



## Wicklow County Council – Part V Policy

**Introduction:** The Housing Section aims to deliver social housing units in a sustainable way through its Housing Strategy 2011-2016 and the current County Development Plan 2016-22. This document has been designed to give guidance to developers and agents regarding the Part V Policy in Wicklow and the mechanics of its operation in County Wicklow. It is the Council's preferred arrangement that they acquire 10% of completed units within residential developments of ten and more units.

Small amendments may be necessitated from time to time following directions from the Department of Housing, Planning, Community and Local Development, or where circumstances dictate but this document forms the essence of the Council's policy on Part V of the Planning Acts, as amended.

**Application of Part V:** Part V was initially provided for in Section 96 of the Planning and Development Act, 2000. <sup>1</sup>Following legislative change through the enactment of the Urban Regeneration Act, 2015 the Planning and Development Regulations, 2001, Article 22 (2) (e) have been amended by Article 3 of the Planning and Development Regulations, 2015. This requires that **any planning application, to which Section 96 of the Planning Act applies .i.e. developments of 10 residential units or more) shall be accompanied by**

*(a) "details of such part(s) of the land which is subject to the application for permission or is or are specified by the Part V agreement, or houses situated on such aforementioned land or elsewhere in the planning authority's functional area proposed to be leased to the planning authority or details of any combination of the foregoing, and*

*(b) details of the calculations and methodology for calculating values of land, site costs, normal construction and development costs and profit on these costs and other related costs such as an appropriate share of any common development works as required to comply with the provisions of Part V of the Act"*

Therefore before lodging a planning application, applicants for developments of 10 units and more must propose and agree in principal with the Housing Authority how they intend to discharge their Part V obligation

**Options for complying with Part V under section 96(3) paragraph (a) (b)(i)(iv)(iva)(vii)(viii) of the Planning and Development Act**

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<sup>1</sup> A copy of the Section, amendments made in 2015 and a list of Guidance notices and circulars issued by the Department of Housing, Planning, Community and Local Government regarding the operation of Part V can be viewed at [wicklow.ie](http://wicklow.ie) .

- (1) **the transfer of land/ units in the development-** In this instance a map indicating what land/units are to be transferred to the Housing Authority to be submitted and agreed with the Housing Authority. Where land is proposed it must be capable of delivering the appropriate percentage of housing (i.e. 10%)
- (2) **Delivery of units off site will only considered**
  - (a) where proposals involve bringing new housing supply into the market The Housing Authority will consider proposals which bring uninhabitable units back into use, within the same population centre, where agreed in writing in advance of any planning application.
  - (b) where the units proposed are unsuitable or do not represent value for money to Wicklow County Council
  - (c) where the Housing Authority needs specific unit types to respond to a specific situation - a list of the units and types of housing to be provided elsewhere and an indicative map to be submitted and agreed with the Housing Authority in advance of any planning application.

While the act also allows for the option of leasing units in the development or the leasing of new units in another development in the area or a combination of these options section 96(3) paragraph (a) (b)(iva)(vii)(viii) of the Planning and Development Act, in accordance with Circular Housing 33 of 2015, leasing is only considered where capital funding is not available<sup>2</sup>.

**Pre lodgement of Planning Application:** The Housing Authority encourages any potential developers to engage with them prior to lodging an application to ensure that proposals are in tune with housing needs and requirements<sup>3</sup>. Please contact [PartV@wicklowcoco.ie](mailto:PartV@wicklowcoco.ie) to arrange such a meeting.

Indicative calculations regarding construction, development and land costs need to be submitted in advance of a planning application, following identification of lands/units with the Housing Authority. Where units are being transferred the number of and unit type need to be identified in advance of the application. A full list of documentation required by the Housing section is attached in Appendix 1 (a) at pre planning stage and (b) prior to lodgement of commencement notice.

Article 22 (2)(e) of the Planning and Development Regulations has been amended<sup>4</sup> and now imposes specific requirements in relation to the details which need to be submitted as part of the planning application as to how the applicant proposes to comply with a Part V condition.

Where an applicant fails to submit the required minimum details for a part V proposal, failure to submit proposals in full may result in the planning authority invalidate an application on the grounds of non-compliance with article 22(2)(e). Regardless of any agreement with the housing section, your planning application must also include

1. How you propose to discharge his/her Part V obligation as regards a section of a preferred option from the options available under the legislation.
2. Details in relation to the units or land to be provided and
3. Financial aspects

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<sup>2</sup> Where leasing is proposed, the estimated market rent, the discount proposed to reflect the responsibilities take on by the planning authority under the lease and the Part V discount must be set out. The value of this discount must not be less than the existing use value of the land on that date.

<sup>3</sup> Appendix 3 is a flow chart illustrating the Part V process

<sup>4</sup> as substituted by Article 3 of the Planning and Development (Amendment)(No.3) Regulations 2015

Where housing is being delivered on another site, in lieu of Part V, this cannot be at a cost to the housing authority greater than provision on the site of the proposed development. Any off site proposals should be within the same population centre to ensure that local needs are provided. Such proposals should be to generate new housing supply such as converting derelict units or where the Housing Authority has a need for a specific unit type to respond to a particular homeless situation. While all Part V negotiations will be with Wicklow County Council, developers may deliver these houses through an Approved Housing Body should they chose to do so.

**Design issues:** The Housing Department requires units delivered through Part V of the Planning and Development Act to be robust, low maintenance housing units which best meet the current housing demand in the County. As a matter of policy, any agreements regarding Part V houses should be on the basis of units being dispersed throughout the proposed development, in accordance with best practice in Social Housing Policy. Where developments are built in phases by the developer proposals should be submitted to provide social housing on a pro rata basis at each stage of the development, unless this is not feasible where units are too large or inappropriate for use by the housing authority.

The Housing authority may give consideration to groupings of up to four houses together, only in circumstances where this is appropriate, given the layout of the scheme. Overall areas of units should not exceed the guidelines set out in "Quality Housing for Sustainable Communities"<sup>5</sup>

- The external facades of any such units should blend with private housing in the proposed development.
- Currently a provision ratio of 1: 2: 2 (3 bed: 2 bed: 1 Bed) best matches the current housing list demand. However, when a developer is making a submission on Part V, the housing authority is happy to assist with figures indicating local demand levels for any area by bedroom type so that proposals can best meet demand.
- When developing our own units the preference of the Housing Authority is for 2 storey terraced or semi detached houses with pitched roofs, integrated into the development. Wicklow County Council also has a particular need for bungalows and accessible units at ground floor level.
- Internal fit out should be to a basic low maintenance finish which complies with all relevant standards.
- Funding is not available for en suite bathrooms and these should be omitted from Part V units acquired by the housing authority.

Where developments proposed include any of the above elements or are for apartments, without own door access, communal stairs or communal halls, shared access passages under or behind units and communal bin storage, large areas of external paving and timber decking, dormer windows, valleys or parapets, timber cladding, wooden windows and doors, flat roofs and small sections of flat roofs over doors or windows or balconies, social leasing to Approved Housing Bodies may be more appropriate to fulfil Part V requirements. Developers should notify the housing authority where they are engaging with an approved housing body, in this regard. It is noted that this document represents the current position at September 2016. Any amendments or up to date guidelines made by the executive will be published on [wicklowcoco.ie](http://wicklowcoco.ie)

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<sup>5</sup> "Quality Housing for Sustainable Communities" (Dept. of Heritage and Local Government) see appendix 3 attached.

**FAQ** **When should a Part V agreement be finalised?** The agreement should be finalised within 8 weeks of the grant of planning permission.

**What if I am unable to reach agreement with the Housing Authority?** If agreement cannot be reached within 8 weeks of the grant of permission, the dispute may be referred to An Bord Pleanála or land valuation is in dispute, falling within Section 96(7), matters should be referred to the Property Arbitrator

**Can I start my development without signing a Part V agreement?** No. Costs which have been estimated prior to the grant of permission, including construction costs, development costs, profits on costs, land costs and VAT must be agreed and finalised prior to submission of the commencement notice.

**What documents do the Housing Authority need to determine my Part V submission?** Appendix 2 lists what documents are required to be submitted to the Housing section (a) at pre planning stage and (b) prior to lodgement of commencement notice

**What happens if I want to transfer land instead of units?** Where land is being transferred, developers must provide an estimated overall cost to the planning authority including the estimated existing use value and the percentage of the site that it is proposed to transfer. It is noted that the value for the site should permission be granted cannot be finally determined until the date that the permission is granted.

**What if the developer is not the same person who applied for planning permission**

Where the developer who commences the development is different to who was granted permission, the identified units/land must still be provided, in accordance with the permission. However, the Part V agreements must be signed by the directors of company who lodge the commencement notice.

**Can I provide Part V units through an Approved Housing Body?**

The Housing Authority is happy to facilitate these proposals. You should decide which Approved Housing Body you wish to work with and notify us. They can seek funding through the Department of Housing, Planning, Community and Local Development to fund these units through Wicklow Council. However, the negotiations regarding the Part V agreement will be conducted through the Housing Authority.

**What is the existing use value?**

This is defined in Section 96(6) – it is the value of the land calculated by reference to its existing use on the date on which permission was granted i.e. where only exempted development is permitted.

**What are construction costs?**

Section 96(3)(d) (ii) defines this as *“costs, including normal construction and development costs and profit on those costs, calculated at open market rates that would have been incurred by the planning authority had it retained an independent builder to undertake the works, including the appropriate share of any common development works, as agreed between the authority and the developer”.*

**What if permission was granted before the Urban Regeneration Act, 2015 and none of the units are suitable for the Housing Authority?**

While acquisition of units is the preferred option of the Housing Authority, where situations arise and the size is too big, the spec or land and development costs are too high or management fees are excessive, the local authority may consider the other options on a case by case basis e.g. the transfer

of land on the site or provision of new units elsewhere within the population centre. Please contact [PartV@wicklowcoco.ie](mailto:PartV@wicklowcoco.ie) should you require further assistance.

#### **How is the net monetary value calculated?**

Detailed working examples are included at Section 3.3 of *Guidelines issued by the Minister for Housing, Planning, Community and Local Government under Section 28 of the Planning and Development Act*. This document is available at [Wicklow.ie/Housing/PartV](http://Wicklow.ie/Housing/PartV)

### **Appendix 1**

#### **(A) Wicklow County Council require the following information at pre-planning stage**

##### Design Information

- Site location map / ordnance survey map to clearly identify the site
- Site plans clearly identifying the number and location of units and including a breakdown of the unit types, floor and plot areas. Plot areas will be factored into
- House plans, sections, elevations or the like for each house type, notably the house(s) being proposed for the Part V agreement.
- Additional information such as photographs or the like of similar houses, similar details, etc., notably if the above plans are not advanced

##### Indicative Construction Costs

- House construction budget
- Site development budget, including details of abnormal items such as abnormal site works, service connections, etc.

##### Attributable Developers Costs

- Budget for Professionals such as Design Team, Legal Team, etc.
- Budget for Financing

Purchase price of land – this will be relevant to the pre-planning land value

**(B) Wicklow County Council require the following information to finalize a Part V agreement – such agreement must be finalized prior to lodgment of a commencement notice and must be vouched before it can be considered by the Housing Authority**

##### Design Information

- Site location map / ordnance survey map to clearly identify the site
- Site plans including a breakdown of the unit types and floor areas of houses to be transferred in the Part V agreement, their location and the number of units
- Outline specification re size, building materials, finishes and fittings
- House plans, sections, elevations or the like for each house type, notably the house(s) being proposed for the Part V agreement.
- Car parking provision for part V units
- Timescale for the delivery of the Part V units
- Copy of land registry details indicating who is the owner of the relevant lands
- Design standards regarding layout, size and design (compliance with Social Housing Design Standards).

- details of management / maintenance agreements, infrastructural services/details of proposed service charges and parking provision for Part V units
- Financial compensation to be paid by local authority for units
- A schedule of plot areas per unit/house

Where land is being transferred details of legal basis for transfer to Wicklow County Council, any encumbrances (rights of way, easements etc), proposed boundary treatment, details of site investigations carried out, proposed open spaces and landscaping, financial compensation for land

### **Information required to determine Part V Calculation**

Total VAT inclusive compensation figure being requested by the developer from Wicklow County Council for the completed units (including a breakdown under the following headings)

#### Construction Costs

- House construction costs
- Site development costs, including details of abnormal items such as abnormal site works, costings for sub-structures, superstructures, external works, site development works, indirect project costs, service connections, etc.
- Builder's profit as a percentage

#### Attributable Developers Costs

- Professional costs such as Design Team, Legal Team, Homebond registration (or similar)
- Costs of Finance
- Development contributions levied
- Service Connections
- Site investigations
- Planning fees and charges
- Land costs

#### Legal Info

- Purchase price of land – relevant to the pre planning land value.
- Confirmation of title – copy folio showing proof of ownership
- CRO Print out indicating directors of the company who will be signing the Part V agreement

#### Land Costs

Basis on which land value and building and attributable development costs have been determined

You may also wish to submit a professional valuation of the market value of the property