

Minutes of Meeting of Planning & Emergency Services Strategic Policy Committee held on Wednesday 21st October 2020 at 10.00a.m. in Thurles Municipal District Council Chamber, Castle Avenue, Thurles.

Present: In the Chair - Cllr. Phyll Bugler
Councillors – John Carroll, Roger Kennedy, Michael Fitzgerald, Marie Murphy. Mike Edwards.
Cllr Michael O’Meara, Cllr Joe Hannigan, John O’Shaughnessy via zoom.

In Attendance: Eamon Lonergan, Acting Director of Services
Kieran Ladden, Senior Executive Engineer
Clare Lee, Executive Planner via zoom
Brian Clancy, Administrative Officer

Apologies: Dave Carroll, Chief Fire Officer, Brian Beck, Senior Planner, Cllr. Ger Darcy

1. Minutes of last meeting held on 9th July 2020

The minutes of the last meeting held on 9th July 2020 were proposed by Cllr. R. Kennedy, seconded by Mike Edwards and adopted.

Arising from the minutes it was clarified that the Record of Protected Structures (RPS) will be reviewed as part of the County Development Plan process and work is in progress on this. Replying to a query from Cllr. P. Bugler Eamon Lonergan stated that a detailed presentation on Cluster developments would be given to the next meeting. In reply to a query from Cllr. R. Kennedy the meeting was advised that Brian Beck had queried with the Regional Assembly the textual changes made to the final RSES document with regard to matters proposed and seconded by Tipperary County Council members.

2. Correspondence from Infrastructure SPC

This item was taken in conjunction with item 3 on the agenda -Taking in Charge Policy update.

3. Taking in Charge Policy update

Eamon Lonergan stated that a draft Taking in Charge Policy was prepared by the last Planning SPC but was not formally adopted. While good progress has been made there are still outstanding issues in estates in particular with Irish Water. It was intended that the updated draft policy would be circulated to the SPC Members following the presentation at this meeting with a view to bringing it to the next SPC meeting for recommendation to go to the Corporate Policy Group (CPG) and full

Council for adoption. Kieran Ladden, Senior Executive Engineer, proceeded to give a presentation on Taking in Charge Policy update. The principal points were as follows:

Introduction

- Outlining Tipperary County Council's policy in relation to the efficient and timely taking in charge of residential developments.
- This briefing is intended to be strategic in nature, addressing issues at a County wide level. It is not intended to discuss any individual estate or ongoing work on TIC.
- Details the requirements for a valid taking in charge application and the associated procedures and protocols

Housing estates definition

- Planning and Development Act 2000 (as amended) Section 180(1)
 - Where a development for which permission is granted under section 34 or under Part IV of the Act of 1963 includes the construction of 2 or more houses and the provision of new roads, open spaces, car parks, sewers, water mains or service connections (within the meaning of the Water Services Act 2007), 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 owners of the houses involved, as soon as may be, initiate the procedures under section 11 of the Roads Act, 1993.

What is taken in charge?

- Public roads and footpaths
- Watermains and service connections
- Surface Water and Foul Sewers
- Public open spaces/landscaping. Grass cutting shall not be carried out by Tipperary County Council.
- Public Lighting. Public lighting shall not be taken in charge in isolation of the rest of the services within the estate.
- Unallocated surface parking areas
- Wastewater treatment plants and associated buffer zones
- Fire services, including fire hydrants
- Playgrounds, where these are required by condition of a planning permission
- Potable treatment plants and any associated protection zones
- Site boundaries which are abutted by open spaces, public roads or public footpaths, either existing or proposed. Boundaries between private property, and public open spaces, roads, footpaths will remain the responsibility of the property owner.

Procedure for taking in charge of estates

The taking in charge process is set out in the Planning and Development Acts 2000 – 2014 and Section 11 of the Roads Act 1993.

(1) Planning administration records the receipt of a taking in charge application, scans and files the correspondence and forwards it to the relevant engineer for validation and map.

(2) Engineer, Planning Section checks relevant planning reference, confirms number of houses, ensures developer or majority of owners (at least 51%) have signed the application form. Map is prepared outlining in red (excluding house sites) the portion of the estate to be considered for taking in charge.

(3) Planning administration acknowledges the request and advises the developer/residents' rep. whether the application is valid/invalid and advising of reasons if invalid.

(Steps 1 – 3 estimated to take 4 weeks from receipt of application)

(4) Planning Section forwards a copy of the request and map to Roads Section and Water Services for their information and confirm that Planning Section are processing same.

Required information for Taking in Charge

Signed Petition from majority of houseowners; <u>refer to Explanatory Notes for requirements</u>	
A map outlining the boundary of the site to be Taken in Charge in red	
3 Copies of "as constructed" drawings	
Hard Copy & Electronic copy of "as constructed" drawings in DXF Format	
Public Lighting Design – MPNR No. & A/C Number	
Public Lighting Report	
Indemnity insurance details	
Certificates from independent service suppliers (Bord Gais, Eircom, etc.)	
3 Copies of CCTV of Foul Sewer	
3 Copies of CCTV of Surface Water Sewer	
Drainage Layout Plan	
Original Wayleave Copies (If applicable)	
Copy of Certificate of Satisfactory Completion from Consulting Engineer	

Procedure for taking in charge of estates

(5) Planning Section seeks report from the:

(i) Municipal District Engineer who will:

- check map to ensure it is accurate
- check number of lights listed, with number of lights on the ground, report to include assessment by Airtricity who are to be engaged to carry out survey and do full costing
- prepare full costing of road works outstanding

(ii) Water Services Engineer who will check map to ensure it is accurate and prepare costing of Water Services issues outstanding

(iii) Planning Engineer on receipt of the Municipal District Engineer's report and Water Services report will prepare a report (SRP) and recommendation which will include a full assessment of the estate with any outstanding issues including costings where necessary.

(steps 4 – 5 estimated to take 10 weeks from receipt of application)

(6) The developer shall arrange for completion of the said works, and notify the local authority 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.

Step 6 estimated to take place within 24 weeks of receipt of details of outstanding issues from the local authority, or in the event that they cannot be carried out within 24 weeks the PA may allow this period to be extended to 32 weeks

(7) The local authority shall arrange for final inspection of estate to determine the satisfactory completion of the said outstanding issues as identified.

Step 7 estimated to take place within four weeks of being notified of completion of the works

(8) Under the Memorandum of Understanding, the Planning Authority must notify Irish Water that the development has been completed to the satisfaction of the Planning Authority and that the Roads Authority intends to initiate the procedures under Section 11 of the Roads Act, 1993 unless Irish Water has any objection.

(9) If the development has been completed to the satisfaction of the planning authority and having consulted with Roads Section to ensure documentation is correct, a memo will be sent to Roads Section confirming same and requesting that they initiate the procedures under Section 11 of the Roads Act, 1993. The request will include the following:

- Detailed Planning Report (SRP) including relevant Phase and house nos. and assessment of the financial implications with costings of taking the estate in charge.
- The completed documentation / forms.
- A completed Taking in Charge Register Sheet with all available data.
- Suitable maps for both public display and for the Taking in Charge Register. The maps must be sufficient so that any member of the public examining the register will be able to discern exactly what areas are in charge.

All MPRN and account numbers relating to public lighting AND/OR Water Services infrastructure

(10) A notice is published in the local paper inviting submissions from interested parties on the proposal to take the estate in charge. A 6 week period is allowed for submissions.

(11) A report is prepared by the Roads Section and the taking in charge proposal is placed on the agenda of the next Council meeting.

The process above is necessary in order to ensure that when the Council takes an estate in charge where there is minimal financial exposure to the Council

TIC Policy

1.2 Actions by the Department on Taking in Charge

A number of actions have been undertaken by the Department to address the taking in charge process in recent years including:

1. **Circular PD 1/08**² advised and provided a framework to each planning authority to develop or update, as appropriate, their policy on taking in charge. This advice was to ensure that certain core facilities/infrastructure is taken in charge on request i.e. roads and footpaths, water services, public lighting and open spaces. The circular included approaches to ensure that ant time delays were minimal;
2. The provision of a Special Resolution Fund (Budget 2014) to help resolve Unfinished Housing Developments. This fund directly contributed to the resolution of 86 developments;
3. **Circular PL 5/2014** issued by this Department clarified the agreement of the Memorandum of Understanding (MoU) between Irish Water and the planning authorities. This clarified planning authority procedures for taking in charge residential developments with water services infrastructure connected to the Irish Water network followed by transfer of the water services infrastructure on the development by Order to Irish Water.

The MoU, for agreement between the planning authorities and Irish Water, 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. The MoU was rolled out in 2015. An application to a planning authority for taking in charge of a residential estate can, if it is in compliance, be processed in accordance with the MoU. The MoU excludes Developer Provided water services Infrastructure (DPI - see below).

Irish Water is responsible for the operation and maintenance of the water services infrastructure of a residential estate from the date of the taking in charge of the estate by the planning authority.

Framework for a Comprehensive Taking in Charge Policy

- The core principles underpinning the framework for taking in charge, in each authority policy on this matter, are:
 - A statement of the facilities that will be taken in charge and the maintenance services that will be provided;
 - The issue of taking in charge must be addressed at the pre-planning stage with the approved design facilitating the taking in charge of core facilities;

- The PA’s construction and design standards for residential areas will be set out;
- Developers will be required, to complete residential developments to a standard that is in compliance with the planning permission granted;
- Planning authorities must take all necessary measures in this regard in particular through securing adequate bonds, inspection of construction and enforcement action when necessary;

The procedures for taking in charge will begin promptly on foot of a request by the majority of the home owners in the development or by the developer, as appropriate. Protocols, including time frames, are set out to respond to requests for taking in charge

Phasing

- The phased taking in charge of a development may be considered where phases are completed and which can be viewed in isolation of the remainder of the development, and there is a clear demarcation between the phases.
- Where a phase does not have a unique access points onto the public road, and is using a single access road, the Council will require a cash bond to be lodged to allow for the satisfactory repair of the estate road and services following completion of all phases, if damage is caused as a result of the construction of any subsequent phases.
- This cash bond will be calculated based on the length of the estate road serving the phase and may be added to following the completion of subsequent phases.
- Any bond or security lodged with the planning authority attributable to such phases of a development will be released when the estate is taken in charge. The cash bond for the estate road will be released following the completion of all phases.

Next Steps

- Review draft TIC Policy and Procedures
- On-going discussions will take place with the SPC on the content of the Policy.
- Finalise draft TIC policy

Cllr. M. Murphy stated that it would be beneficial to receive presentations in advance of the meeting. Kieran Ladden stated he would revert to Cllr. Murphy in relation to a query regarding taking in charge of Townspark estate, Cahir. Cllr. J. Carroll stated that a lot of progress has been made in taking in charge but there were difficulties in relation to roads funding and Irish Water. Cllr. M. Fitzgerald stated there were still legacy issues particularly with Irish Water in relation to Developer Provided Infrastructure. Mike Edwards stated it was good for community groups to see the policy and procedure laid out. Cllr. P. Bugler stated it was important for developers to have detailed site execution plan in place for sign off during the construction phase including underground utilities but the Council must still exercise due diligence in line with the planning conditions and building regulations. In response to the proposal received from the Infrastructure SPC recommending ‘that housing estates are developed from the back out, which could lead to the earlier provision of leisure and amenity areas’ Kieran Ladden stated and it was agreed to advise the Infrastructure SPC that phasing is development specific through the individual planning permission and

working from the back out was not advisable in all cases as matters such as access roads, rights of way etc had to be considered. It was noted that considerable progress had been made in getting outstanding works done on unfinished estates and greater co-operation is now forthcoming from Irish Water with regard to Developer Provided Infrastructure.

4. Developer Provided Infrastructure (DPI)

Kieran Ladden gave a presentation on Developer Provided Infrastructure and replied to queries raised. The principal points were as follows:

Overview

A new multi-annual funding programme was introduced in 2019 to facilitate the progressive resolution in a sustainable manner of the DPI element of water services in estates to support the taking-in-charge of the estate.

The focus of the new multi-annual programme is on the DPI component of the small subset of estates that are dependent on this form of water services infrastructure for the provision of the water services. Funding associated with the taking-in-charge of non DPI estates remains fully a matter for the local authorities.

The DPI infrastructure consists mostly of wastewater treatment facilities but a small number consist of drinking water services for the estate. They are privately owned facilities.

In July 2019 the Minister of Housing Planning and Local Government announced⁴ the commencement of a new investment programme – ***the Multi-Annual Developer Provided Water Services Infrastructure Resolution Programme 2019-2021***.

The purpose of the multi-annual programme is to progressively facilitate the resolution of DPI estates, in a sustainable manner, to support the taking-in-charge of these estates.

Following the NTICI process the Department published in December 2018 a report – the ***National Taking in charge Initiative Report***³ - with findings and recommendations from the stimulation process. The NTICI report included a recommendation to introduce a multi-annual funding programme to progressively resolve DPI estates in a sustainable way.

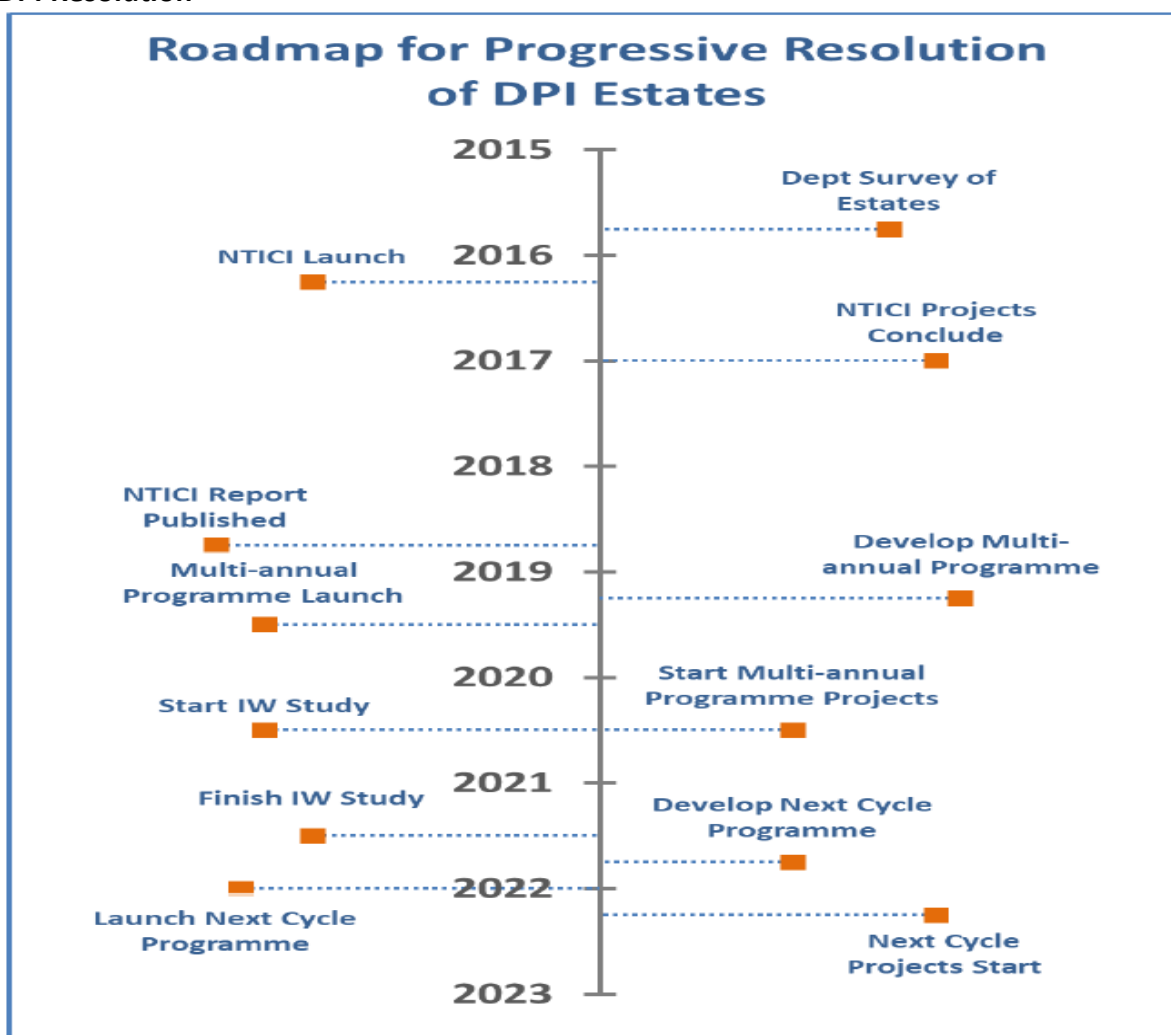
A Circular Letter L1(DPI)01-2019⁵ - ***Residential Estates with Developer Provided Water Services Infrastructure – Funding Bids for Multi-annual Developer Provided Water Services Infrastructure Resolution Programme 2019-2021*** - issued by the Department along with the announcement set the bids process for the multi-annual programme in motion.

The circular included a Framework document that provided comprehensive information on the scope and focus of the new multi-annual funding programme. It also gave detailed guidance for local authorities on the completion of bids for projects under the first multi-annual programme.

Evaluation Report

Description	Expert Panel Conclusion	Department/Irish Water Future Action
Castle Court, Terryglass	Bid is premature for approval in the absence of reverse capacity in the public system. Funding will be considered in the future once reverse capacity becomes available.	Department will consider funding when reserve capacity is available
Slieveragh, Grangemockler (Demonstration project)	Irish Water to complete a study on demonstration projects to provide detailed information and costings to achieve best solutions for DPI.	Irish Water to complete study
Townsfeld, Cloughjordan	Bid is premature for approval as Irish Water to upgrade public sewerage scheme. Funding will be considered upon upgrade of sewerage scheme by Irish Water.	Irish Water to upgrade sewerage scheme
Rocksprings, Kilcross	Bid is premature for approval as responsibility in the long term for the enabling sewerage scheme needs to be resolved before funding can be considered	Long term responsibility for the enabling sewerage scheme needs to be resolved.
An Cuir & Inis Grove, Monard (Demonstration Project)	Irish Water to complete a study on demonstration projects to provide detailed information and costings to achieve best solutions for DPI.	Irish Water to complete study
Lios Dualla & Rathclogh (Demonstration Project)	Irish Water to complete a study on demonstration projects to provide detailed information and costings to achieve best solutions for DPI.	Irish Water to complete study
Dun n'Or, Donaskeagh (Demonstration Project)	Irish Water to complete a study on demonstration projects to provide detailed information and costings to achieve best solutions for DPI. Bid not examined as minimum of 2 Cat 3 sites only.	Irish Water to complete study
Cnoc Na gCaiseal	LA to re-examine the proposal for a more cost effective solution	N/A
Oak Grove, Bohertrime, Donohill (Demonstration Project)	Irish Water to complete a study on demonstration projects to provide detailed information and costings to achieve best solutions for DPI.	Irish Water to complete study
Brookfeild, Thurles (Demonstration Project)	Irish Water to complete a study on demonstration projects to provide detailed information and costings to achieve best solutions for DPI. Bid not examined as minimum of 2 Cat 3 sites only.	Irish Water to complete study
Hayfield Manor, Thurles	Proceeding with the study (funded by the bond) is a matter for the LA.	N/A

DPI Resolution



Funding

In May 2018 the Government published the first *Water Services Policy Statement 2018-2025*¹² which, among other things, is reflective of a new era of governance, oversight and accountability for the delivery of water services.

The Statement identifies high level objectives and priorities for the delivery of water services over the period to 2025. The Statement recognises the need for water services investment by the Department to resolve legacy water services issues including DPI.

The progressively increasing funding available from the Exchequer via the Department for the multi-annual programme for 2020 and 2021 is set out in Table 7 below.

2019	2020	2021
€6 million	€8 million	€12 million

Outcome

- ▶ Announcement of this programme demonstrates the Department's DHPLG commitment to progressively facilitating the resolution of DPIs, which is a national issue needing a multi stakeholder solution at a national level. The Dept has established a DPI Resolution Unit within the Water Finance Section of the DHPLG.
- ▶ This needed investment by the Dept in legacy water services issues including DPIs was recognised in the Governments Water Services Policy Statement 2018-2025, published in a May 2018.
- ▶ Irish Water have committed to carrying out studies on some DPIs to develop optimum solutions for these estates.

Actions

- ▶ TCC will engage actively with IW in relation to the identification of suitable locations within the county where these studies will offer best value-for-money and can lead to identifiable solutions to the infrastructural deficits and ongoing maintenance issues which surround these DPIs.
- ▶ The Dept has also funded Demonstration projects to examine DPI estates where the connection to IW networks is not the solution.
- ▶ A new focussed Action Plan Approach is recommended for LAs by the Dept to progress the resolution of DPI estates.
- ▶ LA will now review the Category 1 DPIs, i.e. those that can be connected to IW networks.
- ▶ LA will now commence planning for the next multi annual funding cycle.
- ▶ TCC will progress the multi stakeholder engagement through a focused Working Group consisting of staff from the Planning, Water Services, Roads and Environment Sections.
- ▶ This Group will need to undertake a significant amount of work on all DPIs, including data gathering, identification and communication with duty holders, site investigations, infrastructure assessments and issues identification with the view to developing sustainable solutions, cost estimates and co-funding arrangements.
- ▶ This work will inform Applications for the next multi annual funding programme or any other potential funding sources.
- ▶ This work along with other studies by IW will allow for the development of appropriate longer term approaches.
- ▶ DPIs are complex to resolve in the short to medium term due to technical, environmental, economic and legal matters, further complicated by the need for multi stakeholder involvement.

Eamon Lonergan stated that DPI had become a national legacy issue involving 834 estates countrywide. The Department had set up a DPI Resolution unit and Irish Water was now working with the Department to run pilot projects costing €26m over 3 years. Tipperary Co. Council didn't get funding in this tranche but an Internal Working Group including Planning, Roads and Water Services has been put in place to be ready for the next funding cycle with a

focus on Category 1 estates i.e. estates that can be connected to Irish Water infrastructure. Cllr. M. Fitzgerald stated we are heading in the right direction but cited difficulties a developer was encountering with Irish Water regarding an estate at Kilross. Replying to Cllr. M. Murphy Eamon Lonergan stated that local authorities would be required to provide match funding for any projects approved. Cllr. M. O'Meara stated that unfinished houses are a blight on the countryside and a Notice of Motion would be submitted to the next meeting of the Council requesting that a policy to grant permission for unfinished one off houses in the open countryside without the local need requirement be introduced in such areas. Cllr. J. Hannigan stated he had encountered problems with Irish Water issues and any money allocated under the new scheme must be spent on work in the estates and not on administration. Eamon Lonergan agreed that the money would not be used on administration costs.

4. Forward Planning update

Due to difficulties with remote access for this presentation it was agreed to defer this matter to the next meeting.

5. Date of next Meeting

It was agreed to hold the next meeting in December, date to be decided in consultation with the Chair of the SPC.

6. Any Other Business

A copy of the SPC Standing Orders were circulated in advance of the meeting. Cllr. M. Murphy proposed and it was agreed that arising from difficulties encountered in some cases in achieving a quorum at meetings that a recommendation from this SPC be forwarded to Ger Walsh, Corporate Support, that the quorum for meetings of the Committee be amended to state that it shall be five members, four of whom shall be elected members of the County Council with one external. It was also proposed by Cllr. P. Bugler and agreed that under Arrangements for Meetings that Civic Offices, Thurles Municipal District, Castle Avenue, Thurles be included as an acceptable location for meetings because of its central location in the county.

This concluded the business of the meeting.