

# Galway City Council Guidelines for the Implementation of Part V of Planning & Development Act 2000 as amended by the Planning & Development (Amendment) Act 2002



Galway City Council 2004

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### Note

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

## 1. INTRODUCTION

Part V of the Planning & Development Act 2000 commenced on the 1<sup>st</sup> of November 2000 and was amended by the Planning and Development (Amendment) Act 2002 on 24<sup>th</sup> Dec 2002. The objective of Part V is to ensure a sufficient supply of housing for all sectors of the existing and future population.

Part V of the Planning and Development Act 2000 required that Planning Authorities must prepare housing strategies and integrate them into their Development Plans. In addition, the Act makes communities' needs for social and affordable housing a material planning consideration, which must be taken into account when formulating Development Plan policies, preparing a Housing Strategy, and deciding on planning applications or appeals.

The main provisions of Part V:-

- a) Require each Local Authority to develop a Housing Strategy, which will form part of their Development Plan and act as a cornerstone for housing development policy in the City.
- b) Ensure that sufficient land is zoned for housing to meet the projected housing needs.
- c) Require inclusion of specific objectives for the provision of social and affordable housing based on identified need

The implementation of Part V of the Planning & Development Act 2000, as amended by the Planning and Development (Amendment) Act 2002, will require housing developers to enter into an agreement with Galway City Council concerning the transfer of dwellings, fully or partially serviced sites, land or a monetary contribution. Local Authorities were allowed to require up to 20% of the

site area to be transferred. For applications in Galway City this portion is based on up to 20% of the application site, units or value.

A copy of Galway City Council's Housing Strategy (2001-2004) is available from the Planning Department. Alternatively, it may be viewed on Galway City Council's website at [www.galwaycity.ie](http://www.galwaycity.ie). The Housing Strategy 2005-2011 will be included in Galway City Council's Development Plan 2005-2011.

## 2. SCOPE OF PART V

The first issue to be determined is whether Part V applies to a proposed residential development for which a planning application is to be submitted to Galway City Council. In general Part V applies to applications for permission for residential developments or a mixture of residential and other uses where the proposed site is zoned to allow residential or residential and other uses and where the area of the site in question is greater than 0.1 hectare and the development comprises of more than 4 units.

Part V applies to both full and outline permissions on land which is zoned to allow for residential use, or for a mixture of residential and other uses.

### 3. DEVELOPMENTS EXEMPTED FROM THE PROVISIONS OF PART V

In accordance with the Act, certain types of residential developments are exempt from the requirements to comply with Part V. These are set out in Section 96 (14) of the Planning and Development Act 2000 and include:-

- a) developments of social housing for letting by an approved housing body
- b) conversion of an existing building or the reconstruction of a building to create one or more dwellings, where at least 50% of the external fabric of the building is being retained.
- c) the carrying out of works to an existing house.

There is no requirement for an Exemption Certificate in respect of the above developments.

#### **Certificate of exemption under Section 97 from the provisions of Part V**

Under Section 97 of the Act an applicant may apply for a Certificate stating that the requirement to provide for social and affordable housing under S96 does not apply,

before they apply for a planning permission, in the following circumstances:-

- a) The development consists of the provision of 4 or fewer housing units, or
- b) Any number of housing units on land, the area of which is 0.1 hectares or less.

In doing so they should apply to Galway City Council stating that Section 96 shall not apply to a grant of permission in respect of the development.

Where a development comes within the above categories the developers are strongly advised to apply for the certificate before the lodging of a planning

application. If a certificate has not been applied for or if the applicants have not indicated how they propose to satisfy the terms of the Housing Strategy then the planning application will be returned as invalid.

The application for a certificate must be accompanied by a statutory declaration made by the applicant containing all of the information specified in Section 97(5) and Articles 48 and 49 of the Planning & Development Regulations 2001, such as the history of the ownership of the land in question and whether the applicant has an interest in any adjoining land. In doing so Galway City Council is ensuring that applicants do not avoid the application of Part V by splitting up land into small allotments or by making multiple applications. Galway City Council may make other enquiries, as it deems appropriate.

A decision on an application for an exemption certificate must be issued within 4 weeks (unless further information is required). Under the terms of Section 97, an applicant is entitled to appeal to the Circuit Court against the refusal to grant an exemption certificate within 3 weeks of the decision.

It should be noted that the granting of an exemption certificate does not in itself guarantee the granting of planning permission for the particular development.



## 4. GALWAY CITY COUNCIL'S HOUSING STRATEGY

In accordance with Part V of the Planning & Development Act 2000 as amended by the Planning and Development (Amendment) Act 2002, Galway City Council adopted a Housing Strategy (2001-2004) for the City in October 2001 and varied their Development Plan to incorporate the Strategy.

In preparing the Housing Strategy, Galway City Council took into account the following:

- a) The existing need and the likely future need for housing
- b) The need to ensure that housing is available for persons who have different levels of income
- c) The need to ensure that a mixture of house types and sizes is developed to reasonably match the requirements of the different categories of households, as may be determined by the planning authority, and including the special requirements of elderly persons and persons with disabilities, and
- d) The need to counteract undue segregation in housing between persons of different social backgrounds

The Housing Strategy as adopted by Galway City Council requires, in accordance with the Act, that 20% of land zoned for residential use, or for a mixture of residential and other uses, be made available for the provision of social and affordable housing. This requirement can be achieved by the developer entering into an agreement with Galway City Council to provide dwellings, fully or partially serviced sites, land or an equivalent monetary contribution for the purposes of social and affordable housing.

In general, the ratio between social and affordable housing in Galway City will be **1:1** in any given development. However, in the three areas of the city delineated in the Integrated Area Plans for Westside, Ballinfoyle and Ballybane, the 20% requirement can be made up of entirely affordable housing.

The provisions of Part V of the Planning & Development Act 2000 apply to planning applications lodged after October 2001. The provisions of Part V of the Planning and Development Act 2000 as amended by the Planning & Development (Amendment) Act 2002 apply to planning applications lodged after 1<sup>st</sup> January 2003.

## 5. PREFERRED OPTION POLICY

### 5.1 Options for Compliance with Part V

Part V of the Planning & Development Act 2000 as amended by the Planning and Development (Amendment) Act 2002 provides for a number of options for an agreement between the developer and Galway City Council such as:-

- (a) Transfer to Galway City Council of 20% of the land the subject of the application
- (b) Instead of the transfer of land referred to in Option (a) the other options are:

1. The transfer of completed units on the site the subject of the application
2. The transfer of fully or partially serviced sites on the site the subject of the application
3. The transfer of completed dwellings at another location within the Functional Area of Galway City Council.

- 4.The transfer of serviced sites at another location within the Functional Area of Galway City Council.
- 5.The transfer of land at another location within the Functional Area of Galway City Council.
- 6.The payment of a monetary contribution

**In every case, the aggregate monetary value shall equate to the monetary value of the land that Galway City Council would receive under option (a)**

**In considering whether to enter into an agreement under option (b), Galway City Council shall consider each of the following:**

- i. Whether such an agreement will contribute effectively and efficiently to the achievement of the objectives of the housing strategy.
- ii. Whether such an agreement will constitute the best use of the resources available to it to ensure an adequate supply of housing and any financial implications of the agreement for its functions as a housing authority:
- iii. The need to counteract undue segregation in housing between persons of different social background in the area of the authority;
- iv. Whether such an agreement is in accordance with the provisions of the development plan;
- v. The time within which social and affordable housing is likely to be provided as a consequence of the agreement.

For the purposes of a Part V agreement for the provision of social and affordable housing under either option (a) or (b) Galway City Council shall consider –

- i. The proper planning and sustainable development of the area to which the application relates,
- ii. The housing strategy and the specific objectives of the development plan which relate to the implementation of the strategy,

- iii. The need to ensure the overall coherence of the development to which the application relates, where appropriate, and
- iv. The view of the applicant in relation to the impact of the agreement on the development.

The transfer of completed dwellings, sites or land will be to Galway City Council or persons nominated by Galway City Council such as an Approved Housing Body. (see Section 15 –Role of the Voluntary & Co-operative Housing Sector)

Galway City Council will indicate in so far as is known at the time of the agreement its intention in relation to the provision of housing on the land or sites to be transferred.

## **5.2 Preferred Option Policy**

The primary objective of Part V of the Act is to ensure the needs of the existing and future population of the city is catered for. In this regard therefore, priority will be given to the provision of housing units, rather than the payment of a financial contribution. This is considered to be the best option to effectively and efficiently achieve the objectives of Galway City Council’s Housing Strategy.

The preferred option of Galway City Council will therefore be **the transfer of completed dwellings.**

Where, following consultation with an applicant, it is not considered appropriate to transfer completed dwellings on the application site, the other options above will be examined.

The payment of a financial contribution will be the last option, and will be considered once all other options have been explored.

A number of issues will be assessed when a Part V proposal is being considered, particularly the objectives of the Housing Strategy as set out previously but each proposal will be considered and assessed on its merits.

If agreement on these matters cannot be reached between the developer and Galway City Council, the default position is the transfer of land to Galway City Council.

Galway City Council is also obliged under Part V of the Planning & Development Act 2000 as amended by the Planning and Development (Amendment) Act 2002 in assessing a proposal to have regard to its Housing Strategy and the objectives of its Development Plan.

## 6. PRE-PLANNING CONSULTATION

### 6.1 Pre-Planning Consultation Process

By their nature, proposals being made in relation to compliance with social/affordable housing requirements are likely to impact on the 20% portion of the site or dwelling units that are being applied for. There may also be resulting implications for the remainder of the site. It is important therefore to discuss the options for compliance as part of pre-planning discussions on the application so that any necessary design changes can be incorporated into the planning applications. For these reasons, Galway City Council seek to negotiate terms for the compliance with the provisions of Part 5 for the affected 20% portion of the site at pre-planning discussions.

These discussions will take place with the Galway City Council Housing Strategy Operational Team which includes Senior Planning and Housing Officials. In

negotiating agreements, the Operational Team will have regard to the following issues:

- The Development Plan
- The requirements of the Galway City Council's Housing Strategy
- The views of the Developer
- The Housing Market
- The layout and design of housing units to be acquired for letting with regard to suitability for the housing needs of the housing applicants.
- The level and location of housing need in Galway City as reflected by the housing list.
- 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
- The number of starts which can be financed under the Galway City Council Housing Programme for any year.

The outcome of pre-planning discussions will be agreed in writing in the form of the Pre Planning Part V Statement of Understanding (see Appendix 4) so as to ensure that all parties have a common understanding of the nature of the proposed agreement. It is considered that this arrangement will benefit both Galway City Council and the developer and will enable a quicker resolution of the final agreement following the grant of permission. This Statement of Understanding may be submitted with the planning application and would therefore comply with section 96(4) of the Act as amended which requires the applicant to state the manner in which he/she would propose to comply with Part V.

It should be noted that the assessment of any subsequent planning application will be based on the proper planning and sustainable development of the area, the provisions of the Development Plan, national policies, and with regard to submissions made regarding the application.

Where Galway City Council subsequently grants permission, the Council will have regard to this statement in imposing a condition in relation to Part 5.

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 the Part V agreement, will be fully discussed and examined in advance of making the agreement. Galway City Council will be seeking to ensure that the potential to achieve affordability through the use of efficient layout, design and construction, without compromising quality is maximised. Information required of the developer and the format for submission of that information at each stage is outlined in subsection 6.2 below. To facilitate pre-planning meetings, information detailed below should be submitted 2 weeks in advance of a meeting date.

## **6.2 Information Required to facilitate the Pre-Planning Consultation Process in relation to the Social and Affordable portion of the scheme.**

This information is required in order to ensure that proposals for the Social element of the scheme have regard to the principles of the *Social Housing Design Guidelines* as published by the Department of the Environment, Heritage and Local Government.

(4 copies of each document below should be submitted.)

### **a. Part V Pre Planning Application Form**

A completed Part V Pre Planning Application Form (see Appendix 1).

### **b. Outline of proposed Scheme**

#### *1. Site Location Map*

Provide a Site Location Map at a scale of 1:2500 or 1:1000, whichever is appropriate, indicating the exact location (boundary of site outlined in red) and area of the site. This map should give an indication of the existing use of land.

#### *2. Preliminary Site Layout*

Provide a preliminary site layout at a scale of 1:500 indicating an initial estimate of the total number of housing units it is proposed to construct and unit types.

The Preliminary Design should show the overall form of the proposed development and proposed elements that will provide a clear spatial structure leading to strong identity and legibility in the new housing.

The Preliminary Site Layout should be annotated with brief explanatory notes indicating:

- Existing features of the built or natural environment to be retained.
- Broad indication of the mix of house types and sizes of units proposed.
- Proposed movement network/ hierarchy of street types and pedestrian/cycle paths including safe access arrangements.
- Location and character of Public Amenity/Green Spaces, relationship between public and private areas, as well as access to communal open space and other communal facilities if provided.
- Location of proposed community centre/crèche facility if applicable (Note: the Development Plan generally requires that childcare facilities be provided in proposed developments consisting of 75 units or greater)
- Details of existing and/or extent of proposed services to the site.

#### *3. Preliminary Sketch Designs of units proposed and Outline Specifications.*

Submit sketch drawings of house types and internal layout of units being offered to Galway City Council.

Design of house types being offered to Galway City Council should be illustrated by way of sketch drawings showing plans, sections, and elevations of each house type drawn at a scale of no less than 1:200 and should clearly indicate:

- Internal Room dimensions and area calculations
- Indication of Construction materials proposed
- Indication of Finishes and Fittings proposed
- Proposed kitchen and bathroom layouts
- Storage facilities
- Proposed heating and servicing arrangements
- Proposed front garden/buffer zone
- Proposal for bin storage/recycling areas
- Laundry/drying arrangements should be clearly defined
- Private amenity space arrangements

**c. Outline of Compensation Sought in relation to the 20% Social and Affordable housing**

Completed Part V Summary of Costs (see Appendix 2) should be submitted indicating the level of compensation sought for units.

**d. Proposal for Estate Management Provisions (if any)**

If the proposal attracts annual management charges, an outline of likely costs should be submitted.

## 7. PREPARATION OF A PART V SUBMISSION

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

### 7.1 Details Of Part V Proposal

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

**a) Provision of Housing Units Option**

The applicant shall submit drawings and specifications of the units proposed to be transferred to Galway City Council. See section 6.2. Where the option of transfer of Housing units to Galway City Council is proposed, the applicant should note that 20% provision relates to 20% of the residential content of the development.

**b) Provision of Serviced Sites or Land Options**

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

1. The location and area of the land which is the subject of the planning application (please attach appropriate map, scale 1:2500 or 1:1000). The boundary of the site should be outlined in red and the area of the site should be indicated.
2. The location and area of the land which it is proposed to transfer to the local authority (please attach appropriate map scale 1:2500 or 1:1000). The boundary of the site should be outlined in red and the area of the site should be indicated.
3. Proposals for boundary treatment of land it is proposed to transfer to the local authority.

4. Details of any site investigations undertaken and/or any other relevant information in relation to the land.
5. Details of any encumbrances relating to the land such as Rights of Way, Wayleaves, underground and/or overground services etc.,
6. Confirmation that the freehold title can be transferred to the local authority.

**c) Provision of Financial Contribution Options**

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

The applicant shall submit valuations by a certified valuer of:

1. The Existing Use Value of the Land which is the subject of the application.
2. The Development Value of the Land with proposed Planning Permission.



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

### 8.1 Mix of Unit Types

All details in relation to house size, specifications and cost must be agreed prior to completion of the Final Part V Agreement. Ranges of unit types are required to fulfill the social and affordable housing needs.

The mix of unit types will be determined by demand as expressed through the Social and Affordable housing waiting lists. Galway City Council will provide information on the social and affordable requirements of the area. In some cases it may be appropriate to specify a certain category of need for occupation of the units e.g. elderly, disabled, etc. and hence, final design will reflect the special needs of the specified category.

Decisions in relation to residential densities and whether to include single-storey, two-storey, etc. must be taken after consulting the Galway County Borough Development Plan 1999 and the relevant Local Area Plan.

### 8.2 Design Standards

#### **Preliminary Site Layout Design**

The Preliminary Site Layout Design as submitted for preplanning discussions (see section 6.2) should address the suitability of the site for development with regard to the requirements of local and national policy, particularly:

- Requirements of the Development Plan
- Requirements of Local Area Plans

With regard to the Part V proposal in particular, the Preliminary Site Layout Design should adhere to the principles of Design and Layout as set out in the Department of Environment publications “*Guidelines for Social Housing: Design Guidelines*”

and “Recommendations for Site Development Works for Housing Areas” . These publications are available from the Government Publications Office in Dublin at a cost of €12.70 each. “Recommendations for Site Development Works for Social Housing Areas” is also downloadable from the Department of the Environment’s website at [www.environ.ie](http://www.environ.ie). In the Preliminary Design scheme, efficient layout, design and construction should be addressed to ensure affordability of the units without compromising quality. The location of social and affordable units should endeavour to counteract undue social segregation between persons of different social backgrounds.

Social and affordable units should be outwardly indistinguishable in appearance from the rest of the development.

### **Unit Design/Specification**

With regard to the design of the social housing units, it should be noted that:

- Spatial standards for the social housing units shall be as recommended in DoEHLG Social Housing Design Guidelines 1999 as updated May 2002 (see Appendix 3).
- The DoEHLG Social Housing Design Guidelines 1999 Spatial standards should be used as a reference document for design and layout of affordable units also. However, strict adherence is not a requirement as affordability will be the final determinant of the design.
- Dual aspect is the preferred plan form where possible.
- “Own Door” access directly from the exterior is the desired standard of Galway City Council for the social housing units. However, where this is not practical, other proposals will be considered provided “own door” access predominates.
- Galway City Council will require that an equal proportion of any car parking being provided in the proposed housing development to be transferred with the social and affordable units.
- Galway City Council recently has had a policy of providing Lifetime Adaptable Housing for affordable and social units. Dwellings should conform to the

principles of “Lifetime Adaptable Housing” as set out in the publication “Buildings for Everyone”. This publication can be purchased at a cost of € 45 from the National Disability Authority or can be borrowed from the NDA library. Further information available on the website of the National Disability Authority at [www.nda.ie](http://www.nda.ie). A reference copy is available for inspection at the Planning Counter, on request.

- Units must be designed to conform with the Building Regulations in all aspects of design and construction.
- Detailed specification of building materials, finishes and fittings for the Social and Affordable units will be subject to agreement.



## 9. PART V AGREEMENT

A Part V agreement is a legally binding arrangement negotiated between Galway City Council and the applicant.

If permission is being granted for a development subject to Part V, a planning condition will normally be attached requiring that the applicant or any other person with an interest in the land to which the application relates enter into an agreement with Galway City Council. The planning condition will require that the agreement is finalised before development commences. It shall be the objective of Galway City Council to finalise the agreement within 8 weeks where possible of the grant of permission or grant of appeal by An Bord Pleanála.

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

### 9.1. Content of Agreement

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

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

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

- a) Location and area of sites/land to be transferred
- b) Map of sites/land
- c) Infrastructural services serving or to be provided for sites/land
- d) Boundary treatment
- e) Open space and landscaping proposed
- f) Monetary compensation.

## 10. ASSESSMENT OF COMPENSATION

The amount payable by the local authority for the completed dwellings, sites or land will be negotiated between Galway City Council and the developer. Appendix 2 outlines the format for compensation submission to Galway City Council. 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.

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

### a. Housing Units

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

- (a) Compensation for land (see section 10.1)
- (b) Building and attributable site development costs (see section 10.2)
- (c) A reasonable commercial profit on the construction costs (b) above. (see section 10.3).

- (d) Design and Professional fees and Structural Guarantees
- (e) Planning fees and Fire Safety Certificate fees.
- (f) Development levies/ contributions.
- (g) Cost of Finance.

**b. Serviced sites**

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

- (a) Compensation for land (see section 10.1)
- (b) Attributable development costs (see section 10.2)
- (c) A reasonable commercial profit on the construction costs (b) above
- (d) Design and Professional fees.
- (e) Planning fees.
- (f) Development levies/ contributions if applicable.
- (g) Cost of Finance.

**c. Land**

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

- (a) Compensation for land (see section 10.1)

**d. Monetary Contribution**

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

Where a monetary contribution is the basis for an agreement, the amount of the contribution will be based on the difference between existing use value and the development value of the land with planning permission.

**10.1 Compensation for Land**

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

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

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

If the site was purchased prior to 25<sup>th</sup> August 1999 the following information in relation to the site should be included:

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

Where land is transferred to Galway City Council there is no provision for developer's profit.

**10.2 Building and Attributable Development Costs**

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

- labour, materials and plant in carrying out the physical work;
- other utility connection charges (electricity, gas, telephone, etc.);
- indirect project costs;
- financing costs associated with the above.  
(See Appendix 7).

Where houses are transferred, “building and attributable developments costs” will apply to the completed house (in a completed development). “Attributable development costs” will apply to the site development works carried out to the extent agreed between Galway City Council and developer. These costs as well as attributable fees, contributions and connection charges should be determined as an average per unit over the entire development, adjusted to reflect the varying sizes of dwelling units being provided. The purpose of this approach is to avoid abnormal costs associated with a section of the overall development being charged in full against the social or affordable housing element thus reducing a developer’s average unit cost for the remainder of the development.

### 10.3 Reasonable Commercial Profit

For the purpose of acquiring houses or sites, profit is to be taken as meaning a reasonable profit, determined by reference to prices for work pertaining to competitive tenders for similar work current in the locality.



## 11. DISPUTE RESOLUTION

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

- 1) An Bord Pleanála
- 2) The Property Arbitrator
- 3) The Circuit Court

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

refer certain matters to An Bord Pleanála and certain other matters to the Property Arbitrator.

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

The matters, which can be referred to the Property Arbitrator, include

- 1) The number and price of housing units for transfer, including site, building and development costs
- 2) The number and price of sites to be transferred, including site and development costs
- 3) The compensation payable by Galway City Council for land to be transferred (see Appendix 2)
- 4) The compensation payable to Galway City Council where a payment is required in lieu of the transfer of land



- 5) The payment of a monetary contribution to Galway City Council in lieu of other options.

Both the Property Arbitrator and An Bord Pleanála are required to determine matters referred to them as soon as possible.

## 12. COMMENCEMENT OF CONSTRUCTION AND TRANSFER OF COMPLETED UNITS

If the Part V Agreement includes for the transfer of units to Galway City Council, information will be required at commencement of construction which will form the basis of the Application for funding to the Department of the Environment, Heritage and Local Government. Upon receipt of approval from the DoEHLG, Galway City Council will be able to give assurances regarding its intention to accept transfer of units provided they meet with the requirements at the transfer of the units stage. Information required at these stages is as follows:

### ***At the Commencement of Construction:***

- 2 sets of drawings, specifications and other documentation sufficient to describe the works.
- An estimate of all-in costs. The costs report to be in the format of the Construction Stage Main Cost Summary (see Appendix 6).
- Copy of the Fire Safety Certificate if required.
- Note: the developer must agree to allow access to Galway City Council or its representative for the purpose of making periodic inspections during construction.

### **At the Transfer of Units:**

- Registered Structural Guarantee from Homebond Insurance or equivalent.
- Opinions on Compliance with Building Regulations and Planning Permission, in an approved Standard form, from an Architect /Engineer approved to so give such an opinion by the Law Society. The said Architect/Engineer is required to hold Professional Indemnity Insurances for a period of 7 years from the date of said opinion, and shall have attended the development during construction.
- Transfer of guarantees and maintenance manuals for non structural element and appliances to Galway City Council.
- Provide a Safety File to Galway City Council approved format (see Appendix 7).
- Note: Developer to agree a defects liability period of 12 months on foot of a snag list.

## **13. ALLOCATION OF COMPLETED UNITS, SITES OR LAND.**

A Part V agreement which provides for the development of social and/or affordable housing will require the Local Authority to allocate houses from either their social housing or affordable housing list.

Allocation of Social housing is done in accordance with a scheme of letting priorities as adopted by the Local Authority under Section 11 of the Housing Act 1988 and taking account of an assessment of needs carried out under Section 9 of the same Act. The allocation of social housing is at the sole discretion of the Local Authority.

It is Galway City Council policy, in the allocation of social housing to have all applicants vetted on estate management grounds in consultation with the Gardaí to ensure insofar as possible that no allocation is made to person(s) engaged in anti-social behaviour. Furthermore, the Estate Management Section of Galway City Council organises pre-tenancy training for new tenants moving into Galway City Council dwellings. Experience has shown that this training has proven very beneficial in impressing on new tenants, the importance of their responsibilities as well as their entitlements. Galway City Council intends continuing this policy for all new dwellings acquired for social housing under Part V.

It is anticipated that in some of the developments where Galway City Council will be acquiring dwellings for social housing under the provisions of Part V, management companies will be formed to manage and maintain these complexes. Galway City Council will actively work with these companies to ensure effective management of these developments and is committed to taking strong action against any tenant involved in anti-social behaviour as stated in its Anti-Social Behaviour Policy.

The City Council is also committed to take action against any tenant who breaches the terms of any management agreement.

The Allocation of Affordable housing is done in accordance with the Scheme for the Allocation of Affordable Housing as adopted by the Planning Authority under Section 98 of the Planning and Development Act, 2000.

The Act provides that affordable housing may be sold or leased to eligible persons.

Applicants will be required to occupy the property purchased as their normal place of residence.

The allocation of social and affordable housing is at the sole discretion of the Local Authority.

The use of sites/land will be at the sole discretion of the Local Authority.