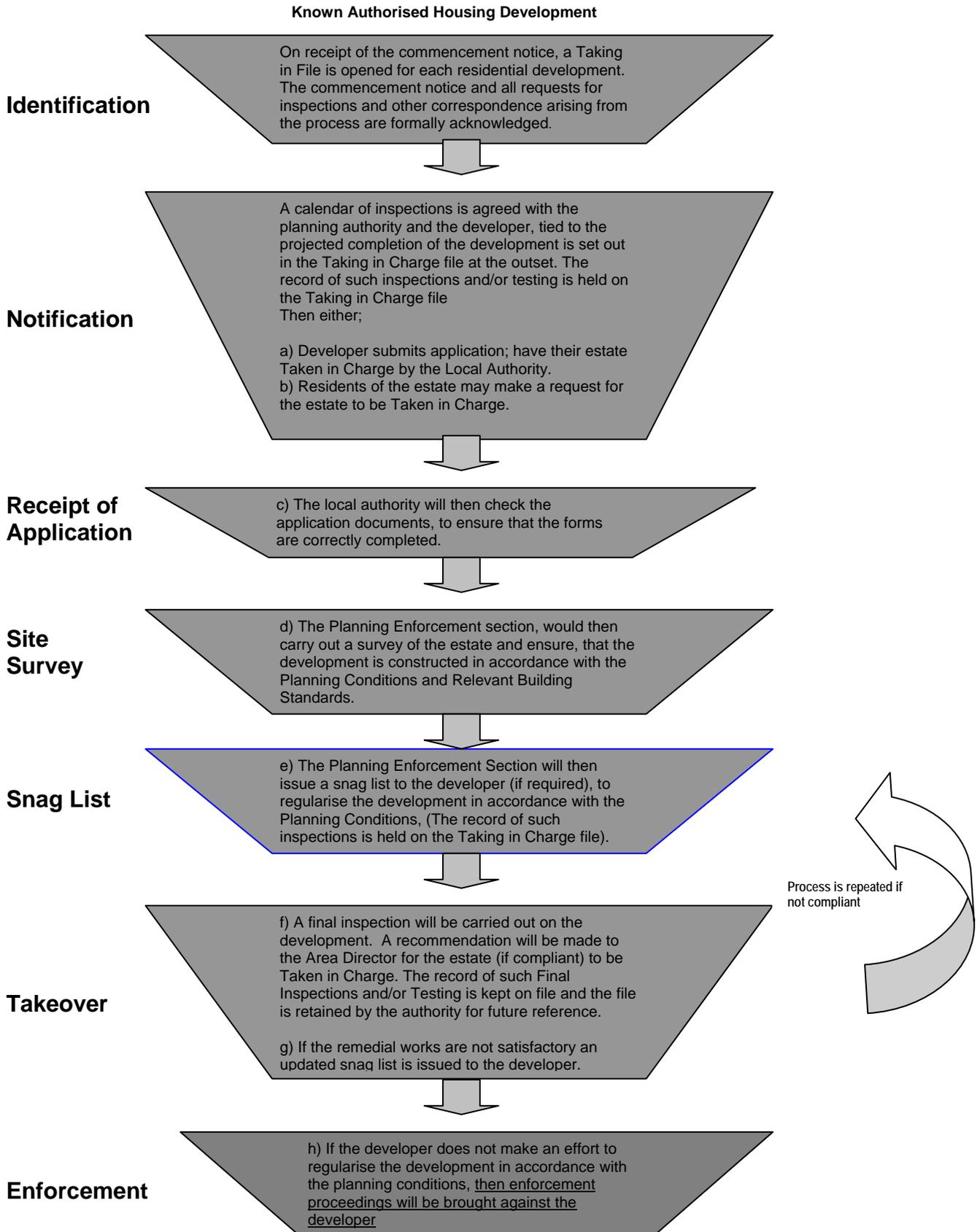
7.0 Enforcement

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 Taking in Charge file;

In the event that a development has not been completed within the appropriate period, enforcement procedures in accordance with the Planning and Development Acts 2000 – 2006 will be commenced.

The accompanying flowchart (Fig 1.1) outlines the Taking in charge procedure employed by The Mayo County Council.

Fig 1.1 Taking in Charge of Housing Estates: Procedure Flowchart





8.0 Timeframe from submission of request

Upon receipt of an application to have an estate taken in charge, the following steps shall apply to the overall process: -

- (1) Within two weeks of receipt of the request for taking in charge together with all the necessary documentation, the local authority shall acknowledge receipt of the request and the “as constructed drawings”, wayleaves submitted, CCTV Surveys etc.
- (2) The local authority shall 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 associated with the satisfactory completion of the development.
- (3) The developer shall within one month of receipt of details of outstanding issues from the local authority, arrange for completion of the said works, and agree a timeframe with the authority as to when works are completed. If works cannot be carried out within that period the developer must notify the local authority as to when the works will be completed. That period shall in any event not exceed one year from the date of receipt by the developer of outstanding issues from the local authority.
- (4) The local authority shall, within one month of being notified of completion of the works at bullet point 3, arrange for final inspection of estate to determine the satisfactory completion of the said outstanding issues as identified at bullet point 2.
- (5) Upon final inspection of estate or phase of estate and satisfactory completion of the works, the local authority shall release that element of the security lodged to secure completion of the works and proceed to take the estate or phase of estate in charge. A letter from Mayo County Council Planning Department shall be sent to the developer confirming the Taking in Charge of the development.
- All reasonable efforts shall be utilized to ensure that formal procedures are completed for the taking in charge process with minimum delay.
- (6) The Developer shall transfer or convey to the Council all of the land contained in the planning permission affected by the Taking in Charge.



9.0 Maintenance Services

The provision of these services will be subject to the approval of the local area office which oversees the particular area.

The maintenance services that shall 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 nonstandard 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.



10.0 Management Companies

Where, following receipt of a developer's proposal during the planning process for establishment of a management company for a development a condition is included 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 within the development, the said public lighting, roads, footpaths etc. shall, on completion of the development, be conveyed to the management company.

- Any security lodged with the planning authority for such a development shall be released upon the satisfactory completion of the works as certified by Mayo County Council or by the developer's architect /agent and agreed with Mayo County Council and the said roads, footpaths, water supply infrastructure, sewers, drains etc. are conveyed to the management company.

11.0 Appropriate planning conditions

Section 34 of the Planning and Development Act 2000 provides the legislative basis for attaching conditions to planning permissions. Appropriate conditions must be attached to grants of permission for residential development in relation to:

- The giving of adequate financial security (S.34(4)(g). This must be included as a cash deposit only, no Bond will be accepted. The financial security will remain in place until the development is constructed in accordance with the planning permission granted. This cash deposit may be seized by the authority if the developer is in non compliance with the planning permission granted, an agreed timeframe for compliance should be specified;
- 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 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 some of these issues will be covered in the planning authority's taking in charge policy - e.g. the standards to be met, the evidence to be produced by the developer to demonstrate completion - it may be possible to group conditions under the general heading of compliance with the planning authority's taking in charge policy.



Application form