

Part V of the Planning and Development Act 2000 as amended by the
Planning and Development (Amendment) Act 2002

Further Guidance on Implementation Issues



Contents	Page Number
➤ Introduction	3
➤ Part V Agreements	4
➤ Use of Ring-Fenced Monies (The Fund)	10
➤ Role of Voluntary and Co-operative Housing Sector	11
➤ Affordable Housing under Part V	16
➤ Housing Strategies	17
➤ Affordability and Design	21
➤ Housing Units being Acquired for Letting by Local Authorities	22
➤ General Reporting on Activity	24
➤ Exemption Limits	25
➤ Appendix	26

1. Introduction

1.1 The Planning and Development (Amendment) Act 2002 was passed by both Houses of the Oireachtas and came into force on 24 December, 2002. The primary purpose of the Act is to amend Part V of the Planning and Development Act 2000 which deals with housing supply. This document is intended to provide some guidance on the changes made to Part V to assist planning and housing authorities, approved housing bodies, developers, architects, planners and others in dealing with agreements under Part V and a number of other related matters. It should be read in conjunction with Part V (and other relevant Sections and Parts) of the Planning and Development Acts 2000 to 2002, the Planning and Development Regulations, 2001 and 2003, the Model Housing Strategy and Step-by-Step Guide and the Guidelines issued to Planning Authorities on Part V issued by this Department in December 2000 and the implementation manual issued in March 2002 and also any relevant circulars issued by the Department.

1.2 These 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.

It does not purport to be a legal interpretation of the relevant sections of the Acts or of any of the Regulations made under the Acts.

2. Part V Agreements

Objective of Part V

2.1 The changes to Part V are designed to secure delivery of housing more quickly and more efficiently. The 2002 Amendment Act (Section 3) replaced Section 96 of the Planning and Development Act 2000. The new section increases the flexibility as to how an applicant for permission for development can comply with the requirements of Part V. The requirement for increased flexibility arose from the review of Part V where almost all stakeholders argued for greater flexibility and less bureaucracy in the operations of the provisions of Part V. Priority should be given in negotiations to the provision of housing units.

Developing a local policy

2.2 Many local authorities have already developed local and specific policies in relation to the implementation of Part V under the 2000 Act. These policies should now be reviewed in advance of or in conjunction with the review of housing strategies (or developed if not yet in place) to take into account the changes made to Part V in the 2002 Act. Authorities should, inter alia, set out the options for compliance with Part V, as amended. Different “preferred” options could be developed, e.g., depending on type of planning application submitted, size of proposed development, need for social and affordable housing in the particular area, requirement for special needs housing etc. There are likely to be many variations on the types of agreement that can be made. Planning authorities should be as flexible as possible with a view to negotiating the best deal for improving the supply of all housing tenures in line with their housing strategy.

Options for Complying with Part V

2.3 In addition to the existing options of providing land, units or sites within the proposed development to local authorities, the following possibilities are now available:

- The transfer to the local authority of other land within its functional area;
- The provision of new units on other lands within its functional area for the local authority;
- The transfer of fully or partially serviced sites on other lands within its functional area to the local authority;
- The transfer of new housing or fully or partially serviced sites to an approved housing body or other nominated persons;
- The payment of a sum of money in lieu which must be used for the provision of social and affordable housing; or
- A combination of any of the above.

A local authority may also sell, lease or exchange any land within its possession if necessary for the purposes of an overall agreement.

2.4 Where an alternative agreement to a transfer of land within the proposed development is agreed, the authority will have to receive equivalent monetary value. 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.

2.5 The Appendix to this document contains examples of how a calculation might be done in relation to the transfer of land, units, sites or the payment of money in lieu.

3. Pre-planning Consultation Process

3.1 As part of the local policy document mentioned above each local authority should set down its information requirements to facilitate the pre-planning consultation process. Local authorities are reminded that the spirit and intention of the Act as amended, is to provide for a two-way process involving the authority and the applicant. As greater certainty now exists due to the completion of the review and the opportunities for increased flexibility arising from the changes that have been made to Part V, practical agreements should now be made in a more timely manner thereby delivering the objective of the amendment Act which is to secure high levels of housing supply for all sectors of the community.

Adopting a proactive approach.

3.2 It is advisable, in order to ensure the successful delivery of social and affordable housing, that both local authorities and developers adopt a proactive approach in implementing housing strategies and in negotiating and completing agreements under Part V. Developers are encouraged to seek pre-application discussions with the authority before developing their proposals in relation to a Part V agreement and applying for planning permission, while local authorities are encouraged to facilitate these discussions. A consistent and practical approach by both planning authorities and developers should assist in reaching early and workable agreements.

3.3 It is essential that both planning authorities and developers approach the negotiation of agreements in a manner that has regard to the business environment in which both have to operate and that any unnecessary delay and uncertainty is avoided while respecting the housing strategy. Any agreement should be negotiated 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

developer in relation to the impact of the proposed agreement on the development.

3.4 Local authorities should also ensure that the personnel who work with developers in negotiating agreements under Part V, and who deal with pre-application discussions, are familiar with the authority's policies on delivering housing, in particular the housing strategy and the preferred options. Local authorities should also consider establishing operational teams, which would include senior planning and housing officials, to ensure a coordinated approach to the consideration of planning applications, and the making of Part V agreements.

3.5 It would also be imperative to ensure that where it is proposed to involve an approved housing body in the agreement, appropriate and early consultation takes place with the body in each case. This could involve the approved housing body attending pre-application meetings and discussions. In considering the involvement of individual voluntary and co-operative housing bodies, authorities should use the guidance on how to nominate an approved housing body based on "profiling" which was included in the Implementation Manual issued to local authorities in March 2002. This guidance indicated that local authorities should not organise forms of competition between approved housing bodies in the allocation of sites or nominating organisations under the Act. Factors such as the profile of the body, their capacity, expertise, level of operation within the authority's area should ensure that the most appropriate type of housing body is involved.

3.6 In addition, both local authorities and developers should recognise their obligations under the Act to contribute to the supply of social and affordable housing. Authorities may find it useful to agree in writing with the developer the outcome of the pre-planning discussions so as to ensure that all parties have a common understanding of the nature of the proposed agreement, the finalisation of which would be included as a condition of a planning permission if granted.

3.7 It is expected that, over time, local authority staff who deal with these agreements on a regular basis will develop an expertise which should allow the system to operate more smoothly. This approach should be encouraged.

3.8 In negotiating with developers local authorities should ensure that each agreement delivers the best possible result in terms of overall housing supply and social integration for their area. In considering whether to enter into an agreement as an alternative to the transfer of land within the site, which remains the primary legal requirement on the local authority and the developer, the authority must consider the following important issues;

- The agreement's potential contribution towards achieving the objectives of the housing strategy;
- Whether or not housing is likely to be provided quickly as a consequence of the agreement;
- Whether or not the agreement constitutes the best use of the resources available to the authority;
- The need to counteract undue social segregation in the area;
- Whether or not the agreement is in accordance with the provisions of the development plan, e.g. that land transferred under an agreement can be used for housing under the development plan.

3.9 The priority, if any, which may be given to some of the above issues over others is a matter for the planning authority and could be set out in the housing strategy.

3.10 Developers should bear in mind these constraints on local authorities when developing their proposals on compliance with Part V.

3.11 During the course of pre-planning discussions/negotiating agreements there may be instances where some or all of the developer's initial proposals may readily comply with the Housing Strategy, Part V and any other specific

requirements of the planning authority in relation to the particular area and/or development. Where differences occur and agreement cannot be reached it would be important that detailed and specific reasons are given to enable the developer consider the matter in advance of further negotiations.

4. Use of Ring-Fenced Monies (The Fund)

4.1 The Act provides that any monies accumulated by a planning authority under Section 96(12);

- financial compensation as a result of an agreement in accordance with Section 96 subsections 3(b)(vi), (vii) or (viii); or
- sale of land, houses or sites in accordance with Section 96 (11)

or in accordance with Section 96B (6);

should be lodged to a separate account which **should** only be used as **capital** for its functions under Part V or as capital for a housing authority for its functions in relation to the provision of housing under the Housing Acts 1966 to 2002.

4.2 This means that under Part V the Fund, monies from which can only be expended with the prior sanction of the Department, could be used to improve the affordability of housing and / or, to finance the purchase of land for housing, completed units, or fully or partially serviced sites to satisfy the authority's social and affordable housing requirements.

4.3 As the Fund was created for monies received as an alternative to transferring land, units or sites the priority should be to use these funds to provide additional social and affordable housing units.

5. Role of Voluntary and Co-operative Housing Sector

5.1 Sections 96(9) and (10) of the Planning and Development Act 2000, as amended provides that an approved housing body may provide social rented and affordable housing units under Part V of the Act.

5.2 Section 96(3) provides that, instead of the transfer of land to the planning authority, an agreement under Part V may provide for the transfer to an approved housing body as a nominee of the planning authority under section 96 (10) of new houses or fully or partially serviced sites for use in the provision of social or affordable housing.

5.3 Under section 96(9), a planning authority may make available to an approved housing body land or sites, the ownership of which was transferred to the authority under a Part V agreement, for use by the body as social or affordable housing.

Social rented housing

5.4 The procedures set out in section 9 regarding the acquisition of housing units for letting by local authorities should also be followed in relation to social rented accommodation to be provided by an approved housing body under a Part V agreement. Funding will be provided under the Capital Funding Schemes for the Provision of Rental Housing by approved housing bodies, as appropriate.

5.5 It is essential that all aspects of the design, layout, technical standards and costs of the housing units and any related communal facilities or amenities, which are to be the subject of a Part V agreement, are fully discussed with and examined by the approved housing body in advance of the making of the agreement. Similarly, it will be necessary for the approved housing body to carefully examine, in advance, the location, condition, housing potential and costs involved in acquiring sites under an agreement. Once an agreement is in place following the grant of planning permission, a formal application for funding for a project should be made by the local

authority under the relevant funding scheme to the Voluntary and Co-operative Housing Unit of the Department.

Fully or partially serviced sites

5.6 Details of fully or partially serviced sites to be transferred to an approved housing body under an agreement entered into under Part V should be furnished to the Unit. This should include details of the cost of the sites.

5.7 Where –

- (a) fully or partially serviced sites to be transferred to an approved housing body are provided from land purchased by the applicant before 25th August, 1999, or
- (b) completed units of accommodation to be transferred to an approved housing body are provided on such land,

the local authority should satisfy itself that the price to be paid for the sites or the site cost included in the price of the completed units, as appropriate, is calculated by reference to the price paid or agreed to be paid under an option (including accrued interest charges) for the land where it is greater than the existing land use value.

Affordable Houses

5.8 The 2000 Act provides that affordable housing may be provided by approved housing bodies on fully or partially serviced sites or through completed units transferred to it under an agreement entered into on foot of a condition attached to a grant of planning permission. Such housing may also be provided on land transferred to a planning authority under such an agreement and which is made available by the authority to the approved body.

5.9 It is a matter for the purchaser of an affordable housing provided under Part V by an approved housing body to arrange the necessary mortgage finance to fund the purchase of the house. Approved housing bodies have no

function in relation to the provision of mortgage finance to a person purchasing affordable housing.

5.10 Subsidy arrangements for affordable housing provided under Part V are set out in Section 6 of this document.

5.11 Section 98(1) of the Act specifies that affordable housing may be leased to “eligible persons” as defined in Part V of the Act. A lease in this context refers to a Shared Ownership Lease within the meaning of Section 2 of the Housing (Miscellaneous Provisions) Act 1992.

5.12 The 1992 Act was amended by the Planning and Development (Amendment) Act 2002 to enable approved housing bodies to provide houses under the shared ownership scheme. In the case of such houses provided by an approved housing body it will be referred to as equity – sharing. However, in the case of a lease granted by an approved body under the scheme, the lessee will be entitled to purchase not less than 40% and not more than 50% of the interest in a house, with the remaining interest being held permanently by the relevant approved body. The lessee will not have the option of purchasing the interest of the approved body in the house.

5.13 The conditions governing the operation of the equity - sharing scheme by approved housing bodies and guidance in relation to the operation of the scheme on Part V land by such bodies will be circulated at a later date.

Funding of site acquisition and holding charges etc. for affordable housing.

5.14 Where necessary, a housing authority may borrow from the Housing Finance Agency to advance a loan to an approved housing body to acquire fully or partially serviced sites to be transferred to the body under a Part V agreement. The loan charges incurred on such borrowings may be rolled up until the houses to be provided on the sites are constructed and sold, subject to a maximum period of seven years.

5.15 A housing authority may also borrow from the Agency to make a loan to an approved body to fund the construction costs of the houses being provided as affordable housing under Part V. The loan and any charges accruing will be repaid once the mortgages are in place on the sale of the houses. These charges as well as legal and other costs incurred in the sale of the house should be included in the sale price of the house.

Allocation of affordable housing

5.16 Houses provided by an approved housing body under Part V must be allocated to persons included in a scheme determining the order of priority of eligible persons prepared by the relevant housing authority under section 98 of the Planning and Development Act 2000. The allocation/sale of such houses provided by an approved housing body should be carried out by it in consultation with the housing authority.

Information to be provided to the Department

5.17 To assist in determining the impact of agreements entered into under Part V on activity under the Capital Funding Schemes for the Provision of Rental Housing by approved housing bodies, authorities should furnish details of agreements involving an approved housing body to the Voluntary and Co-operative Housing Unit of the Department as soon as a housing authority has such details available to it.

5.18 Details of completed units of accommodation, including the cost of such units, (or where appropriate a cost plan) to be transferred to an approved housing body under such an agreement should be furnished, where available.

5.19 Where details of fully or partially serviced sites to be transferred under an agreement are available, these should also be furnished. Details to be provided should include the category of planning permission (outline or full permission), the cost of each site, the status of the sites (serviced or unserviced), the number and location of the sites, the number and type of housing units (houses or apartments) to be provided on each site and the name of the approved housing body (or bodies) involved.

5.20 It is essential that the Unit is kept informed of emerging Part V agreement proposals on an ongoing basis. In all cases the name and address of the approved housing body or bodies involved in a proposed agreement should also be furnished.

Exemption from Part V requirements

5.21 Section 96(14)(a) of the 2000 Act (as amended by section 3 of the Planning and Development (Amendment) Act 2002) stipulates 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 (i.e. under the Capital Funding Schemes for the Provision of Rental Housing by approved housing bodies) or for the provision of affordable housing.

6. Affordable Housing Under Part V

6.1 Guidance on the process under which affordable housing provided under Part V is allocated to eligible persons is set out Circular HS 10/01 of 26 June, 2001 (Guidelines on Model Scheme of Allocation Priorities) and in the Implementation Manual issued by the Department in March 2002. This guidance remains unchanged with one important exception - dwelling units provided by a developer under an agreement reached in accordance with Part V which are sold by a planning authority as affordable units **will not** be eligible for site subsidy provided by the Exchequer under the existing affordable housing scheme.

6.2 The mortgage and rental subsidies, which are payable to eligible borrowers under the existing Affordable Housing and the Shared Ownership Schemes will, however, continue to apply in respect of houses purchased under Part V.

6.3 The main reason for this change in policy is that the cost of the unit as delivered under Part V is already discounted from market value because the site value will have been calculated in accordance with the Part, generally at existing use value. This should result in a significant reduction in the cost of the unit and it is considered that the unit should be offered for sale, to eligible persons on the affordable housing list prepared under Part V, at this discounted price without needing an additional site subsidy.

6.4 It is also the case that demand for site subsidy under the existing Affordable Housing Scheme in 2003 will be greater than heretofore as activity under the scheme reaches its NDP target of 1,000 units per annum.

7. Housing Strategies

7.1 Under Section 94 of the Act each planning authority prepared a housing strategy which forms an integral part of the development plan and acts as a cornerstone for future housing policy within the functional area of the authority. The housing strategy must cover the period of the development plan, or the remaining period of the development plan (where a development plan is varied to include a housing strategy, which was generally the case in 2001 when strategies were first prepared).

7.2 Where existing development plans are being reviewed with the intention of making new development plans, the housing strategy for the area covered by the new development plan must also be reviewed to ensure that it covers the 6-year period of the new plan and that it is up-to-date and reflects current trends in the housing market. A strategy should not simply respond to market trends but should influence them and change their direction; if not compatible with sustainable development. Development plan objectives on the form, type and positioning of housing overall should be grounded on detailed local research to ensure that the right units are delivered to the right locations. It is also a requirement under the Act during the 2-year review of development plans generally, for the Manager of the planning authority to also carry out a review and report on the implementation of the housing strategy. The Manager may also carry out a review of the housing strategy as a consequence of a change in the housing market that could significantly affect the strategy. In either of the latter two cases the Manager may recommend that the housing strategy be adjusted and that the development plan be varied accordingly.

7.3 Since the strategies were first prepared in 2001 they must now be reviewed under the Act if not being done already in the context of drawing up a new development plan. A number of the variables on which the strategies were based have changed and more up-to-date information is now available. These will need to be factored into the review of the strategy and include:

- the 2002 assessment of housing needs (the Act specifically requires a planning authority to have regard to the most recent housing assessment or assessments made under section 9 of the Housing Act 1988);
- the changes made to Part V contained in the Planning and Development (Amendment) Act 2002;
- the Household Budget Survey 1999-2000 Final Results;
- the Census 2002 Results;
- the National Spatial Strategy 2002 – 2020;
- changes in interest rates over the period (see Circular HS 3/01);
- Planning authorities should construct their own house price trends in light of experience and local circumstances (see Circulars HS 4/00, HS 3/01 and HS 9/01);
- Income levels as projected by the ESRI in their most recent Medium Term review (see Circular HS 3/01).

Planning authorities should also utilise the experience gained from preparing strategies first time round and the decisions and actions taken in implementing the strategies.

7.4 Planning Authorities 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 or joint venture arrangements. 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 suitable for integrated social and affordable housing purposes in the light of the requirement 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.

7.5 Given that the key purpose of the strategy is to identify the overall need for housing in the area of the development plan local authorities are reminded that **all tenures** must be taken into account when assessing need, i.e., owner occupier, social housing, and private rented accommodation (see Circular HS 9/01). Accordingly, strategies should contain an analysis of the current and potential demand for private rented accommodation, the extent to which long-term housing assistance in respect of such accommodation is likely to be required and the potential for private rented accommodation in meeting housing (social and possibly affordable) needs.

7.6 The Social Partnership Agreement *Sustaining Progress* states, in the context of special initiatives in the area of housing and accommodation, that consideration will be given to developing Public Private Partnership (PPP) arrangements in relation to rental housing, initially involving a pilot programme focused on households in need of rental assistance. Preparatory work for the implementation of a pilot programme is being undertaken in conjunction with a number of local authorities and further guidance will be issued to housing authorities as the programme progresses.

7.7 In the meantime, however, local authorities could consider whether specific objectives should be included in the housing strategy/development plan to encourage the provision of private rental accommodation for social housing purposes as a way of complying with Part V. Section 95(1)(C) of the Act states “different specific objectives may be indicated in respect of different areas” subject to the percentage of land specified in the housing strategy to be reserved under Part V not being exceeded. Such objectives could indicate, therefore, that the provision of private rental accommodation (and more specifically PPP based public/private accommodation) is a preferred solution in certain areas. This could be achieved in particular where land is transferred to the local authority under Part V and is then developed using the

above mechanism. Alternatively where a proportion of units in a development are made available for social housing purposes (these would be subject to long term private rental agreements, management and maintenance charges etc.) this could be reckoned towards meeting the social housing objectives. In other words the social housing percentage specified in the housing strategy would be reduced accordingly (using the power in Section 95 (1) (C) to specify different objectives for different areas).

8. Affordability and Housing Design

8.1 Local authorities should seek to ensure that the potential to achieve affordability through the use of efficient layout, design and construction, without compromising standards or quality is maximised. This applies to both housing units to be sold as affordable units and units to be acquired by the authority for letting. In this regard local authorities and approved housing bodies will be aware of the Department's publication "*Design Guidelines for Social Housing*" which gives guidance in relation to achieving efficient site layout and house design. Approved housing bodies are also required to comply with the terms and conditions of the Technical Guidelines (Part 7) of the Memorandum on the Capital Funding Schemes for Approved Housing Bodies).

8.2 To assist in the achievement of greater social integration every effort should be made to avoid incongruity between the design of social and affordable units. The need for this may be more acute in cases where the purchase price of units to be acquired or sold as affordable units under Part V is relatively high. In such cases it may necessary to seek adjustments to the specification, e.g. in the level of provision for fitting out, without compromising the quality of design or construction. The Department intends to monitor these aspects closely in the initial operation of Part V to ascertain the extent of practical difficulties, the issues being encountered by local authorities in implementing Part V and any adjustment to procedures that may be necessary to overcome them.

8.3 Local authorities should take the necessary steps to monitor construction of the Part V dwellings to ensure appropriate standards are being met.

9. Housing units being acquired for letting by local authorities

9.1 The acquisition of units for letting by local authorities under Part V will be funded as part of each authority's housing construction programme and units acquired will be recorded as starts and completions as appropriate in Quarterly returns to the Department.

9.2 Housing departments within local authorities should, in cases where proposed developments come within the scope of Part V, be involved in any pre-planning discussions with developers to try and ensure that the proposed layout and design of housing units to be acquired for letting are suitable having regard to the authorities housing needs. It is acknowledged that it may not be possible to identify at that stage which particular units will be acquired by the authority and that this may have to be determined later, at a time closer to construction stage.

9.3 In a case where a planning application is received for a proposed development which is likely to yield units for renting the relevant housing personnel (administrative and technical) within the authority should be consulted to ensure that any housing to be acquired for letting is suitable for that purpose.

9.4 Following completion of the planning process for potential Part V units, including appeals to An Bord Pleanála, if any, housing departments should maintain a list showing the locations and number of such units. This will provide essential management information for the local authority and the Department in estimating future funding requirements.

9.5 When a proposed development yielding Part V units has been through the planning process and an authority forms the view that it is likely to proceed to construction a formal application should be made to the Department for a budget cost approval. The application should be accompanied by an estimate of all-in cost and plans and documentation sufficient to describe the works. A

report setting out the authority's assessment, including a technical assessment, should be included. The technical assessment should confirm that construction standards will meet the requirements of the Building Regulations and indicate the extent to which the planning and design of the housing development takes account of the Department's Design Guidelines for Social Housing. In a case where a single development is yielding less than five units it will not be necessary to seek a formal budget cost approval from the Department if the purchase price is considered to be reasonable by reference to the average cost of provision of local authority housing. However, in all instances where the cost of units being developed under Part V are likely to be significantly in excess of the average cost of provision of local authority housing, the Department should be consulted at the earliest opportunity.

It is essential that Housing Construction Section is kept informed on emerging proposals on an ongoing basis.

10. General Reporting on Activity

10.1 The Department will require statistics on Part V activity from time to time. Apart from seeking forecast estimates of likely output on an annual basis, it will also be necessary to provide specific information (on a quarterly in arrears basis) on activity, i.e. quantity of land transferred; number of rental units and affordable units (by local authority and voluntary sector) and average cost of such units; together with the number of fully / partially serviced sites transferred to the local authority, approved housing body or other persons. The amount of monies received into the Fund (see paragraph on ring-fenced monies), arising from the levy on the former withering permissions and from financial compensation agreements under the Act will also be required to be returned.

11. Exemption Limits

11.1 Planning authorities are reminded of the small but significant change made to section 97 of the Principal Act by Section 5 of the Planning and Development (Amendment) Act 2002 which reduced the exemption limit from 0.2 to 0.1 hectares. This will ensure that high density developments in urban areas, which previously may have been exempt, will now be subject to Part V if built on sites greater than 0.1 hectares.

APPENDIX

Examples of agreements involving the transfer of land or units or the payment of money in lieu.

The following assumptions and costs are made for the purposes of these examples only and are not an indication of actual values or costs:-

- The size of the part of the site which the local authority is entitled to reserve (i.e. the 20%) is 1 hectare.
- The site was purchased after 25 August, 1999.
- Existing Use Value (EUV) is calculated as the current day value of the land, i.e. calculated by reference to its existing use on the date of transfer of ownership of the land to the planning authority and on the assumption that no development, other than exempted development, can be carried out on the land.
- The existing use of the land is agricultural and the EUV is calculated at €8,500 per hectare.
- Development Value (DV), i.e. value of land with planning permission is €55,000 per hectare.

Example 1 – Land Transfer

If land is to be transferred, the 1 hectare is transferred to the local authority who compensate the developer by paying the sum of €8,500.

Example 2 – Money in Lieu

If the financial compensation route is taken, i.e. the local authority believes that the best use of resources in this case is to accept compensation instead of the 1 hectare of land, the developer pays a sum of €46,500 to the local authority. This is the equivalent in monetary value of the transfer of the 1 hectare of land on site to the local authority and is calculated as being the

difference between the EUV of €8,500 and the DV of €55,000 of the land with planning permission granted.

It should be noted that the calculation is **only based** on the difference between the EUV and the DV. No other values to the owner that can arise under an ordinary CPO compensation claim, e.g. severance, disturbance, compensation for improvement works etc. should be included.

Example 3 – Construction and Transfer of Units/Sites

If an alternative agreement is to be reached, e.g. construction and transfer of units or sites, the agreement entered into by the planning authority and the developer must encompass a transfer of this equivalent monetary value. So if the planning authority is seeking the construction of units the price paid to the developer for the units is calculated as being the sum of the site costs (EUV value of €8,500) plus actual construction costs (as agreed between the authority and the developer) plus profit, which 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.