

PART V

GUIDANCE FOR DEVELOPERS

**Central Housing Office June, 2022**

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# INTRODUCTION

* 1. This guide has been produced to help developers understand the requirements arising from Part V and assist them in meeting their Part V obligations
  2. It is not intended to be, nor should it be construed by any user, as a legal interpretation of the Acts and Regulations governing Part V

# GENERAL PROVISIONS

* 1. Governing Legislation is contained in the Planning and Development Act 2000 – Part 5 (Sections 93-101) and Regulations made thereunder and the Urban Regeneration and Housing Act 2015 – Part V ( Sections 31-36) and regulations made thereunder and the Affordable Housing Act 2021.
  2. The 10% requirement for Social Housing has been increased to 20% , whether a 10% spilt between Social and Affordable or 20% Social. Transitional arrangements now exist under the Affordable Housing Act 2021.
  3. Any lands purchased between 1 September 2015 and 31 July 2021 with a planning permission granted between 3rd September 2021 and the 31st July 2026, the Part V obligation is 10%.
  4. Transfer of land on site is the default option for compliance, followed by building and transfer of units, supply of units off site or any combination of these
  5. The estimated use value of Part V land is the value of the land at the date the planning permission is granted by reference to its existing use and on the basis that only exempted development could have been carried out on the lands. An exception to this applies for land purchased before the 25th August, 1999, in which case, the existing land use value is the price paid.
  6. Local authority can purchase Part V units from developers
  7. When the planning application is made it must be accompanied by the developers proposal for compliance with Part V. ***Applications received by the Planning Authority which do not contain a compliant Part V proposal will be invalidated.***
  8. Developers who believe that their development proposal is exempt from the requirements of Part V should, before submitting a planning application, apply for a Certificate of Exemption from Part V in accordance with section

97. The certificate of exemption, if granted, must be lodged with the planning application. If the exemption certificate is not granted, the planning application, must contain proposals to comply with Part V.

Developments of between 5 and 9 units will no longer be eligible for a certificate of exemption from 3 September 2021.

* 1. Pre-planning discussions on Part V compliance can be arranged by contacting Mr. Simon Shevlin, Head of Housing at [sshevlin@mayococo.ie](mailto:sshevlin@mayococo.ie%20)

# OPTIONS FOR COMPLIANCE

Developers have 6 options for compliance with the requirements of Part V. The options are as follows;

* + 1. **Transfer to the LA of Land on Site**
    2. **Transfer to the LA of Housing Units On Site**
    3. **Transfer to the LA of Housing Units Off Site**
    4. **Lease of Housing Units to the LA (On or Off Site)**
    5. **Combination of Land Transfer and any of the other Options**
    6. **Combination of all other options except land option**

Having specified which of the options he or she proposes to take, the applicant is then required to provide the detail in relation to the option chosen and submit same with the planning application. Failure to do so will result in the planning application being invalidated. The information to be provided will vary depending on the option selected and is summarised below:

## Transfer to the LA of Land on Site

Transfer to the ownership of the planning authority of a part or parts of the land subject to the planning application. Please note the land being transferred must be capable of delivering 10% or 20% of the overall number of units in the development depending on the transitional arrangements.

### Minimum Information Requirements Under This Option

A site location map and a site layout map, indicating the part or parts of the site proposed for transfer to the planning authority.

### Methodology and Cost Calculations

The applicant is required to provide to the Planning Authority details of the estimated overall cost to the local authoirty of the Part V option chosen, including the methodology used in arriving at such costs. To comply with this requirement the following calcualtions and methodology should be used.

Estimated Cost: A statement of the estimated existing use value of

the land proposed for transfer.

Calculations: This will be the existing use value of the entire site

and the percentage of that value which is the percentage of the site that is proposed to be transferred. (The value of the site for the purpose of the Part V agreement will be determined at the date of grant of the relevant planning permission).

*Note 1: Land proposed should be capable of delivering the appropriate percentage of housing,*

*i.e. up to 10% or 20%.*

*Note2: For land purchased before the 25th August, 1999 the existing use value is the purchase price*.

Methodology: As stated above, existing use value.

## Transfer to the LA of Housing Units On Site

Build and transfer to the ownership of the planning authority, or persons nominated by the authority, of a number of housing units on the site subject to the planning application.

### Minimum Information Requirements Under This Option

A list of the units and types of housing, within the proposed development, that are proposed to be transferred to the planning authority and indicative costs. Also a site layout map showing the locations of the units within the development which are to be transferred.

### Methodology and Cost Calculations

Estimated cost: A single figure for the estimated total cost to the

planning authority of the units being transferred.

Calculations: The number of units and the cost per unit. Where

multiple unit types are proposed,–

* + - 1. the cost per unit type proposed; and
      2. the number of each type of unit proposed.

Methodology: This will be informed by input costs including site

costs, construction, relevant development costs,

builder’s profit, fees and associated costs. It will not be necessary for the applicant at initial application stage to provide a detailed break-down of the costs for each of the various construction cost components, although applicants may of course do so. Below is an indicative checklist of the items to inform the determination of the ultimate calculations which will have to be agreed with the planning authority in the context of the Part V agreement prior to the lodgement of the Commencement Notice.

#### Construction costs

Estimated by reference to the expected costs of the quantities and

materials for the development, excluding VAT and builder’s profit.

#### Development costs

Includes component costs of the development, including design fees, service connections, development contributions, site investigation, financing charges, legal expenses, structural guarantee, planning fees, certification of compliance and supporting open space and infrastructure costs as apportioned to the units.

#### Profit on Costs

Appropriate percentage to be agreed with the planning authority by reference to the likely cost that would be incurred by the authority, had it engaged a builder directly to construct the units.

#### Land costs

Determined by estimated valuation of the ***existing use value on the date the planning permission is expected to be granted. In the case of land purchased before the 25th August, 1999 the existing use value is the purchase price.***

#### VAT

Determined by reference to the prevailing VAT rate at the time an agreement is signed.

**Total Estimated Cost = Sum of Items 1 to 5**

## Transfer to the LA of Housing Units Off Site

Transfer to the ownership of the planning authority, or persons nominated by the authority, of housing units on any other land in the functional area of the planning authority.

**NB: Where units off site are being proposed it would be the Councils preference that the units being offered are former vacant units which have been brought back into use by the developer for the purpose of complying with Part V.**

### 3.3.1 Minimum Information Requirements Under This Option

A list of the units and types of housing elsewhere in the functional area of the planning authority that are proposed to be transferred, and the indicative location and cost of such units.

## Lease of Housing Units to the LA (On or Off Site)

Grant a lease of housing units to the planning authority, or persons nominated by the authority, either on the site subject to the application or in any other area within the functional area of the planning authority.

### 3.4.1 Minimum Information Requirements Under This Option

A list of the units and types of housing within the proposed development or elsewhere in the functional area of the planning authority that it is proposed to lease, and, in the case of proposed units outside the application site, the indicative location and cost of such units.

## Combination of Land Transfer & any of the other Options

A combination of the transfer of the ownership of land and one or more of the other 5 options.

### 3.5.1 Minimum Information Requirements Under This Option

An appropriate combination of the minimum information requirements set out above.

## Combination of all other options except land option

Any combination of the options outlined above excluding the transfer of ownership of land.

### 3.6.1 Minimum Information Requirements Under This Option

An appropriate combination of the minimum information requirements set out above.

***NB The ‘net monetary value’ which the local authority must achieve , in any Part V agreement, other than an agreement for the transfer of land, is 20% of the difference between the existing use value of the land and its market value at the date the planning permission is granted . For example, existing use value of a site is €100,000, the market value is €500,000 then the ‘net monetary value’ is €80,000. This ‘net monetary value’ calculation is critical to all options for compliance except the transfer of land.***

# 4.0 SUMMARY

It is not realistic at planning application stage for an applicant to provide detailed actual costs for a development for which permission has not yet been granted, for which a detailed design has not yet been settled and for which site valuations are not required until the date of the grant of planning permission. Accordingly, as is made clear above, it is estimated costs that are required to be submitted with the planning application.

Notwithstanding the above, the estimated costs provided with the planning application should be as realistic as possible.

Once details of the Part V proposal are lodged with the planning application, this will commence the formal consideration of Part V issues for the development by the authority. While the proposal and estimated costs will be subject to discussion during the course of the development of the PART V agreement, the more realistic the initial proposal made by the applicant at planning application stage, the more quickly the Part V proposal can be agreed, and, where permission is granted, the more quickly construction can commence to meet urgent supply requirements.

***NB It is a requirement that the Part V agreement is finalised and signed off before a commencement notice can be submitted for the proposed development.***

## DEVELOPMENTS WITHIN COUNTY MAYO SUBJECT TO PART V

All developments of more than 4 housing units in the County

**See Mayo County Development Plan for Zoning Maps**

**APPENDIX 1**

### Table A: KEY STEPS IN PART V AGREEMENTS

**Overview of Key Steps in Part V agreements – Best Practice**



Applicant undertakes

**1** residential development:

does Part V apply?

**YES**

**2** Undertake Pre-Planning Consultation with Planning Authority including Part V **(not a statutory requirement)**

**NO** Part V not applicable (exemption certificate required? )

**YES**

Planning Application submitted.

Applicant **must specify** manner in which they propose to comply with Part V

**3**

Planning Authority

**4** considers planning application and Part V proposal.

Makes decision.

**REFUSED**

Development will not proceed in

this form / Appeal to

An Bord Pleanála

**GRANTED**

8 weeks

Permission granted with Part V condition attached\*\*\*

**5**

**NO**

**6** Conclude negotiating Part V

agreement?

Dispute Resolution

**YES**

Finalise Part V agreement BEFORE commencement

**NO 7** Agreement reached

**YES**

Agreement signed between parties

4 Weeks

**8**

Letter of compliance may issue when agreement signed

**9**

Contracts and Conveyancing

\*\*\*These stages represent critical milestones in tracking and monitoring progress. At each milestone, it is important to check the status of negotiations on Part V agreement.

**10** Commence Construction\*\*\*