

# **LIMERICK COUNTY COUNCIL**

## ***Part V Housing Supply***

### ***Planning and Development Acts 2000 to 2004***

#### **Pre-Planning Consultation and Information on Part V Agreements**

(June 2005)

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## **PRE-PLANNING CONSULTATION**

### **IMPORTANT NOTE**

This document is intended to provide guidance to developers on the proposed implementation of Part V of the Planning & Development Act 2000 as amended by the Planning and Development (Amendment) Act 2002 in County Limerick. It does not purport to be a legal interpretation of the relevant Sections of the Act or of the Regulations made under it. And no statement within the document should be construed as being legally binding on any party. Any reference to 'the Act' relates to the Planning & Development Act 2000 as amended by the Planning and Development Act, 2002.

#### **6.1 Pre-Planning Consultation Process**

Prior to lodgement of a planning application where compliance with Part V is required an Applicant is strongly advised to engage in pre planning consultation with the Planning Authority. A member of the Planning Section will facilitate a planning applicant with a pre-planning consultation meeting in relation to Part V. As a prerequisite to any such pre-planning meeting, the information detailed in sub-section 6.2 will be required 2 weeks in advance of meeting date.

By establishing contact at an early stage both the Applicant and the Planning Authority can determine how best the objectives of each party can be achieved. An Agreement in principal could be reached at pre planning stage which could avoid delays later in a project

#### **6.2 Information Required To Facilitate The Pre-Planning Consultation Process**

##### **A Outline of proposed Scheme**

- (1) Location and area of the site
- (2) Initial estimate of the total number of housing units it is proposed to construct, the proportion of different house types (scale 1:500) and layout
- (3) A broad indication of the size of units proposed
- (4) Details of existing and/or extent of proposed services for the site
- (5) Existing use of land
- (6) Location of community services including shops, schools, etc.
- (7) Location of proposed Community Centre/ Crèche facility if applicable

##### **B Details of Developer**

- (1.) Principals of development company.
- (2.) Previous developments by company

- (3.) Proposed project team, including architect, engineer, builders, sub-contractors etc.,
- (4.) Health and Safety project supervisor, design and construction stage.
- (5.) Quality Control Policy of company
- (6.) Membership of C.I.F. and Homebond or agreed alternative.

**C Programme**

- 1. Proposed start date of scheme
- 2. Anticipated programme for completion of scheme.

**D Compliance with Part V**

An indication of the developer's preference for complying with Part V of the Act.

**E Outline of Compensation Sought**

An indication of the level of compensation and method of calculation.

**7. PREPARATION OF PART V SUBMISSION.**

Where Part V of the Act applies to a planning application this application must include a proposal for compliance with Part V or the application will be deemed invalid. This proposal should contain sufficient detail to form the basis of negotiation for a Part V agreement.

The amount of compensation payable will be dependent on the date of purchase of the site by the applicant. If the site was purchased prior to 25<sup>th</sup> August 1999 the following information in relation to the site should be included:

- (1.) Date on which land was purchased, or date agreement was made to purchase (written proof of this date will be required e.g. copy of Sale Contract)
- (2.) Proof of price paid (or agreed to be paid) for land if purchased (or agreed to purchase) prior to 25<sup>th</sup> August 1999.
- (3.) Price sought for land cost element if purchased (or agreement in place to purchase) prior to 25<sup>th</sup> August 1999. (Please include an explanation of the calculation of interest being sought, if applicable).
- (4.) Breakdown of compensation sought

If the site was purchased after the 25<sup>th</sup> August the compensation will be based on the "Existing Use" value of the land.

**7.1 Details Of Part V Proposal**

The details of the information to be submitted will depend on which Option for compliance with Part V is proposed. Section 6 gives an indication of the basic information required. Concluding a Part V agreement will require additional detail such as outlined below.

#### **A) Provision of Housing Units Option**

The Applicant shall submit drawings and specifications of the Units proposed to be transferred to the planning authority.

Where the option of transfer of Housing Units to the Planning Authority is proposed the Applicant should note that the 20% provision shall be interpreted as 20% of the total floor area of the development rather than 20% of the number of units.

#### **B) Provision of Serviced Sites or Land Options**

If the option selected is the provision of serviced sites, the following details should be submitted:

- (1.) The location and area of the land which is the subject of the planning application (please attach appropriate map, scale 1:500)
- (2.) Location and area of land, which it is proposed to transfer to the Local Authority (please attach appropriate map scale 1:500)
- (3.) Proposals for boundary treatment of land it is proposed to transfer to the Local Authority.
- (4.) Details of any site investigations undertaken and/or any other relevant information in relation to the land.
- (5.) Details of any encumbrances relating to the land such as Rights of Way, Wayleaves, underground and/or overground services etc.,
- (6.) Confirmation that the Freehold title can be transferred to the Local Authority.

#### **C) Provision of Financial Contribution Options**

Where a financial contribution is proposed the Applicant should set out clearly the method of calculation and the amount of contribution proposed

### **8 GENERAL GUIDANCE ON PREPARATION OF A PART V PROPOSAL**

#### **8.1 Mix of Unit Types**

Where Social or Affordable Housing Units are to be transferred to the Planning Authority the mix of unit types will be determined by demand in the area in which it is proposed to carry out the development. The Planning Authority will provide information on the social and affordable requirements of the area. In some cases it

may be appropriate to specify a certain category of need for occupation of the units e.g. elderly, disabled, etc. and hence, final design will reflect the special needs of the specified category.

However, in general, the larger urban areas will have demand for a mix of 2,3, and 4 bedroom units. It is not the policy of this Planning Authority to construct one-bedroom units, however, where the attributes of a site dictate that only a one-bedroom unit can be accommodated; this fact will be taken into account in completing the Final Part V Agreement.

As a general guideline, the mix of unit sizes should be as follows:

|               |     |
|---------------|-----|
| Two bedroom   | 30% |
| Three bedroom | 60% |
| Four bedroom  | 10% |

Decisions in relation to residential densities and whether to include single-storey, two-storey, etc. must be taken after consulting the County Development Plan and the relevant planning guidelines.

## **8.2 Design Standards**

It is essential to achieve affordability through the use of efficient layout, design and construction, without compromising standards or quality.

The following documents should be should be adhered to quite strictly in the design and layout of Social Housing developments:

- a)“Site Selection Guidelines” - Department of the Environment and Local Government.
- b) “Social Housing Design Guidelines” -Department of the Environment and Local Government.

These Guidelines should also be used as a reference document in design/layout for the Affordable Housing Units.

Your attention is drawn to the County Development Plan requirement to provide a Childcare facility in proposed developments consisting of 75 units or greater. In housing developments consisting of 75 or more units, the applicant should also consider the provision of a Community Centre. The provision of such a facility could provide a focus for the integration of the residents of the entire proposed development. There may be potential to combine these requirements in one facility.

Other design issues which should be addressed include:

- a) If the developer proposes to comply with Part V by providing completed units, the Social and Affordable units should be outwardly indistinguishable in appearance from the rest of the development.
- b) The location of the Social and Affordable units must ensure social integration.
- c) Detailed specification (size, building materials, finishes and fittings) for the Social and Affordable Housing units will be subject to agreement.
- d) Spatial standards for the social housing units shall be as recommended in the Department of the Environment and Local Government Social Housing Design Guidelines 1999.

- e) “Own door” access directly from the exterior is of critical importance in securing privacy of the unit residents.
- f) Refuse storage and collection arrangements shall be clearly defined and agreed at consultation stage.
- g) Laundry/drying arrangements should be clearly defined and agreed.
- h) The County Council will require an equal proportion of any car parking spaces being provided in the proposed housing development to be transferred with the Social and Affordable units.
- i) Each unit shall be provided with individual amenity area where practicable.
- j) Where practical the need for a management company arrangement should be avoided.

The requirements of the County Development Plan and achievement of high quality design will be the critical standards to be achieved.

## **9. PART V AGREEMENT.**

A Part V Agreement is a legally binding arrangement negotiated between the Planning Authority and the applicant.

If permission is being granted for a development subject to Part V a condition will normally be attached requiring that the applicant or any other person with an interest in the land to which the application relate, enter into an agreement with the Planning Authority. The planning condition will require that the agreement be finalised before development commences. It shall be the objective of Limerick County Council to finalise the agreement within 2 months where possible of the grant of permission or grant of appeal by an Bord Pleanala.

The agreement is applicable to the specific grant of permission and will apply to any subsequent purchaser of the site if the site is developed under this permission.

### **9.1. Content of Agreement**

The content of the Part V Agreement will depend on the option agreed. Where completed dwellings are to be transferred the agreement will specify: -

- a) The number and location of the units
- b) Drawings and specifications for the units
- c) Proposed phasing of development
- d) Details of management/maintenance agreement
- e) Infrastructural services to dwellings
- f) Monetary Compensation

Where serviced sites or land is to be transferred the agreement should include:

- a) Location and area of sites/land to be transferred
- b) Map of sites/land
- c) Infrastructural services serving or to be provided for sites/land

- d) Boundary treatment
- e) Open space and landscaping proposed
- f) Monetary Compensation.

## **10 ASSESSMENT OF COMPENSATION**

The compensation payable by the Local Authority for the completed dwellings, sites or land will be negotiated between the Planning Authority and the Developer. Appendix 1 outlines the format for compensation submission to the Planning Authority.

Where an alternative agreement to the reservation of land within the proposed development is agreed, the authority will have to receive equivalent monetary value. This amount will be based on the difference between the existing use value and the development value of the land with planning permission.

### **1. Housing Units**

In the case of transfer of completed dwellings the compensation payable will be based on

- (a) Compensation for land (see below)
- (b) Building and attributable site development costs (see below)
- (c) Building cost
- (d) Design, Planning and Professional fees
- (e) Development levies
- (f) Cost of Finance
- (g) A reasonable commercial profit (see below)

### **2. Serviced sites**

In the case of transfer of partially or fully serviced sites the compensation will be based on

- (a) Compensation for land (see below)
- (b) Attributable site development costs (see below)
- (c) Design, Planning and Professional fees
- (d) Development levies
- (e) Financial Costs
- (f) A reasonable commercial profit (see below)

### **3. Land**

In the case of transfer of land compensation developers should refer to:

- (a) Compensation for land (see below)

#### **4. Monetary Contribution**

The monetary contribution shall be equivalent to the monetary value of the land that the planning authority would receive if the agreement solely provided for the transfer of land.

Where a monetary contribution is the basis for an agreement, the amount payable shall be equal to the difference between the market value and the existing use of the land

The existing use value is calculated on the assumption that it was at the time and would remain unlawful to carry out a development on the land other than exempted development.

##### **10.1 Compensation for Land**

The amount of compensation payable by the Planning Authority is set out in the Act and is dependent on the date the land was purchased by the developer.

Where the land was purchased after 25<sup>th</sup> August 1999 the compensation shall be based on the “Existing Use” value of the land. The existing use value is calculated on the assumption that it was at the time and would remain unlawful to carry out a development on the land other than exempted development. No account may be taken of the value, which would otherwise attach to the land because of its zoning or development value or because of planning permission granted on the land.

Where the land was purchased before 25<sup>th</sup> August 1999 or a legally enforceable agreement to purchase was secured by the applicant before 25<sup>th</sup> August 1999, the compensation will be based on the price paid, or agreed to be paid, plus interest, or the existing use value, whichever is the greater.

Where land is transferred to the Planning Authority there is no provision for profit.

##### **10.2 Building and Attributable Development Costs**

Where houses or partially/fully-serviced sites are transferred, calculation of the building and/or attributable development costs should take account of:

- labour, materials and plant in carrying out the physical work;
- Design team fees (architects, engineers, planners, quantity surveyors, etc.);
- planning application and possible planning appeal fees;
- fire certificate fees;
- any development contributions required by the Planning Authority or An Bord Pleanala or any connection charges required by the Planning Authority;
- other utility connection charges (electricity, gas, telephone, etc.);
- overheads;
- financing costs associated with the above.

Where houses are transferred, “building and attributable developments costs” will apply to the completed house (in a completed development). “Attributable

development costs” will apply to the site development works carried out to the extent agreed between the Planning Authority and developer. These costs should be determined as an average per unit over the entire development, adjusted to reflect the varying sizes of dwelling units being provided. The purpose of this approach is to avoid abnormal costs associated with a section of the overall development being charged in full against the social or affordable housing element thus reducing a developer’s average unit cost for the remainder of the development.

### **10.3 Reasonable Commercial Profit**

For the purpose of acquiring houses or sites, profit is to be taken as meaning a reasonable profit, determined by reference to prices for work pertaining to competitive tenders for similar work current in the locality. In the final analysis, the houses to be provided must be affordable and the agreement must clearly state the price at which the units are to be transferred. If agreement on these matters cannot be reached between the developer and the Planning Authority, the default position will be the transfer of land to the planning authority and the planning authority may invoke this, where necessary.

## **11. DISPUTE RESOLUTION**

It is the objective of Limerick County Council to come to an early and amicable agreement with all developers. If however there is disagreement over the terms of an agreement then the Act provides for appeals to either

- 1) An Bord Pleanala
- 2) The Property arbitrator
- 3) The Circuit Court

The terms of such appeals come under Section 96 of the Act which provides that “where, because of a dispute in respect of any matter relating to the terms of a Part V agreement the agreement is not entered into within 8 weeks of the granting of planning permission for the housing development concerned”, the applicant may refer certain matters to An Bord Pleanala and certain other matters to the Property Arbitrator

The matters, which can be referred to An Bord Pleanala, include any disputed matter for inclusion in the agreement, other than those listed for the sole jurisdiction of the Property Arbitrator.

The matters, which can be referred to the property arbitrator, include

- 1) The number and price of housing units for transfer, including site, building and development costs
- 2) The number and price of sites to be transferred, including site and development costs
- 3) The compensation payable by the planning authority for land to be transferred
- 4) The compensation payable to the planning authority where a payment is required in lieu of the transfer of land
- 5) The payment of a monetary contribution to the planning authority in lieu of other options. 13 September 2005

Both the property arbitrator and An Bord Pleanala are required to determine matters referred to them as soon as possible.

Under the terms of Section 97 an applicant is entitled to appeal to the circuit court against the refusal to grant an exemption certificate.

# APPENDIX 1

## COMPENSATION COSTS

### PART V AFFORDABLE HOUSING

|          | <b>COST</b>  | € | € |
|----------|--|---|---|
| <b>1</b> | <b>Compensation for Land</b>                             |   |   |
| <b>2</b> | <b>Building Cost</b>                                     |   |   |
|          | 2.1 Sub-structure  |   |   |
|          | 2.2 Super-structure                                      |   |   |
|          | 2.3 External Works (within house site)                   |   |   |
|          | 2.4 Site Development                                     |   |   |
|          | 2.5 Abnormal Works                                       |   |   |
|          | 2.6 Indirect Project Costs ( prelim & insurance)         |   |   |
|          | 2.7 Profit   |   |   |
|          | <b>SUB-TOTAL</b>   |   |   |
|          | VAT @ 13.5%  |   |   |
|          | <b>TOTAL BUILDING COST</b>                               |   |   |
| <b>3</b> | <b>Design Planning &amp; Professional Fees (inc VAT)</b> |   |   |
| <b>4</b> | <b>Development Levies</b>                                |   |   |
| <b>5</b> | <b>Financing Costs</b>                                   |   |   |
|          |  |   |   |
|          | <b>TOTAL COMPENSATION</b>                                |   |   |