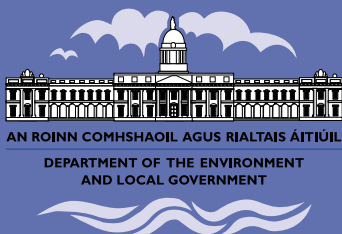


Part V of the Planning and Development Act, 2000

Housing Supply

Guidelines for Planning Authorities



December 2000

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Overview

Part V of the Planning and Development Act, 2000, which deals with housing supply, was commenced on 1 November 2000.

These Guidelines are intended as a practical guide to planning authorities and others on the main provisions of Part V of the Act. They should be read in conjunction with Part V of the Act (and other relevant Sections and Parts). The Guidelines are issued to planning authorities under Section 28(1) of the Planning and Development Act, 2000, as an expression of the Minister's policy to which planning authorities are obliged to have regard.

The main provisions of Part V (which are elaborated on in the Guidelines) are as follows (references to Sections of the Act are given):

- **Housing Strategy and the Development Plan Process (*Section 94*)**
Each planning authority is legally required to prepare a housing strategy which will cover the period of its development plan. In appropriate circumstances, a number of planning authorities may draw up a single housing strategy for their combined areas. The first housing strategy must be prepared by 1 August 2001 at the latest.
- **Review of the Housing Strategy (*Section 95(3)*)**
To ensure that the housing strategy is kept up-to-date, planning authorities must review and amend it, if required, within 2 years of its preparation. The strategy should also be reviewed where there is a change in housing requirements or in the housing market that could fundamentally affect the existing strategy.
- **Content of the Housing Strategy (*Section 94(3)*)**
Planning authorities must include measures in each housing strategy which address the housing needs of all sectors of the existing and future population in the area of the development plan including first time buyers, the elderly, people with disabilities, students, etc. Planning authorities should ensure that their housing strategies provide for an appropriate mix of dwelling types and sizes to cater for the range of housing needs. The strategy must encourage mixed and balanced communities in order to counteract undue social segregation.
- **Social and Affordable Housing Need (*Section 94(4)*)**
Planning authorities can reserve up to 20% of land zoned for residential development or up to 20% of the residential element of land zoned for a mix of residential and other uses, under Part V to meet the identified needs for social and affordable housing and under Part V this percentage of land can be made available to the local authority at existing use value. This specific

percentage does not prevent a local authority or any other person from using a higher percentage of residential zoned land for social and affordable housing.

- **Zoning of Land (*Section 95(1)*)**
Under Part V, planning authorities are legally obliged to ensure that there is sufficient land zoned for residential development over the period of the plan to meet the requirements of the strategy.
- **Agreements for the Provision of Social and Affordable Housing (*Section 96*)**
In cases where a need for social and affordable housing has been identified in the housing strategy, the granting of planning permission to an applicant is conditional upon the applicant entering into an agreement with the planning authority in relation to the transfer of land, sites or houses for social and affordable housing purposes. Although the transfer of land is the default requirement set out in the Act, in certain circumstances (subject to agreement between both the planning authority and the developer) an agreement may be made on the basis of the transfer of houses or partially/fully serviced sites.
- **Anti-Avoidance Provisions of Part V (*Section 97*)**
Applications for planning permissions for the construction of 4 or fewer houses or for housing development on a site of 0.2 hectares or less, will be exempt from the requirements of Part V (applicants will need to apply for an Exemption Certificate from the planning authority). The Act contains certain anti-avoidance provisions relating to the splitting up of land into small allotments, multiple applications, etc.
- **The Role of the Voluntary and Co-operative Housing Sector (*Sections 96(9) and 96(10)*)**
Part V of the Act specifically recognises a role for the voluntary and co-operative housing sector in the context of land reserved for social and affordable housing in accordance with housing strategies.
- **Ensuring the Planning and Design Integrity of Developments (*Section 96(3)*)**
The planning authority should ensure that the planning and design integrity and physical coherence of a development is protected. In general, the development of the areas subject to the agreement with the local authority should be integrated with the rest of the development and a plan of the proposed development should be drawn up by the developer in co-operation with the planning authority.
- **Practicality of Concluding an Agreement because of Site Attributes (*Sections 96(11), 96(12) and 96(13)*)**
If site attributes preclude an agreement on the transfer of land, planning

permission for the development may be given, subject to payment by the developer of an amount equivalent in value to the transfer of land to the authority as if an agreement could have been concluded.

- **Assessment of Compensation and Arbitration on Agreement (*Sections 96(6), 96(7) and 96(8)*)**

The planning authority will pay compensation to the developer for the transfer of any land to the authority on the basis of the existing use value of the land and on the basis that it would be unlawful to carry out any development on the land other than exempted development. A property arbitrator may be nominated in situations where agreement cannot be reached between the planning authority and the developer.

- **Scheme of Priorities for Affordable Housing (*Section 98(3)*)**

Planning authorities are required to prepare a scheme of allocation priorities which sets out the basis for prioritising the allocation of affordable housing to ensure that the allocation is done in an open and transparent way.

- **Control on Resale of Houses (*Section 99*)**

The selling or leasing of the houses or land will be subject to terms and conditions decided by the planning authority. If a house or site is first resold within 20 years of the purchase date, the vendor must pay the planning authority an amount equal to a percentage of the proceeds of the sale as set out in Section 99 of the Act.

1. *Background*

1.1 Part V of the Planning and Development Act¹ requires that housing strategies be drawn up by planning authorities and integrated into their development plans. Each housing strategy should have regard to the proper planning and sustainable development of an area and should be concerned with the overall supply of housing within the planning authority. In addition, the Act makes communities' needs for social and affordable housing a material planning consideration which must be taken account of in formulating development plan policies, preparing a housing strategy and deciding on planning applications or appeals. The Act places a statutory obligation on planning authorities to ensure that sufficient land is zoned for housing in their development plans to meet the projected housing requirements over the plan period and to ensure that an undue shortage will not arise.

1.2 These guidelines aim to provide a clear framework for preparing housing strategies and providing for housing needs in development plan policies. They provide practical advice on how planning authorities can facilitate the necessary levels of housing provision in their functional areas, including social and affordable housing. The framework set out in these guidelines is intended to:

- ensure a consistent and practical approach by planning authorities in preparing housing strategies;
- demonstrate the practical basis for the operation of Part V so as to promote the necessary supply of housing, particularly social and affordable housing, in a way that does not distort the market;
- ensure that policies for achieving social and affordable housing are included in housing strategies in a way that ensures that the views of the public/elected representatives and all those involved in delivering such housing are taken into account;
- encourage a co-operative approach between planning authorities and developers/house builders in implementing housing strategies.

It is essential that planning authorities operate Part V in a way that encourages and facilitates a level of housing supply which will meet the demand of all sectors of the market. It would be out of keeping with the intent of Part V, and indeed the Planning and Development Act generally, if it were to result in any undue slow down, interruption of housing supply, or disruption of the housing market.

¹ Referred to hereafter as the Act.

2. Housing Strategy and the Development Plan Process (Section 94)

- 2.1** Section 94 of the Act requires that each planning authority prepare a housing strategy which will form an integral part of the development plan and act as the cornerstone for future housing policy within the functional area of the authority. The strategy should provide for the existing and future housing needs of the area covered by the development plan and set out how this will be achieved. The housing strategy must cover the period of the development plan, or where a development plan is varied to include a housing strategy, the remaining period of the development plan².
- 2.2** By integrating the housing strategy into the development plan process, planning authorities can aim to ensure that sufficient land is zoned and serviced to meet the housing needs of all sectors of the population. Integration of the two plans in this way also helps to ensure that priorities and investment plans of other agencies on essential services such as education, health, transport and employment creation are consistent with and reinforce the objectives of housing investment over the plan period. In addition, this approach facilitates the translation and filtering down into individual housing strategies of broad spatial development policies and indicative policies in relation to residential development contained in regional/national planning guidelines.
- 2.3** The housing strategy should be developed in parallel with work by the local authority led County/City Development Boards (CDBs) on their strategies for Economic, Social and Cultural Development (due early 2002). It is essential therefore, that the housing strategies are drafted in the context of the CDB county/city strategies and can form an integral part of them. In essence, both strategies must complement each other.
- 2.4** In drawing up a housing strategy, planning authorities should have regard to the strategies of adjoining planning authorities and should co-ordinate the objectives of the housing strategy with those of the other authorities. In appropriate circumstances, a number of planning authorities can come together to draw up a housing strategy in respect of the combined areas of their development plans. For Urban District Councils, Boroughs and County Boroughs, it will normally be necessary for the housing strategy to be prepared on a joint basis with the relevant County Council(s). It is open to the Minister to direct that a number of planning authorities prepare a joint housing strategy in this way. Where a joint housing strategy is being prepared, the planning authorities should ensure that it is drawn up in such a way as to facilitate its inclusion in the development plans concerned.

² Initial strategies and those prepared on a joint basis may have to cover a period longer than the remaining period of the development plan.

2.5 It is likely that the first time the housing strategy is prepared, that it will require a variation of the existing development plan, in accordance with Section 13 of the Act, to insert the housing strategy into the development plan and to make any other necessary changes to the plan arising from the strategy. The planning authority must prepare the strategy as soon as possible and in any event within 9 months of the commencement of Section 94 of the Act (i.e. by 1 August 2001). If prior to the commencement of Section 94 of the Act a planning authority has published a notice of final amendments under Section 21 of the Planning and Development Act, 1963, it may proceed with that development plan. However, it must prepare the strategy within 9 months of the commencement of Section 94 of the Act and vary its development plan accordingly.

2.6 As the housing strategy will inform the whole development plan, work on the collection of data to input into the strategy should be one of the first tasks undertaken in preparing the draft development plan as a whole. Procedures and time-scales for the review of the existing housing strategy and the preparation of a new draft strategy must accord with those for drafting the development plan itself as set out at Sections 11 and 12 of the Act. As stated, the first time the housing strategy is prepared, it is likely that it will be incorporated into the development plan by means of a variation of the plan. A consultation process along the lines laid out at Section 11 of the Act (including public meetings, written and oral submissions) with the general public, interested bodies and relevant housing and infrastructure providers, should be pursued by the planning authority in the preparation of the strategy having regard to the timescales set out at Section 94 of the Act i.e. that the strategy must be prepared within 9 months of 1 November 2000. However, the procedures to apply in relation to publication and making of the strategy would be those of Section 13 rather than those of Section 12 of the Act.

It is essential that the elected representatives and management co-operate fully during the course of preparing the housing strategy so as to ensure its smooth passage through the prescribed procedures.

2.7 The provisions in the Act regarding consultation on the development plan, and implicitly the housing strategy, recognise that the general public, interest and industry groups, will have different views on the nature of the issues to be dealt with in the housing strategy and can provide valuable input to addressing them as well as an input to the development of local policy on social and affordable housing. In addition, it will be helpful if those involved are kept informed of how their submissions and participation have contributed to the outcome of the development plan process. The Manager's report required under Section 11(4)(a) of the Act, must, therefore, provide a separate summary of the issues raised in relation to the housing strategy, the Manager's response to them and the policies the Manager proposes to pursue in preparing the draft housing strategy. The report should be submitted to the

members of the planning authority and where the Council wishes, to a committee such as the Strategic Policy Committee (SPC) on Housing, Social and Cultural Development or the SPC on Planning and Economic Development for consideration.

2.8 Following consideration of the Manager's report, and in accordance with Section 11(4)(c) and (d) of the Act, the members of the planning authority may issue directions to the Manager regarding the preparation of the housing strategy.

2.9 Where separate development plans are prepared for scheduled towns under Section 19 of the 1963 Planning and Development Act, such plans must also be varied on completion of the housing strategy so as to have regard to the provisions of the strategy.

3. Review of the Housing Strategy (Section 95(3))

3.1 In light of the difficulties presented in the past by out-of-date development plans, it is essential that the housing strategies are kept up-to-date and reflect trends in the housing market. The Manager of the planning authority is, therefore, required within 2 years of the authority making the development plan, as part of his review of the implementation of the plan generally, to carry out a review and report on the implementation of the housing strategy. The report should cover issues such as:

- the outcome of the strategy;
- the success of the strategy in addressing the housing needs of the area covered by the development plan;
- the changes that have taken place in the housing market;
- any new housing requirements identified.

In any event, the Manager may carry out a review of the housing strategy as a consequence of a change in the housing market that could significantly affect the strategy. Variables that would trigger a review of the housing strategy include:

- significant variation in house prices from the values assumed in the current strategy;
- significant change in interest rates from the values assumed in the current strategy.

However, it should be noted that a review should only take place when there are significant implications for the housing strategy given the need for certainty in relation to the development plan to give developers confidence to plan for the medium term.

A review may also be carried out on foot of regulations made by the Minister in relation to the criteria determining affordability. Following such reviews, where the report by the Manager indicates new or revised housing needs the Manager may recommend to the local elected representatives that the strategy be amended and the development plan varied. The procedures of Section 12 or Section 13 of the Act, as appropriate, should then be followed.

4. *Content of the Housing Strategy* (Section 94(3))

4.1 The housing strategy must include measures which address the housing needs of the existing and future population of the area covered by the strategy. It should provide for more sustainable patterns of development by ensuring that as far as possible housing development is designed and located so as to make full use of public transport and to give access to education, employment, health and other services. Regard should be had in the housing strategy to the *Residential Density Guidelines for Planning Authorities* issued by the Department in September 1999 and these should be reflected in the amount and location of land zoned for residential purposes. In this context, planning authorities should ensure that increased densities go hand in hand with good design and planning approval should only be given for applications which have a sound design approach that contributes to a good quality living environment.

In terms of catering for the housing needs in the area of the development plan through the housing strategy, the zoning and servicing of land and individual planning permissions, there is a hierarchy and sequencing that should be followed by the planning authority *viz.*:

- determine overall housing needs and their nature and distribution;
- ensure that there is a sufficient supply of zoned land having regard to needs generally and that it is provided in appropriate locations to meet the demand;
- include specific objectives in the plan, reflecting the needs of different areas assessed in the strategy, to ensure that the necessary social and affordable housing will be provided for.

4.2 While a key objective of the housing strategy will be to ensure that there is enough zoned land to meet existing and anticipated needs, planning authorities should also ensure that there is an appropriate mix of dwelling types and sizes to cater for a range of housing needs. The strategy should encourage the development of mixed and balanced communities in order to counteract undue social segregation. To this end, the strategy should set out local social and affordable housing policies which are designed to encourage the provision of a range of housing types and sizes which meet the different demands of the market, having regard to demographic and social changes (e.g. smaller household sizes, lower household formation age, immigration, etc) including the needs of first time buyers, and also the needs of other households which are currently under provided, such as affordable housing for households on modest incomes, single person households, people with disabilities, students, the elderly, etc.

- 4.3** The housing strategy should also set out an active role for the voluntary and co-operative housing sector in the area consistent with the Government's objectives for developing the sector and for expanding the contribution of the sector to social housing.
- 4.4** As part of the preparation of the housing strategy, the planning authority should explore the opportunities to work collaboratively with developers to assess the extent to which social and affordable housing objectives can be met through public/private partnership. In doing so, a planning authority should identify where it considers such opportunities to be most advantageous from a community perspective and where it considers such developments could benefit both parties. Planning authorities should also review their own land holdings to assess whether individual sites are still suitable for integrated social and affordable housing purposes in light of the intention to include a specific objective under Part V to secure social and affordable housing in the area and the need to avoid undue social segregation. Where an individual site is no longer suitable for that purpose the planning authority may wish to offer it for sale for private development or in exchange for joint development on the site, or on another more appropriate site. It should be noted that discussions with developers at this point are only at the level of consultation and actual joint ventures will be a matter for separate negotiation.
- 4.5** With the need to reflect stakeholder interests in the housing strategy and to ensure the appropriate representation of alternative housing providers, the planning authority should enter into a process of consultation with voluntary and co-operative housing providers, private developers, local social housing tenant associations and other residential groups, community groups, and representatives of groups such as travellers, people with disabilities, and the elderly (see Section 2.7 of these Guidelines).

5. Overall Assessment of Housing Needs (Section 94(5))

- 5.1** A key element of the housing strategy which will influence the amount of land to be zoned for housing purposes is the identification of existing and future housing needs. It is important to estimate housing need within all tenures for the overall area covered by the strategy and then to make judgements as to where these needs can most appropriately be met within different catchment areas. Needs should be estimated for the 6 year period of the plan but in the context of a longer-term strategy of two to three times that period. The needs assessment should be based on:
- (a)** an evaluation of the factors affecting the current and future demand for housing generally e.g. average changes in real disposable income, changes in interest rates, house prices, rent levels, demographics (population growth, immigration, internal migration, trends in household size and formation, etc), employment projections, existing needs, quality of housing stock and anticipated obsolescence, etc;
 - (b)** projections of settlement strategies, housing needs, etc in the region based on any existing regional planning guidelines;
 - (c)** Government policy in relation to spatial development set out in the National Development Plan, 2000-2006, and to be spelt out in more detail in the National Spatial Strategy;
 - (d)** the likely commuting patterns to the major employment centres;
 - (e)** the existing and likely future needs of persons referred to in Section 9(2) of the Housing Act, 1988, established in accordance with guidelines to be issued by the Department from time to time (most recent guidelines dealing with existing social housing need set out in Circular N 8/98 "Assessment of Need for Housing and other Accommodation and the Number of Homeless Persons" and the accompanying memorandum);
 - (f)** the existing and likely future affordable housing needs having regard to trends in house prices, disposable income and mortgage rates;
 - (g)** the existing and likely future demand for private rented housing generally and, within that, for rent assisted accommodation;
 - (h)** any special factors in the area which are likely to influence the level of demand for housing;
 - (i)** housing needs identified in the Traveller Accommodation Programme adopted by the authority or applicable to the authority's area under the Housing (Traveller Accommodation) Act, 1998.

6. *Social and Affordable Housing Need* ***(Sections 94(4) and 94(5))***

- 6.1** Where there is an identified need for social and affordable housing, the housing strategy can provide that a specified percentage of not more than 20% of the land zoned for residential development or for a mix of residential and other uses in the area of the development plan, will be reserved under Part V of the Act to meet these needs. The percentage must reflect the combined need for social and affordable housing arising out of the assessments of need carried out by the planning authority. Specific objectives should be included in the development plan to cater for social and affordable housing needs in different areas of the development plan with the caveat that the percentage of zoned residential land to be made available under Part V for social and affordable housing in an area should not exceed the general percentage specified for social and affordable housing in the housing strategy. In accordance with Section 94(4)(d) of the Act, these provisions will not operate to prevent any person, including a local authority, from using for the provision of social and affordable housing, more than 20% of the land zoned for residential development or for a mix of residential and other uses in the area of the development plan.
- 6.2** As indicated in paragraph 5.1(e) above, provision of social housing need within each planning authority's functional area must be informed by and fully reflect the most recent assessment of need for housing accommodation carried out under Section 9 of the Housing Act, 1988. Such assessments will include households that, in the opinion of the planning authority require, or are likely to require, accommodation and are unable to afford it from their own resources. Section 9(2) of the 1988 Act specifically requires that housing authorities have regard in their assessment of need to the accommodation requirements of the homeless, travellers, people living in unfit or overcrowded accommodation, the elderly, disabled people, and people who in the views of the planning authority cannot reasonably afford the costs of their current accommodation or find suitable alternative accommodation. Planning authorities must also ensure that the estimated future social housing needs of the community are provided for in the housing strategy.
- 6.3** The planning authority should consider the mix of house types and sizes to be provided for social housing purposes and must ensure that the needs of smaller households are catered for. This can have a number of beneficial effects. For example, in appropriate circumstances, the needs of older persons residing in local authority housing could be catered for by providing purpose-built dwellings in close proximity to services and amenities within their area thus freeing up larger houses for households with a need for more space.
- 6.4** The estimate of the amount of affordable housing required must be based on a good understanding of the needs of the area over the period of the
-

development plan. Planning authorities should have regard, inter alia, to the following when making an assessment of affordable housing need in their area:

- the supply of, demand for and prices of houses generally or for particular classes of houses in the area, or different parts of the area, covered by the development plan, including existing affordable housing and houses suitable for first time purchasers;
- the income of persons generally or particular classes of persons in the area of the development plan;
- mortgage interest rates for house purchase.

6.5 Definitions of the affordability of houses for different catchment areas within the overall area of the development plan should be measured by the relationship between disposable income of different income groups, house prices and mortgage interest rates. Where sub-county analysis is required, aggregate county level data should be supplemented/informed by information from local surveys. The surveys would be focused primarily on determining if house prices are substantially higher in particular catchment areas than the average figures used for the county. This may well be apparent from local knowledge but would need to be quantified by surveys of local auctioneers and estate agents, surveys of the prices of new housing (relevant to the incomes of those sectors in need of affordable housing) currently on the market and analysis of housing schemes at an advanced stage of the planning process.

There may also be very limited areas of residential zoning where it would be unnecessary or undesirable to apply the full social/affordable housing requirement set out in the housing strategy e.g. where there is a preponderance of social housing and where it is desirable in the interests of avoiding undue segregation, to maximise the proportion of affordable/market housing provided. These areas are likely to be familiar to the planning authority concerned. The Small Area Population Statistics may be of assistance by providing statistical backing for the selection of the areas.

7. *Sources of Data for use in Establishing Affordable Housing Need (Section 94(5))*

- 7.1 Data on house prices – nationally, for the major urban areas and for the other areas of the country – housing output on a local authority basis and other related matters is available in the Department of the Environment and Local Government's Housing Statistics Bulletins. This data does not, however, contain forecasts of prices or output. Planning authorities will, therefore, have to construct their own forecasts of house price trends and output in the light of experience and local circumstances. With regard to house prices in particular, planning authorities should obtain data regarding local price levels and trends from local auctioneering sources and lending institutions as there will be potentially significant variations in house prices between different areas and different segments of the market e.g. prices for first time purchasers (i.e. that segment of the market which are likely to be most in need of affordable housing) tend to be well below average house prices which also reflect prices paid for other more expensive properties.

The main source of demographic data (i.e. population and household size) is the Census of Population, the Population and Labour Force Projections 2001-2031 and the Population and Migration Estimates, all of which are available from the CSO. Economic data i.e. income data, is available from the Household Budget survey carried out by the CSO. The ESRI publish disposable income inflators which can be used for income projections. There are two other sources of income data which may also be of use: the ESRI have income data for 1997 from the ECHP (European Community Household Panel) Survey - this is available on a regional basis, and may be useful in validating information on county income projections; the Agriculture Section in the CSO have limited data on farm incomes, which may be useful when examining incomes in rural areas.

As regards housing demand, reference should be made to various studies dealing with this issue for example *The Housing Market in Ireland: An Economic Evaluation of Trends and Prospects* (June 2000), and projections set out in the *National Development Plan 2000-2006* and in the case of the Dublin/Mid-East Region, the *Strategic Planning Guidelines for the Greater Dublin Area*. The IDA, Enterprise Ireland and the Department of Enterprise, Trade and Employment should be consulted on employment patterns and projections. In the medium to longer term, differing potential scenarios which are likely to influence future demand for housing will be elaborated on by the National Spatial Strategy. As regards mortgage interest rates, the prevailing rate for local authority variable rate loans which is set in relation to the lowest rate available from commercial lending agencies should be used as a proxy for mortgage interest rates generally.

7.2 New and revised data will be available during 2001 and 2002 from the following sources:

- revised income data from The Household Budget Survey, 1999/2000, from the CSO - available mid/late 2001;
- Census of Population, 2001, population figures will be available from mid 2001. The Small Area Population Statistics (SAPS) will be available from the Census of Population, 2001 in mid-2002.
- various population scenarios are currently being prepared as part of the development of the National Spatial Strategy – available mid 2001;
- the Department have appointed consultants to review and enhance a system for the collection and analysis of house price data. The new data will provide better information in relation to house prices at county/regional level. Data will be available from the system in 2002.

8. Zoning of Land (Section 95(1))

- 8.1** Planning authorities are now statutorily obliged to ensure that there is sufficient land zoned for residential development over the period of the plan. Once an overall assessment of need has been made the estimated distribution of that need within the area of the development plan should be determined. It will be necessary to make realistic estimates of the proportion of housing demand that can be met over the period of the development plan on existing zoned land. The amount of housing likely to be provided over the period of the development plan on unserviced land and by conversion and subdivision of existing buildings and on very small infill sites not included in the serviced land calculations, should also be estimated. In some cases these will be significant proportions. The portion likely to be located on serviced land needs to be estimated for zoning purposes and for planning of utility and other services.
- 8.2** In deciding on the amount of land to be zoned for the 6-year period of the plan the authority should select an area greater than that calculated to accommodate the required number of houses so as to ensure that there is no undue shortage of zoned and serviced land at any stage during the plan period. The amount of land to be zoned and serviced for residential development during the period of the plan should have regard to the proper planning and sustainable development of the area, taking account of factors such as existing or proposed shopping and community facilities, public transport routes, utility services, adjoining uses including amenities, existing commitments, land demand for other uses, and land availability³. Regard should also be had in determining the amount of land to be zoned to the *Residential Density Guidelines for Planning Authorities* (September 1999) and policies in the development plan, or to be inserted into the development plan, to give effect to these. The amount of land to be zoned should also make provision for an element of choice of location, to allow for some of the land not actually being made available by the owners and to ensure some element of choice is available at the end of the six year period of the plan. There is a need for a careful balance between providing for this additional element and avoiding a wasteful over provision which would require excessive advance funding on services and make provision of community facilities more expensive or less likely. In making estimates, planning authorities should note that, in line with Section 10 of the Act, there is no guarantee that zoning which applies to a specific area in a particular development plan will still apply in future development plans.

³ "Land availability" relates to the likelihood of the land actually being developed in the short term. It is particularly important as most residential development is likely to be initiated by the private sector. The highest categories of availability are land owned by the planning authority itself and land owned by development organisations for the specific purpose of residential development.

- 8.3** When it comes to selecting the most appropriate new areas for residential zoning, a number of sustainable and strategic issues emerge. Where Regional Planning Guidelines exist, these must be followed in relation to the locations of development. Areas closest to the centres of urban areas and their facilities and/or to public transport routes should be given preference (i.e. there should be no "leapfrogging" over serviced and zoned sites to more remote areas). Factors such as land availability, immediate availability of services, existing planning permissions, the need to provide for a choice of location even at the end of the six year period, and density become dominant. Once land is zoned, the planning authority should commence servicing the land through development of necessary infrastructure by the local authority or through developer led schemes. Conversely, land which has no prospect of being serviced with roads, water, sewerage services, etc or of being developed should not be zoned for residential purposes. In order to be in a position to reserve land under Part V where there is an identified need for social and affordable housing in an area, planning authorities which currently indicate development boundaries of towns should supplement this with specific zoning provisions.
- 8.4** Planning authorities should have regard to their own past experience in deciding on the appropriate sized areas to be zoned for residential development. In most counties the bulk of zoned and serviced land for new residential use will be in or adjacent to the major towns. The zoning will cater for the need arising in the town itself and an estimate should be made of the amount, if any, of need, arising in surrounding areas which it would be appropriate to accommodate. As stated at paragraph 2.4, it will be the norm for Urban District Councils, Boroughs and County Boroughs to prepare their housing strategies on a joint basis with the relevant County Council(s) under the arrangements in Sections 9(3) and 94(1)(e) of the Act.

9. *Development Plan Objectives for Securing Implementation of Housing Strategy (Section 95)*

- 9.1** The estimate of the amount of land to be set aside for social and affordable housing purposes, generally and in specific areas, should be explicitly dealt with in the strategy which must indicate:
- an estimate of how many social and affordable housing units need to be provided in the overall area covered by the development plan, including the different types of social and affordable housing needed by households of different characteristics;
 - the amount of social and affordable housing needed in different catchment areas.
- 9.2** Arising from their housing strategy, planning authorities must ensure that the development plan includes appropriate objectives, including specific objectives for areas zoned for residential use to secure implementation of the housing strategy. Specific objectives should be included to ensure that sufficient provision is made for social and affordable housing, that an appropriate mix of housing types and sizes is provided for, with particular reference to the provision of affordable type housing/housing for first time buyers, and that undue social segregation is counteracted. Through the housing strategies and individual planning permissions and agreements, planning authorities will be able to ensure that in future housing provision can better match identified need through influencing the type and size of houses being offered for private, affordable and social housing. It is recognised in the Act that specific objectives can be included in a development plan for the residential element of lands zoned for a mix of residential and other uses to secure implementation of the housing strategy.
- 9.3** A local area plan prepared by the planning authority in accordance with Section 18 of the Act, or any future integrated area plan prepared by it under the Urban Renewal Act, 1998, must be consistent with the housing strategy and should further refine the general/specific objectives set out in the development plan. A local or integrated area plan might provide for a particular mix or proportion of house types, sizes, design in an area (e.g. houses that will cater for first-time buyers, families on lower incomes, large families, etc).
- 9.4** The Act requires planning authorities, in developing their housing strategy, to ensure that policies and objectives are in place which will counteract undue social segregation in housing developments between people of different social backgrounds. To achieve this, a planning authority may indicate that there is no requirement for social and affordable housing in a particular area or that a

lower percentage than that provided for in the housing strategy is required. This provision is a considerable strengthening of Section 28 of the Housing (Miscellaneous Provisions) Act, 1992, which requires the preparation by housing authorities of a written statement of their policy on this matter. The Act allows planning authorities the flexibility, where they deem it appropriate in the context of the housing strategy, to seek the development of particular sites with a higher or lower proportion of social or affordable housing having regard to the housing needs of the area and the objective of promoting social inclusion.

10. Agreements for the Provision of Social and Affordable Housing (Section 96)

- 10.1** Where a development plan objective provides that a specified percentage of any land zoned for residential use in an area is to be made available for social or affordable housing, the planning authority shall, other than in specified circumstances (see paragraphs 10.7 and 16.1 of these Guidelines), require as a condition of granting permission, that the applicant, or any other person with an interest in that land, enter into an agreement with the planning authority in relation to the land. In negotiating an agreement with the applicant, or any other person with an interest in the land, the planning authority must have regard to the housing strategy, any general/specific objectives in the development plan relating to the implementation of the strategy, the views of the applicant in relation to the impact of the agreement on the development, the need to ensure the overall coherence of the development to which the application relates and the provisions of any local or integrated area plan.
- 10.2** Planning authorities must ensure that their consideration of all relevant planning applications includes consideration of the agreement required under Part V.
- 10.3** The planning authority should seek to negotiate agreement on the transfer at the earliest possible stage in any pre-planning discussions. The intention to make an agreement should be written into the planning permission as a condition in general terms and both the authority and the developer should have a common understanding of the nature of the agreement when the decision to grant permission is made. This should include a description of the proposed houses, the land or sites to be transferred.
- 10.4** The condition must require that the agreement be finalised before development commences. As it is of critical importance that completion of the agreement should not delay the start of housing development, the objective should be to finalise the agreement at the latest within 2 months of the grant of permission. The developer and the authority should refer outstanding issues in dispute to An Bord Pleanála or the arbitrator for settlement if agreement is not forthcoming within this period.
- 10.5** It is essential that planning authorities approach such agreements in a manner that has regard to the business environment in which the developer has to operate and that any unnecessary delay and uncertainty is avoided while respecting the housing strategy. Any agreement should be framed in such a way as to foster a viable development environment. The planning authority will need to have regard to the overall coherence of the development (e.g. its phasing, building, marketing, etc) to which the application relates and to the views of the applicant in relation to the impact of the proposed agreement on the development.
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10.6 In deciding the balance between social and affordable housing, planning authorities should have regard to the level of needs assessed, the location of these needs, the extent of existing land banks (and the need to maintain a sufficient land bank), the amount of land likely to become available as a result of the application of Section 94 of the Act, re-development opportunities and the number of starts which can be financed under their housing programmes. In utilising the land, sites or houses that come available under Part V of the Act, planning authorities should seek to maximise the extent to which needs can be met by the provision of affordable housing.

10.7 Sections 96(14)(b) and (c) and Section 97(3) of the Act state that an agreement is not required for applications for permission for:

- the conversion of an existing building or the reconstruction of a building to create one or more dwellings, provided that at least 50% of the existing external fabric of the building is retained;
- the carrying out of works to an existing house;
- "stand alone" developments consisting of 4 houses or less;
- "stand alone" developments for housing on land of 0.2 hectares or less.

In the case of each "stand alone" development referred to above, an exemption certificate should be sought by the developer from the planning authority under Section 97 of the Act confirming that the developments concerned are exempt from the requirements of Part V.

11. Transfer of Land, Sites or Houses for Social and Affordable Housing (Section 96(3))

- 11.1** The agreement will be made on the basis of the transfer of land, sites or houses under one of the following arrangements, viz.:
- (a)** the transfer of the ownership of land to the planning authority for the provision by them of the necessary social or affordable housing. The costs to the planning authority in this case will be calculated on the basis outlined at paragraph 17.1;
 - (b)** the building and transfer on completion of construction of a number of houses, as specified and described in the agreement, to the planning authority or persons nominated by the authority⁴ for use as social or affordable housing. The costs to the planning authority in this case will be based on the site costs, calculated as if the land were transferred to the authority, and the building and attributable development costs as agreed between the authority and developer, including a reasonable commercial profit on these costs;
 - (c)** the transfer of a specified number of partially or fully serviced sites as set out in the agreement to the planning authority or persons nominated by the authority. The costs to the planning authority in these cases will be based on the site costs, calculated as if the land were transferred to the authority, and the attributable development costs as agreed between the authority and developer, including a reasonable commercial profit on these costs.
- 11.2** The agreement negotiated between the planning authority and the developer must identify the land, sites or houses to be transferred on foot of the agreement. The transfer of land is the default requirement set out in the Act. The decision on whether sites or houses are to be transferred to the planning authority in lieu of land is a matter for negotiation between the planning authority and the developer and is subject to agreement between the parties.

⁴ A nominee refers to a person eligible for social or affordable housing or an approved body for the purposes of Section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the provision of housing for persons eligible for social or affordable housing.

12. Anti-Avoidance Provisions of Part V (Section 97)

- 12.1** Applications for development of 4 or fewer houses or for land of less than 0.2 hectare are not subject to the requirements of Part V. The provisions laid out in Section 97 of the Act were introduced to prevent the avoidance of the application of Part V by splitting up land into small allotments or by the making of multiple applications.
- 12.2** The building of up to 4 houses or development of housing on land of 0.2 hectares or less will be exempt from the requirement to transfer land to the local authority for social or affordable housing. To avail of this exemption, a person who wishes to obtain permission for the building of up to 4 houses or for housing development on land of 0.2 hectares or less where either is zoned with a social and affordable housing condition, will have to obtain an exemption certificate in advance by applying to the planning authority. When applying for this certificate, the person will have to swear a statutory declaration stating certain facts, such as the history of the ownership of the land, and whether they have interests in land in the immediate vicinity to allow the authority to take a view as to whether this is a genuine application.
- 12.3** The planning authority can refuse to grant a person a certificate if, based on the information provided by the person and any other knowledge it has, it believes that a person is trying to avoid the application of a social and affordable housing condition. If the certificate is refused, the applicant may appeal that decision to the Circuit Court and the Court will decide whether the authority has the right to do so.
- 12.4** There is a strict time limit on the period for the authority to make its decision on an application for a certificate of 4 weeks from application, or from receipt of further information if requested. If the authority does not make its decision in that time, a certificate is granted in default.
- 12.5** Section 97 also introduces substantial penalties for obtaining certificates fraudulently by, for example, providing false or misleading information. In addition to the normal penalties set out in the section, the Court can revoke the certificate and make the person pay to the planning authority the equivalent of any gain they made by reason of the grant of a certificate.

13. Role of the Voluntary and Co-operative Housing Sector (Sections 96(9) and 96(10))

- 13.1** The Government is committed to developing the role of the voluntary and co-operative housing sector and to expanding the contribution of the sector to social housing. Part V of the Act recognises a role for the sector in the context of land reserved for social and affordable housing in accordance with housing strategies included in development plans. Only bodies approved for the purposes of Section 6 of the Housing (Miscellaneous Provisions) Act, 1992 may be considered for involvement on land transferred under Part V of the Act.

Voluntary and co-operative housing bodies currently provide social rented family-type accommodation using Capital funding under the voluntary housing schemes. They also contribute to the provision of special needs housing such as sheltered housing to meet the accommodation needs of elderly persons, persons with disabilities and other persons who require supportive housing responses to meet their needs.

- 13.2** Planning authorities should in the normal course, as part of the consultation process referred to in paragraph 2.6, consult voluntary and co-operative housing bodies on the preparation of the housing strategy.

In operating Part V of the Act, planning authorities should take a proactive role in facilitating the involvement of the voluntary and co-operative housing sector in the provision of housing on land or sites earmarked for transfer by developers under Part V. Voluntary and co-operative housing bodies which have been, or are currently, involved in the area of the planning authority or are in consultation with the authority in relation to prospective projects should be consulted both with respect to development of the local social and affordable housing policies, and specifically with a view to involving them in the development of land transferred under Part V.

Where there is no approved housing body involved in development in the area of the planning authority, the authority should consult with such bodies based within or convenient to its administrative area or bodies which operate on a national or regional basis, with a view to securing their involvement. Planning authorities should also consult, on an ongoing basis as the occasion arises, with newly established voluntary and co-operative housing bodies within their administrative areas with a view to involving them in the provision of housing on lands becoming available under Part V.

- 13.3** Where ownership of land is transferred to a planning authority pursuant to an agreement attached to a planning permission, the authority should consider in each case whether a portion of the lands should be made available to an approved housing body or bodies for the provision of houses for persons

assessed by the authority as being in need of social housing or for persons who qualify for affordable housing in accordance with the criteria set out in Part V (see Sections 18 and 19 of these Guidelines in relation to the allocation of affordable housing). Instead of the transfer of land, an agreement may provide for the building and transfer, on completion, of a specified number of houses or the transfer of a specified number of fully or partially serviced sites to the planning authority or to persons nominated by the authority. This includes approved housing bodies.

- 13.4** Where instead of the transfer of land, a planning authority proposes to negotiate an agreement for the transfer of sites or houses, on completion, by a developer, it should consider whether to negotiate the transfer of the sites or houses directly to an approved housing body (or bodies) in the agreement. In advance of negotiating such an agreement, prior consultation should take place with the relevant approved body (or bodies) which must be in a position to accept the transfer of the sites or houses. Where the direct transfer of houses to an approved housing body is provided for, the agreement should specify the number and description of houses to be transferred and the price payable for such houses as determined in accordance with Section 96(3)(ii) of the Act.
- 13.5** The Act makes clear in Section 96(14)(a) that the provision of Part V relating to the reservation of land for social and affordable housing shall not apply in the case of an application for planning permission for a development consisting of the provision of social housing by an approved housing body for letting only (i.e. under the Rental Subsidy Scheme or the Capital Assistance Scheme).
- 13.6** Planning authorities should ensure that planning applications for housing developments being undertaken by voluntary and co-operative housing bodies are expeditiously processed. Arrangements should be put in place to ensure that where additional information is required in relation to such applications it should be identified and requested at as early a stage as possible to obviate avoidable delays.
- 13.7** Where an approved voluntary or co-operative housing body is involved in the development of land under Part V, the planning authority should ensure that the planning and design integrity and physical coherence of the development is protected.

14. Ensuring the Planning and Design Integrity of Developments (Section 96 (3))

14.1 The Department's Guidelines on Site Selection and Design Guidelines for Social Housing should be referred to in considering this issue. In general, the development of the areas subject to the agreement should be integrated with the rest of the development. However, regard should be had to the relative timing of different elements of the development, the existing and proposed future development of adjoining lands and other relevant site specific factors which may influence the level of integration which is feasible or desirable. Provision of houses, with the agreement of the developer, as part of a development is the preferred route from the point of view of achieving social integration and protecting the integrity of the development. The number and location of these houses should be such as to avoid undue social segregation and foster the development of integrated communities. Where an element of social or affordable housing is required in an area, a planning authority should, therefore, consider whether it would be more expeditiously provided as part of the proposed development and should seek to negotiate an agreement with the developer so as to achieve this.

14.2 Where the agreement provides for the transfer of land or sites, the planning authority should endeavour, insofar as possible, to advise the developer of its plans in relation to the land or sites, including, if possible, providing the developer with a description of the houses to be developed. To achieve this and to ensure co-operation on physical features and the minimisation of physical division on larger developments, a plan of the proposed development in its entirety should be drawn up by the developer in co-operation with the planning authority. Such a plan would show the land/sites subject to the agreement and how its development would fit in with the overall proposed development. This plan should be of sufficient detail to indicate layout, circulation routes, density, height and massing and give a general indication of the nature and colour of materials and finishes, etc ⁵. Much of this detail should be brought forward as part of the pre-planning discussions between planning authorities and developers.

⁵ If it is a full planning application, this information will be contained in it.

15. Assessing Costs and Profit in the Case of Transfer of Sites or Houses (Section 96(3))

15.1 Where houses are transferred in accordance with 11.1(b) above or partially or fully serviced sites are transferred in accordance with 11.1(c), 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 Pleanála or any connection charges required by the planning authority;
- other utility connection charges (electricity, gas, telephone, etc);
- overheads;
- financing costs associated with the above.

15.2 In the case of 11.1(b) above, where houses are transferred, "building and attributable development costs" will apply to the completed house (in a completed development). In the case of 11.1(c), "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.

15.3 For the purpose of acquiring houses or sites in accordance with paragraphs 11.1(b) and (c) above, 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 in accordance with paragraph 11.1(a) above and the planning authority should invoke this, where necessary, to avoid wasting time.

16. Practicality of Concluding an Agreement because of Site Attributes (Sections 96(11), 96(12) and 96(13))

- 16.1** If the planning authority, or An Bord Pleanála on appeal, decide that the attributes (size, shape, etc) of a site do not lend themselves to agreement on the transfer of land, planning permission for the development can be made subject to payment by the developer of an amount equivalent in value to the transfer of land to the authority as if an agreement could have been concluded. The amount to be paid to the planning authority will be agreed between the authority and the applicant and will be based on the difference between the existing use value and the development value of the land with planning permission granted. Any monies paid to the authority in this way must be held in a separate account and can only be used by it as capital for the provision of social or affordable housing under Part V or by a housing authority for any of its functions in relation to the provision of housing under the Housing Acts, 1966 to 1998.

17. Assessment of Compensation and Arbitration on Agreement (Section 96(6))

17.1 Where ownership of land is transferred to the planning authority under an agreement, the planning authority will pay compensation to the land owner an amount which is equal to:

- the existing use value of the land 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; or
- where the land was purchased, or a legally enforceable agreement to purchase was secured by the applicant before 25th August 1999, the price paid, or amount agreed to be paid under an option (including interest charges that have been incurred), for the land, where that is greater than the existing use value.

The level of compensation in respect of the land must be determined in accordance with the existing use, whether that use is agricultural, industrial or commercial, or even derelict or waste land, on the assumption that no development, other than exempted development, can be carried out on the land. The level of compensation can, therefore, vary. However, 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.

17.2 If agreement cannot be reached with the applicant, a property arbitrator may be nominated under the Property Values (Arbitration and Appeals) Act, 1960, to determine in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919:

- the compensation payable to a land owner where ownership of land is transferred; or
- the sum payable to a planning authority where due to the attributes of the site, it is not practical to negotiate an agreement; or
- the number and price of sites to be transferred; or
- the number and price of houses to be transferred.

Any dispute arising in relation to any other matter which is the subject of an agreement may be referred by the planning authority or any other prospective party (i.e. the applicant or landowner) to the agreement to An Bord Pleanála for determination. In determining an appeal, An Bord Pleanála will have due regard to these guidelines, the development plan and the housing strategy.

18. Allocation of Social and Affordable Housing (Section 98)

- 18.1** Where ownership of land or sites is transferred to a planning authority under an agreement, the authority may:
- provide or arrange for the provision of houses on the land for social or affordable housing;
 - provide the land or the sites directly to people in need of social or affordable housing for the provision by them of their own housing accommodation;
 - provide the land or sites to an approved body for the provision by them of social or affordable housing.
- 18.2** Until such time as the development proceeds, the planning authority must maintain the land or sites in such a way as not to detract to a material degree from the amenity, character or appearance of the land or houses in the area. In exceptional circumstances (e.g. where there is no demand or if a change of circumstances necessitated its use for an important community facility, etc), a planning authority may use a site or house transferred to it for the provision of social and affordable housing for another appropriate purpose connected with its functions or it may sell the land, if in its view, it is no longer required for such purposes. Where a sale is involved, the planning authority will seek the best price available, and will be required to pay an amount equal to the market value of the land, site or house into the (housing) account referred to at paragraph 16.1.
- 18.3** Allocation of social housing will be done in accordance with the Scheme of Letting Priorities prepared by the planning authority under Section 11 of the 1988 Act and taking account of the assessment of needs carried out under Section 9 of that Act.
- 18.4** The Act provides that affordable housing may be sold or leased⁶ to eligible persons. The Act defines an eligible person as a person "who is in need of accommodation and whose income would not be adequate to meet the payments on a mortgage for the purchase of a house to meet his or her accommodation needs because the payments calculated over the course of a year would exceed 35% of that person's annual income" after income tax and PRSI are deducted. In determining the eligibility of a person, the planning authority must take into account half the annual income net of income tax and PRSI of any other person who might reasonably be expected to reside with the

⁶ This refers to a shared ownership lease under Section 2 of the Housing (Miscellaneous Provisions) Act, 1992.

eligible person and contribute to the mortgage payments. The planning authority must also take account of any other financial circumstances of the eligible person and any other person who might reasonably be expected to reside with the eligible person and contribute to the mortgage payments. Eligibility is to be determined when an application is submitted to the planning authority and reviewed when allocation of a house is to be made to determine if the circumstances of the person have changed to a degree which affects that person's priority or the eligibility for a house. The calculations at Appendix 1 set out the equivalent loan, based on a number of income scenarios, that could be supported within the 35% net income to loan ratio.

19. Scheme of Priorities for Affordable Housing (Section 98(3))

19.1 Affordable housing may be sold or leased to eligible persons in accordance with a scheme of priorities developed by each planning authority - the approval of such a scheme is a reserved function. The scheme of priorities should ensure that allocation of housing is done in an open and transparent way. In preparing a scheme of priorities, the planning authority should have regard to their experience in operating such schemes for social housing purposes. While individuals may be eligible for both social and affordable housing, completely separate lists must be operated for the allocation of such housing. The scheme should be fully transparent and set out clearly the basis for prioritising the allocation of affordable housing. It is expected that a points based system would be the norm. The scheme of priorities may be reviewed, and if necessary amended, by the members of the planning authority at any time. The actual allocation of housing is a function of the Manager. Section 98 of the Act provides that in preparing a scheme of priorities for affordable housing, planning authorities should have regard, inter alia, to:

- the accommodation needs of eligible persons who have not previously purchased or built a house for their occupation or for any other purpose e.g. first time purchasers;
- the current housing circumstances of eligible persons;
- the incomes or other financial circumstances of eligible persons (priority can be accorded to eligible persons whose income level is lower than that of other eligible persons - in these cases, the capacity to make monthly mortgage repayments on the property should be taken into account);
- the period for which eligible persons have resided in the area of the development plan;
- whether eligible persons own houses or lands in the area of the development plan or elsewhere;
- distance of affordable housing from places of employment of eligible persons;
- such other matters as the planning authority considers appropriate or as may be prescribed for the purposes of this section.

Further guidance will be provided to planning authorities on the issue of a scheme of allocation priorities for affordable housing at a later date.

20. Control on Resale of Houses (Section 99)

- 20.1** A planning authority may sell or lease houses provided or sites made available by it for social or affordable housing. The selling or leasing of the houses or land will be subject to terms and conditions decided by the planning authority which should specify, inter alia, the basis on which a house sold or leased will be occupied, and the need to notify the planning authority in the event of a proposed resale of the house or site. In the event of a house or land being first resold within 20 years of the purchase date, the vendor must pay the planning authority a percentage of the proceeds of the sale. This approach will ensure that there is no profiteering while at the same time allowing purchasers retain the full benefits of ownership after a reasonable time. The local authority will be fully recouped on its equity on any sale within the first ten years. Thereafter, the local authority's equity will be abated at a rate of 10% between the 11th and 20th year. Examples are set out at Appendix 2.
- 20.2** In calculating the amount payable, the planning authority should have regard to any material improvements made by the person to whom the house was first sold (including works for the purpose of extending, enlarging, repairing and converting the house but not decorating works). The amount to be allowed should reflect the contribution of the improvements to the sale price of the house.
- 20.3** The amount payable will be reduced by 10% per annum after the tenth year that the person to whom the house or land was sold has been occupying it as their normal place of residence. The Act provides that the planning authority should reduce the amount payable so that the proceeds of the sale (excluding solicitors and auctioneers fees and costs) are not reduced below the price actually paid. Any monies accruing to the planning authority under these provisions must be paid into the separate account for housing purposes referred to at paragraph 16.1 above.

21. Estate Management

21.1 The following is particularly important in the context of apartment developments and mixed developments including apartment and higher density housing developments. In order to preserve the amenity, quality and visual character of a particular development and to ensure adequate maintenance of common facilities and areas, planning authorities should ensure that appropriate estate management arrangements are put in place upon the completion of the development. Such estate management provisions should therefore form an integral part of the agreement negotiated between the planning authority and the developer. These provisions are important for all future residents of a development comprising private, social and affordable housing units. Under Section 34(4)(i) of the Act, a condition can be attached to a planning permission regarding the setting up of a management company for managing a development.

21.2 In developing suitable arrangements, planning authorities should have regard to existing and available models of good practice in estate management. Typically, such models would be characterised by some or all of the following features:

- formation of a management agency to oversee estate management (with a Board which is representative of all residents);
- agreed policies established in relation to the maintenance of common areas, cleaning, lighting, security etc.;
- agreed policies established in relation to the uniform and integrated appearance of the development;
- agreed policies on when and how amendments to estate management practice may be introduced by residents;
- agreed policy on a code of conduct for residents (e.g. noise levels, parking, conduct of business at home or in common areas, and identification of anti-social behaviours). Residents should be asked to sign up to and comply with the code of conduct;
- mechanisms for the identification of the costs of proper estate management, and the levying of such costs upon individual housing units.

The above list is not exhaustive, and planning authorities may wish to introduce some further features which they believe will provide for good estate management practice.

It is likely that planning authorities will need to make particular financial provision to cover the estate management costs levied upon social housing residents within a development.

22. Miscellaneous

22.1 A permission granted under Part IV of the Planning and Development Act, 1963, or under Part III of the Act on an application made after 25th August 1999 and to which Part V of the Act would have applied if the application had been made after the inclusion of a housing strategy in the development plan, shall cease to have effect on 31 December 2002 or on the expiry of a period of 2 years from the date of the grant of permission, whichever is the later. This will operate as follows:

- where the development to which the permission relates is not commenced by the relevant date, the entire development;
- where the development to which the permission relates is commenced by the relevant date, any portion of the development consisting of buildings for which exterior walls have not been completed. The developer will still be required to fulfil other requirements of the permission for that portion of the development not affected by this provision.

A planning authority should keep a separate register of all permissions covered by these provisions and arrange for an inspection at the end of the period concerned.

APPENDIX 1

Mortgage Repayment – Examples

Type	No. of Earners	Income 1	Income 2	<i>Calculation of Loan Value based on 35% of Net Income*</i>		
				Net Income	35% of Net Income	Loan Value
Single	1	IR£20,000	IR£0	IR£15,128	IR£5,295	IR£76,500
Single	1	IR£25,000	IR£0	IR£17,603	IR£6,161	IR£89,000
Single	1	IR£30,000	IR£0	IR£20,208	IR£7,073	IR£101,750
Married	1	IR£30,000	IR£0	IR£23,662	IR£8,282	IR£117,000
Married	2	IR£15,000	IR£10,000	IR£20,831	IR£7,291	IR£104,500
Married	2	IR£20,000	IR£10,000	IR£24,406	IR£8,542	IR£120,000
Married	2	IR£25,000	IR£10,000	IR£27,761	IR£9,716	IR£134,750
Married	2	IR£15,000	IR£15,000	IR£24,206	IR£8,472	IR£119,000
Married	2	IR£20,000	IR£15,000	IR£27,561	IR£9,646	IR£134,000
Married	2	IR£25,000	IR£15,000	IR£30,036	IR£10,513	IR£144,750
Married	2	IR£20,000	IR£20,000	IR£30,036	IR£10,513	IR£144,750

****Calculation of Loan Value based on 35% of Net Income:***

Period of Loan: 20 years

Interest Rate: 5.0%

APPENDIX 2

Resale of Property – Examples

YEAR	% Increase Per Annum	Market Value (IR£)	(Y/Z)x100 (%)	Amount Payable to Local Authority (IR£)	Profit on Sale to Owner (IR£)
	Y	IR£15,000			
	Z	IR£80,000			
0	Sale Price (0%)	IR£65,000			
1	5.00%	84,000	18.75%	15,750	3,250
2		88,200	18.75%	16,538	6,663
3		92,610	18.75%	17,364	10,246
4		97,241	18.75%	18,233	14,008
5		102,103	18.75%	19,144	17,958
6		107,208	18.75%	20,101	22,106
7		112,568	18.75%	21,107	26,462
8		118,196	18.75%	22,162	31,035
9		124,106	18.75%	23,270	35,836
10		130,312	18.75%	24,433	40,878
11	3.00%	134,221	18.75%	22,650	46,571
12		138,248	18.75%	20,737	52,510
13		142,395	18.75%	18,689	58,706
14		146,667	18.75%	16,500	65,167
15		151,067	18.75%	14,163	71,904
16		155,599	18.75%	11,670	78,929
17		160,267	18.75%	9,015	86,252
18		165,075	18.75%	6,190	93,884
19		170,027	18.75%	3,188	101,839
20		175,128	18.75%	0	110,128

Y = Market value at date of initial sale - sale price to person (80,000 - 65,000)
Z = Market value at date of initial sale (80,000)

APPENDIX 2

Resale of Property – Examples (contd.)

YEAR	% Increase Per Annum	Market Value (IR£)	(Y/Z)x100 (%)	Amount Payable to Local Authority (IR£)	Profit on Sale to Owner (IR£)
	Y	IR£20,000			
	Z	IR£100,000			
0	Sale Price (0%)	IR£80,000			
1	5.00%	105,000	20.00%	21,000	4,000
2		110,250	20.00%	22,050	8,200
3		115,763	20.00%	23,153	12,610
4		121,551	20.00%	24,310	17,241
5		127,628	20.00%	25,526	22,103
6		134,010	20.00%	26,802	27,208
7		140,710	20.00%	28,142	32,568
8		147,746	20.00%	29,549	38,196
9		155,133	20.00%	31,027	44,106
10		162,889	20.00%	32,578	50,312
11	3.00%	167,776	20.00%	30,200	57,576
12		172,809	20.00%	27,650	65,160
13		177,994	20.00%	24,919	73,075
14		183,334	20.00%	22,000	81,334
15		188,834	20.00%	18,883	89,950
16		194,499	20.00%	15,560	98,939
17		200,333	20.00%	12,020	108,313
18		206,343	20.00%	8,254	118,090
19		212,534	20.00%	4,251	128,283
20		218,910	20.00%	0	138,910

Y = Market value at date of initial sale - sale price to person (100,000 - 80,000)
Z = Market value at date of initial sale (100,000)

APPENDIX 2

Resale of Property – Examples (contd.)

YEAR	% Increase Per Annum	Market Value (IR£)	(Y/Z)x100 (%)	Amount Payable to Local Authority (IR£)	Profit on Sale to Owner (IR£)
	Y	IR£22,000			
	Z	IR£120,000			
0	Sale Price (0%)	IR£98,000			
1	5.00%	126,000	18.33%	23,100	4,900
2		132,300	18.33%	24,255	10,045
3		138,915	18.33%	25,468	15,447
4		145,861	18.33%	26,741	21,120
5		153,154	18.33%	28,078	27,076
6		160,811	18.33%	29,482	33,329
7		168,852	18.33%	30,956	39,896
8		177,295	18.33%	32,504	46,791
9		186,159	18.33%	34,129	54,030
10		195,467	18.33%	35,836	61,632
11	3.00%	201,331	18.33%	33,220	70,112
12		207,371	18.33%	30,414	78,957
13		213,592	18.33%	27,411	88,181
14		220,000	18.33%	24,200	97,800
15		226,600	18.33%	20,772	107,829
16		233,398	18.33%	17,116	118,282
17		240,400	18.33%	13,222	129,178
18		247,612	18.33%	9,079	140,533
19		255,041	18.33%	4,676	152,365
20		262,692	18.33%	0	164,692

Y = Market value at date of initial sale - sale price to person (120,000 - 98,000)
Z = Market value at date of initial sale (120,000)

APPENDIX 2

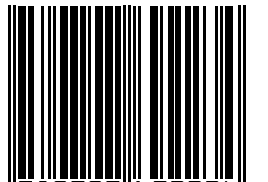
Resale of Property – Examples (contd.)

YEAR	% Increase Per Annum	Market Value (IR£)	(Y/Z)x100 (%)	Amount Payable to Local Authority (IR£)	Profit on Sale to Owner (IR£)
	Y	IR£25,000			
	Z	IR£140,000			
0	Sale Price (0%)	IR£115,000			
1	5.00%	147,000	17.86%	26,250	5,750
2		154,350	17.86%	27,563	11,788
3		162,068	17.86%	28,941	18,127
4		170,171	17.86%	30,388	24,783
5		178,679	17.86%	31,907	31,772
6		187,613	17.86%	33,502	39,111
7		196,994	17.86%	35,178	46,817
8		206,844	17.86%	36,936	54,907
9		217,186	17.86%	38,783	63,403
10		228,045	17.86%	40,722	72,323
11	3.00%	234,887	17.86%	37,750	82,137
12		241,933	17.86%	34,562	92,371
13		249,191	17.86%	31,149	103,042
14		256,667	17.86%	27,500	114,167
15		264,367	17.86%	23,604	125,763
16		272,298	17.86%	19,450	137,848
17		280,467	17.86%	15,025	150,442
18		288,881	17.86%	10,317	163,564
19		297,547	17.86%	5,313	177,234
20		306,474	17.86%	0	191,474

Y = Market value at date of initial sale - sale price to person (140,000 - 115,000)

Z = Market value at date of initial sale (140,000)

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