

# **Part V of Planning and Development Act 2000**

*Donegal County Council*

*Guidelines for Developers*

*(May 2017)*

These guidelines do not purport to be a legal interpretation of the Planning & Development Act 2000 (as amended) and are merely guidance on how to proceed with any proposal to which Part V applies

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## Overview

Section 94 of Part V of the Planning & Development Act 2000 as amended (the Act) requires the inclusion in a development plan a housing strategy for the purposes of ensuring that the proper planning and sustainable development of the area of the development plan provides for the housing of the existing and future population of the area in the manner set out in the strategy.

The housing strategy must include an estimate of the amount of: -

- housing for the purposes of the provision of social housing support (social housing) and
- affordable housing

required in the area of the development plan during the period of the plan.

The strategy must also provide that a specified percentage, not being more than 10% of the land zoned for residential use, or for a mixture of residential and other uses in the development plan, shall be reserved for the provision of housing for the purposes of either or both of such social and affordable housing.

Section 95 of the Act requires that in conjunction with the inclusion of a housing strategy in a development plan, sufficient and suitable land is zoned for residential use, or for a mixture of residential and other uses to meet the requirements of the housing strategy.

There are specific provisions which apply both in relation to the making of a planning application<sup>1</sup> in respect of residential development on any lands which are zoned for residential use or a mixture of residential and other uses and conditions that may be imposed on any grant of planning permission which may be made on foot of any such application.

Section 96 of the Act requires that where permission is granted in respect of residential development on such zoned lands, a condition be imposed requiring the applicant, prior to the lodgement of a Commencement Notice, to enter into an agreement with the Council providing for the provision of land and/or houses for the purposes of the provision of social or affordable housing.

An applicant for permission for residential development on such zoned lands must, when making an application, specify the manner in which he or she would propose to comply with such a condition were the Council to attach one to any permission granted.

Section 97 of the Act enables a person, in specified circumstances, before applying for planning permission for a particular development to apply for a certificate stating that Part V shall not apply to a grant of permission for that development.

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<sup>1</sup> Applies to both applications for full and outline permission

## What are the relevant dates?

Significant amendments were made to Part V of the Planning & Development Act 2000 by the Urban Regeneration & Housing Act 2015.

These Guidelines are based on the amended Part V arrangements as provided for under the 2015 Act and apply to:-

- Any permission granted after the 1<sup>st</sup> of September 2015
- Any permission granted prior to the 1<sup>st</sup> of September 2015 where no agreement had been entered into on that date

In the case of any permission granted prior to the 1<sup>st</sup> of September 2015 where:-

- an agreement had been entered into prior to that date **but**
- **no** Commencement Notice has been lodged

The agreement **may** be renegotiated under the amended provisions with the agreement of both the developer and the Council.

In the case however of any permission granted prior to the 1<sup>st</sup> of September 2015 where:-

- an agreement had been entered into prior to that date **and**
- a Commencement Notice **has** been lodged

The agreement **cannot** be renegotiated under the amended provisions.

## Where does Part V apply?

Part V applies to lands zoned for residential use or for a mixture of residential and other uses. It also applies to lands where residential development may be permitted even where the term “residential” does not appear in the zoning title although the accompanying detail indicates that residential development is one of the potential uses. Examples are “mixed” or “opportunity” zonings.

Details of land zonings are available on the “Planning Services - Development Plans” section of the Council’s website [www.donegalcoco.ie](http://www.donegalcoco.ie)

## Are there any exemptions?

Section 96 of the Act provides that there are certain types of residential developments which are exempt from the requirement to comply with Part V: -

- Provision of houses by an Approved Housing Body for households qualified for social housing support. (This exemption only applies where the development is being carried out by an Approved Housing Body on lands that it has acquired.

Where however an Approved Housing Body is acquiring housing as part of a turnkey acquisition or lease proposal, the vendor/lessor must comply with Part V).

- Conversion of an existing building or the reconstruction of a building to create one or more dwellings provided that at least 50% of the external fabric is retained.
- Carrying out of works to an existing house or
- Development of houses under a Part V agreement

### **Are there any other exemptions?**

Section 97 of the Act provides that a person may, before applying for permission in respect of a development consisting of:-

- the provision of 9 or fewer houses or
- for housing on land of 0.1 hectares or less

apply to the Council for a certificate stating that section 96 of the Act shall not apply to a grant of permission in respect of the development i.e. that it is exempt from Part V.

The applicant must apply for and obtain such a certificate “of exemption” prior to submitting a planning application.

The application for a certificate (S. 97 Application for Certificate of Exemption available on the “Apply for Planning Permission” Section of the Council’s website [www.donegalcoco.ie](http://www.donegalcoco.ie)) must be accompanied by a statutory declaration made by the applicant containing all of the information specified in Section 97 of the Act and Article 49 of the Planning & Development Regulations 2001-2016<sup>2</sup>, such as:-

- the history of the ownership of the site in question in the preceding five years
- any interest the applicant has, or had at any time in the preceding five years, in any land in the vicinity of the site
- whether the applicant has carried out any development or has been granted permission to carry out development in the preceding five years, on the site or on land in the vicinity thereof
- whether the applicant has been granted a certificate “of exemption” in the preceding five years

Where the Council refuses to grant a certificate, an applicant may within three weeks from receiving notification of the refusal, appeal to the circuit court for an order directing the Council to grant one.

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<sup>2</sup> Regard to be had to any subsequent updated regulations that may be made

## **What percentage of zoned lands is to be reserved in Donegal?**

It is the policy of Donegal County Council as contained within the County Donegal Development Plan 2012-2018 (as varied) to reserve 10%<sup>3</sup> of land zoned for residential use or a mixture of residential and other uses for the provision of social and affordable housing<sup>4</sup>.

## **What type of a condition will be imposed on a grant of permission?**

The condition will require the applicant, prior to the lodgement of a Commencement Notice, to enter into an agreement with the Council providing for the provision of land and/or houses for the purposes of the provision of social or affordable<sup>4</sup> housing.

## **Are there different options for the type of agreement that can be entered into?**

There are six different options for the type of Part V agreement that may be entered into:-

1. Transfer to the ownership of the Council of a part or parts of the land subject to the planning application
2. Build and transfer to the ownership of the Council, or persons nominated by the Council, of a number of housing units on the site subject to the planning application.
3. Transfer to the ownership of the Council, or persons nominated by the Council, of housing units on any other land in the functional area of the Council.
4. Grant a lease of housing units to the Council, either on the site subject to the application or in any other area within the functional area of the Council.
5. A combination of option 1 and one or more of options 2 to 4 (transfer of land and one of more of the other options)
6. A combination of two or more of options 2 to 4 (a combination of options not involving a transfer of the ownership of land)

Options 2 to 5 inclusive are subject to the provision that the aggregate of the net monetary value of the property transferred, or the reduction in rent payable over the term of a lease (excluding any reduction for maintenance, management and void periods specified in such lease) must be equivalent to the net monetary value of the land that the Council would receive if the agreement solely provided for a transfer of land under option 1.

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<sup>3</sup> Reduced from 15% in accordance with the Urban Regeneration & Housing Act 2015

<sup>4</sup> As all previous affordable housing schemes have been stood down since 2011, the focus will be on the provision of social housing in the form of the direct transfer of completed social housing units.

## What is the preferred option?

Where a developer wishes to fulfil the Part V obligation by way of option 1 (the transfer to the ownership of the Council of a part or parts of the land subject to the planning application), this in most cases will be accepted by the Council where deemed suitable.

Where however, a developer does not wish to exercise the option of transferring land, the preferred option is numbers 2, 3, 1 and 4 in that order. The same preferences will also apply to any combination of options. In the case of options 2 and 3, the transfer to the ownership of the Council will rank higher than the transfer to persons nominated. Moving to a lower ranked option will only be permitted where:-

- it is not feasible to proceed with the preceding higher ranked option(s) or
- it is more appropriate with regard being had to the level of demand for social housing in the area of the development

## What is the net monetary value?

The “net monetary value” is the market value less the existing use value.

Existing use value is the value of the land calculated by reference to its existing use **on the date on which the permission was granted for the development** on the basis that on that date it would have been, and would thereafter have continued to be, unlawful to carry out any development in relation to that land other than exempted development. This in essence means agricultural value and the Council have set a generic existing use value of €10,000/€24710 per acre/hectare.

The market value is the price which the unencumbered fee simple of the land would fetch if sold on the open market and is also calculated by reference to the date on which planning permission was granted. The Council have, based on an analysis of published data, also established generic market values<sup>5</sup> of sites (where it is proposed to build and transfer houses) and these are set out in the following table.

House Type	Market Value
Detached	€20,000.00
Semi-detached	€16,500.00
Terraced, end of terrace	€16,500.00
Terraced, mid terrace	€14,500.00
Duplex, house element	€14,500.00
Duplex, apartment element	€9,000.00
Non - duplex, apartment	€11,000.00

Whichever option is pursued:-

- the net monetary value of the property transferred, or

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<sup>5</sup> Market values will be reviewed annually

- the reduction in the rent payable to the Council over the term of a lease (excluding any reduction for maintenance, management and void periods specified in such lease)

must be equivalent to the “net monetary value” of the land that the Council would receive if the Part V agreement had provided for a transfer of land only.

Accordingly the “net monetary value” which the Council must achieve, in any Part V agreement other than an agreement for the transfer of land, is 10% of the difference between the existing use value of the overall site and its market value, calculated on the date that planning permission was granted for the development.

For instance where the existing use value of the site on the date of the grant of planning permission is €10,000 (one acre) and the market value of the site on that date is €200,000 (permission for 10 detached houses), the net monetary value to be achieved by the Council, in any agreement other than acquiring 10% of the land, is €19,000 (10% of the difference).

### **How much will the Council pay for land to be transferred?**

The Council will pay existing use value for up to 10% of the land with market value being paid for any additional land.

The 10% is determined by reference to the number of housing units permitted on the overall development. For instance, if there are ten dwellings permitted on a development, 10% of the land will be determined to equate to one site.

### **How is the number of housing units to be transferred determined?**

The number of housing units is also determined by reference to the number of units permitted on the overall development. For instance, if there are ten housing units permitted on a development, a minimum of one unit (10%) must be transferred. Where 10% of the overall number of units is an uneven number e.g. 2.9 (the development comprises twenty nine units) two units is the minimum which must be transferred.

### **Can more than the specified percentage of the land or houses be transferred to the Council?**

Yes, 10% is the minimum that must be transferred.



## **How much will the Council pay for a house to be transferred?**

### ***Build and transfer***

Where it is proposed to build the house, the price to be paid will be calculated by reference to:-

- the existing use value of the site and
- the cost, including normal construction and development costs and profit on those costs, calculated at open market rates that would have been incurred by the Council had it retained an independent builder to undertake the works, including the appropriate share of any common development works, as agreed between the Council and the developer.

Where 10% of the overall number of houses is an uneven number and the developer has proposed the minimum number (e.g. two houses on a development comprising twenty nine houses), there will be a shortfall in the net monetary value being attained by the Council, and this will be deducted from the price to be paid for the house(s) as calculated above.

Where however it was the case that three houses or more were proposed, as this exceeds the 10%, there would be a net monetary value gain to the Council and to compensate for this, the site cost will be “adjusted” based on market value for any number of units or percentage thereof in excess of the 10%.

### ***Existing house***

Where it is proposed to transfer an existing house, the price to be paid will be:-

- the market value less
- the net monetary value of the land that the Council would receive if the Part V agreement had provided for a transfer of land only

For instance where the existing use value of a site the subject of the development on the date of the grant of planning permission is €10,000 (one acre) and its market value on that date is €200,000 (permission for 10 detached houses), €19,000 (10% of the difference) would be deducted from the market value of the house to be transferred.

## **What profit on costs is permitted?**

In the case of the build and transfer option, builders profit is permitted and this should be a reasonable profit, determined by reference to prices for work pertaining to competitive tenders for similar work current in the locality.

As a guide, a maximum of 7.5% of construction costs would be considered reasonable.

## **What rent will the Council pay for a house to be leased?**

The rent to be paid will be:-

- market rent in the area reduced by:-
  - discount in respect of maintenance, management and voids periods specified in the lease and
  - the net monetary value of the land that the Council would receive if the Part V agreement had provided for a transfer of land only

Taking the example of a development where €19,000 is the net monetary value of the land that the Council would receive if the Part V agreement had provided for a transfer of land only, €158.33 (€19,000 divided by 120 months over a ten year lease) would be deducted from the monthly rent (as already discounted in respect of the maintenance, management and voids periods specified in the lease).

## **When must the agreement be entered into?**

The agreement must be entered into prior to the lodgement of a Commencement Notice.

## **What happens when the parties cannot reach agreement?**

In cases where agreement is not reached within eight weeks from the date of the grant of planning permission because of a dispute, the matter may, depending on the matter in dispute, be referred to either the Property Arbitrator or An Bord Pleanála.

Matters in dispute that are to be referred to:-

- The Property Arbitrator
  - The number and price of houses to be transferred under any of the options.
  - The number of houses and the rent payable under option 4 (lease).
  - The compensation to be paid by the Council for land to be transferred.
  - The payment of an amount of money to the Council under options 5 or 6 (where the proposal does not meet the full Part V obligation).
- An Bord Pleanála
  - Any matter the subject of the agreement other than those that are to be referred to the property arbitrator.

If it is the case that there is no engagement within the eight week period from the date of the grant of planning permission, the option of referral is not available as in such circumstances, the reason for not reaching agreement was not because of a dispute.

In this case, where agreement cannot be reached, the transfer of the land becomes the default position and this becomes the agreement by default.

### **What if I start the development without entering into an agreement?**

The condition of the planning permission requires the applicant to enter into an agreement prior to the lodgement of a Commencement Notice. If the development is commenced and a commencement notice is lodged without firstly having entered into the agreement, it becomes an unauthorised development.

In such circumstances it will not be possible to issue the normal certificate of compliance with the condition regardless of whether or not an agreement is subsequently entered into (as the agreement was not entered into prior to the lodgement of the commencement notice).

### **Who should I talk to before applying for planning permission?**

Initially contact should be made with the local area Housing Manager in your local Public Service Centre with a view to reaching agreement in principle as to how the Part V requirement will be complied with. To initiate this process you will be required to provide **two** copies of the following:-

- Site location map (including details of existing social housing in the immediate area)
- Indicative site layout plan(s) at scale 1:500 showing both the general and services arrangement
- Indicative house plan(s) showing type, layout, room sizes, elevations and cross sections
- Indicative house specifications
- Topographical survey map
- Indicative cost plan
- Details of proposed Assigned Certifier in accordance with the Building Control Regulations
- Anticipated start and completion date of scheme

Upon receipt of these details, the local area Housing Manager will arrange to meet or discuss the matter as necessary.

This interaction would deal with the matter of the number, location and type of houses to be provided and an estimate of the price to be paid. This will facilitate the completion of a cost plan for submission with the actual planning application itself and the signing of an “agreement in principle”. This in turn will facilitate the developer in setting out how he / she would propose to comply with a Part V condition, thereby enabling the planning application to be validated.

Having reached agreement in principle, depending on the scale of the development, applicants are advised to then engage in pre planning consultations with the Planning Office to discuss the wider planning issues associated with the development prior to the actual lodgement of the planning application itself<sup>6</sup>. (any documents submitted to the Housing Office together with the outcome of any discussions / meetings held as part of the process referred to in this section of the guidelines will form part of the formal pre planning consultation and will therefore be available for public inspection in conjunction with the actual planning application itself when it is lodged.)

Any enquires in relation to pre planning consultations with the Planning office including whether or not Part V applies or general planning criteria should be made to the relevant Area Planning Officer at County House.

### **Is there a cost plan template?**

Yes, the Council have developed a cost plan template which assists in the calculation of the net monetary value and the price to be paid for houses being built (“Build & Transfer” sheets). This can also be used for the lease of houses or the transfer of existing houses (“Acquisition-Lease” sheet).

A copy of the [template](#) is contained at the back of this guide and an electronic version is available on the “Apply for Planning Permission” section of the Council’s website [www.donegalcoco.ie](http://www.donegalcoco.ie)

### **What is an “agreement in principle”?**

This is a form which is signed by the applicant and the Council confirming what type of agreement it is proposed to enter into should permission be granted. An [agreement in principle](#) template is provided at the end of this guide.

### **What principles should be applied when preparing a pre planning submission?**

Any proposal to be submitted should have regard to the Councils preferred option and the technical guidelines for social housing as set out in this guide.

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<sup>6</sup> While applications for permission for strategic housing developments (comprising of 100 or more houses) are made to An Bord Pleanála and not to the Council, prior to the making of such an application, applicants are required to have engaged with the Council in the pre planning consultations, including Part V.

## **What are the technical guidelines for social housing?**

### ***Housing mix***

Social housing units should be interspersed throughout the development. Generally three bedroom two storey semi detached/ terraced dwellings will be required. However, depending on the need pattern of the area, the Council may require a different type of accommodation i.e. four bedroom, two bedroom or special needs dwellings.

### ***General design approach***

Developers commissioning projects should have regard to the information and recommendations contained in the following publications in providing instructions to the designers of their houses / buildings:-

1. Current County Donegal Development Plan
2. Various Building Regulations Technical Guidance Documents
3. Quality Housing for Sustainable Communities Design Guidelines (2007)<sup>7</sup>
4. Recommendations for Site Development Works for Housing Areas (1998)<sup>7</sup>

Own door access is preferred for all units. The design, layout, materials and finishes should, as far as possible, be selected to minimize maintenance costs, taking due account of the need for economy in design and specifications. Stoves should be multi fuel, for room heating only and not back boiler stoves. The developers shall be responsible for ensuring that construction works and installations comply with current Building Regulations.

A well-designed social housing unit should provide for:-

- An adequate level of amenities, such as Living room, combined Kitchen and Dining, Toilet at the entry level, Bedrooms with wardrobe spaces, bath room at bedroom storey level, suitable storage space and hot-press
- Diverse activities likely to be met in normal day-to-day living
- Ease of access to, circulation within and use of the dwelling itself
- Tenant safety and security
- Space and water heating, electrical and other services
- Economic, social and environmental sustainability, taking account of Tenant means
- The requirements of the current Building Regulations and Building Control Act Regulations (available on the Building Standards section of the Department of Housing, Planning, Community and Local Government's web site <http://www.housing.gov.ie>)

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<sup>7</sup> Published by the Department of Housing, Planning, Community and Local Government - Regard to be had to any subsequent updated guidelines / recommendations that may be published

### **Space standards**

Space requirements and room widths for particular categories of accommodation are set out in the Department of Housing, Planning, Community and Local Government publication:- Quality Housing for Sustainable Communities Design Guidelines (2007)<sup>8</sup>, available on the Publications section of the Department's web site <http://www.housing.gov.ie/publications>

Standards for any new apartment developments are contained in a separate Department publication:- Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2015)<sup>8</sup>, also available on the Publications section of the Department's website <http://www.housing.gov.ie/publications>

<b>Extract from Guidelines</b>	
<b>Dwelling type</b>	<b>Target gross floor area (m<sup>2</sup>)</b>
4 bed / 7 person house (2 storey)	110
3 bed / 5 person house (2 storey)	92
2 bed / 3 person house (2 storey)	70
2 bed / 3 person apartment	63
1 bed / 2 person apartment	45

### **Finishes**

Both the external and internal finishes together with the boundary treatment should be similar to the private houses in the scheme. Notwithstanding this, as a minimum, the following is expected:-

- Installation of kitchen and utility room units
- Installation of sanitary ware [toilets, wash hand basins, shower, bath]
- Painting
  - Internal - one coat primer / sealer; two coats vinyl silk emulsion paint
  - External - one coat primer / sealer; two coats vinyl silicone resin based paint
  - Wood - one coat primer undercoat; one undercoat & one coat high gloss finish (two coats clear varnish to hardwood)
- Boundary treatment to rear gardens should be of good quality and 1.8m to 2.0m high. Side gates are required to ensure rear gardens are secure.
- No white goods or floor coverings are required except for non-slip tiling in bathrooms.
- Baths are not required for 1 bedroom units with showers (level access where feasible) the preferred alternative.

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<sup>8</sup> Regard to be had to any subsequent updated standards that may be published

## What type of information must be submitted with the Planning application?

In addition to the normal documentation that must accompany any planning application, there are specific requirements that need to be included with an application to which Part V applies. These are contained in Article 22(2)(e) of the Planning & Development Regulations 2001, as amended and require applicants to submit details as to the manner in which he or she proposes to comply with a Part V condition if planning permission is granted. Where these details are not supplied, the planning application cannot be validated.

In broad terms, such details must include:-

- How the applicant intends to discharge his/her Part V obligation as regards a selection of a preferred option from the options available under legislation;
- Details in relation to the units or land to be provided; and
- Financial aspects including details of the calculations and methodology for calculating values of land, site costs, normal construction and development costs and profit on those 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.

### *The details*

The indicative information required for the option selected is set out in the table below

Option	Minimum Information Required
Transfer of land	A map, to the same scale as the site location map, indicating the part or parts of the site proposed for transfer to the planning authority.
Transfer of Housing on the application site	A list of the units and types of housing within the proposed development that are proposed to be transferred to the planning authority.
Transfer of Housing off-Site	A list of the units and types of housing elsewhere in the functional area of the planning authority that are proposed to be transferred, and the indicative location of such units.
Lease of Housing (on or off-site)	A list of the units and types of housing within the proposed development or elsewhere in the functional area of the planning authority that it is proposed to lease, and, in the case of proposed units outside the application site, the indicative location of such units.
Combination of Option 1 and any other option or options	Appropriate combination of the minimum information requirements above.
Combination of any of Options 2 - 4	Appropriate combination of the minimum information requirements above.

## ***The financial aspects***

### ***Estimated Costs, Calculations and Methodology***

This requires the applicant to provide the **estimated** overall cost, to the planning authority, of the option(s) selected, and methodology used in arriving at such costs.

The minimum information expected for each of the options is set out below.

#### ***Option 1 – Land:***

**Estimated cost:** A statement of the estimated existing use value of the land proposed for transfer.

**Calculations:** This will be the existing use value of the entire site and the percentage of that value which is the percentage of the site proposed that is proposed to be transferred. (The value of the site for the purpose of the Part V agreement will be determined at the date of grant of the relevant planning permission). Note: Land proposed should be capable of delivering the appropriate percentage of housing, i.e. up to 10% as is specified in the housing strategy.

**Methodology:** As stated above, existing use value.

#### ***Option 2 – Housing on application site:***

**Estimated cost:** A single figure for the estimated total cost to the planning authority.

**Calculations:** The number of units and the cost per unit. Where multiple unit types are proposed,–

- (i) the cost per unit type proposed; and
- (ii) the number of each type of unit proposed.

**Methodology:** This will be informed by input costs including site costs, construction, relevant development costs, builder's profit, fees and associated costs.

It will not be necessary for the applicant **at initial application stage** to provide a detailed break-down of the costs for each of the various construction cost components, although applicants may of course do so.

In relation to methodology, applicants may indicate use of the methodology set out in the following table. This provides an indicative checklist of the items to inform the determination of the ultimate calculations which will have to be agreed with the planning authority in the context of the Part V agreement prior to the lodgement of the Commencement Notice. Where the applicant has used a different methodology, details of the different methodology should be set out.



## ***Methodology***

<b>Cost Component</b>	<b>Methodology</b>
Construction costs	Estimated by reference to the expected costs of the quantities and materials for the development, excluding VAT and builder's profit.
Development costs	Includes component costs of the development, including design fees, service connections, development contributions, site investigation, financing charges, legal expenses, structural guarantee, planning fees certification of compliance and supporting open space and infrastructure costs as apportioned to the units.
Profit on Costs	Appropriate percentage to be agreed with the planning authority by reference to the likely cost that would be incurred by the authority, had it engaged a builder directly to construct the units.
Land costs	Determined by estimated valuation of the existing use value on the date the planning permission is expected to be granted.
VAT	Determined by reference to the prevailing VAT rate at the time an agreement is signed.
<b>Total Estimated Cost</b>	<b>Sum of all items</b>

### ***Option 3 – Housing off application site:***

Estimated cost: A statement of the estimated cost to the planning authority of the proposal.

Calculations: As under Option 2 above, i.e. the number of each type of unit proposed to be transferred and the cost of each type of unit.

Methodology: Where it is proposed to build the units, as under Option 2 above. Where it is proposed that houses will be purchased rather than constructed, the methodology may simply be the estimated cost of acquiring suitable housing. However, it should be noted that the price to be paid should not be more than what it would have cost the planning authority to purchase equivalent housing on-site. In this case, the net monetary value will be deducted from the market value.

***Option 4 – Lease:***

Estimated cost: The estimated total amount to be discounted from the combined monthly lease rent for the unit(s) proposed.

Calculations/

Methodology: The estimated market rent, the discount proposed to reflect the responsibilities taken on by the planning authority under the lease and the Part V discount proposed should be set out. The Part V discount proposed should be such that the arrangement is no less beneficial to the planning authority than if the Part V requirement were fulfilled by means of the transfer of land under paragraph 3(a) of section 96 of the Act. This means that the value of the discount to the planning authority must be no less than the “net monetary value” of the land in question, that is, the market value of the land to be transferred on the day that planning permission is granted, less the existing use value of the land on that date.

***Option 5 and Option 6 – Combinations of Options 1 to 4:***

Estimated cost: The cost for each of the options being selected should be listed.

Calculations: As under the relevant option above.

Methodology: As under the relevant options above.

***Summary***

The cost plan template that has been developed by the Council will provide a basis for the provision of the above “financial aspects” and such a completed cost plan accompanied by “the details” together with an “agreement in principle” will comply with the requirements of the information that must be included with the planning application.

**Who should I contact after planning permission is granted to finalise the agreement?**

Contact should be made with the local Area Housing Manager with a view to finalising the agreement. As agreement in principle will already have been reached, finalising it should be a relatively straight forward matter. The specifics of the land/units will be agreed at this meeting together with the price to be paid.

**What information is required to finalise the agreement?**

While indicative drawings / documents containing some of the information required will already have been provided at the pre planning stage, updated “final” versions, taking account of the planning permission granted, must now be submitted in order to finalise the agreement:-

### ***Agreement to build and transfer***

- Site location map (including details of land area, type of existing and proposed development in and around the site together with existing social housing in the immediate area)
- Topographical survey / site contour plan showing existing site levels, natural landscape elements and location of existing services.
- Layout plan at scale 1:500 showing:-
  - Location of Part V units
  - Provision of car parking spaces for Part V units
  - Existing and / or extent of proposed services for the site
  - General and services arrangement
  - All proposed and existing buildings, the location, specification and dimensions of all proposed public and private roads, footpaths, steps, ramps, driveways, walls, fences, garden dividers, gates, fuel sheds, oil tanks, mini-pillars, etc.
  - Existing and proposed site levels of roads, footpaths, driveways, front and back gardens (cross sections to be provided)
  - Details of boundary treatments
  - Floor levels
- Site sections showing roads, footpaths, driveways, gardens and buildings.
- House plan(s) showing type, layout, room sizes, elevations and cross sections of house types proposed.
- House(s) specifications
- Estate agent brochure or similar
- Copy of planning permission
- Details of project team, including Architect, Engineer, Assigned Certifier, Design Certifier, Ancillary Certifiers, builders & subcontractors etc.
- Project Supervisor Design Process (PSDP) and Project Supervisor Construction Stage (PSCS)
- Copy of professional indemnity insurance for Architect, Engineer, Assigned Certifier, Design Certifier and Ancillary Certifiers (at a level appropriate to the scale of the overall development)
- Proposed start & completion date
- “Build & Transfer” Cost Plan
- Developers PPS / tax reference & tax clearance access numbers (The provision of these numbers enables the Council to verify in real time, using the online verification facility on the Revenue Commissioners Website, that a tax clearance certificate has been issued)
- Details of management / maintenance agreement
- Details of the proposed or indicative Service Charges in multi-unit developments

## ***Agreement to transfer house(s) already built***

### ***New and unoccupied house(s)***

- Same information as is required for the agreement to build and transfer option other than the “Acquisition-Lease” Cost Plan should be used (as price to be paid will be based on market value). (As the house(s) are already built, the “proposed” start and completion date is not relevant)

### ***Second hand house(s)***

- “Acquisition-Lease” Cost Plan
- Copy of planning permission (for development site)
- Estate agent brochure or similar

## ***Agreement to transfer land***

- Site location map of overall site with area proposed to transfer identified.
- Topographical survey / site contour plan showing existing site levels, natural landscape elements and location of existing services.
- Details of any other site investigation undertaken and / or any other relevant information in relation to the land.
- Layout plan at scale 1:500 showing:-
  - Land to be transferred
  - Existing and / or extent of proposed services for the site
  - General and services arrangement
  - All proposed and existing buildings, the location, specification and dimensions of all proposed public and private roads, footpaths, steps, ramps, driveways, walls, fences, garden dividers, gates, fuel sheds, oil tanks, mini-pillars, etc.
  - Existing and proposed site levels of roads, footpaths, driveways, front and back gardens (cross sections to be provided)
  - Details of boundary treatments
  - Open space and landscaping proposed for overall site
  - Floor levels
- Site sections showing roads, footpaths, driveways, gardens and buildings.
- Copy of planning permission
- Proposed start & completion date for overall scheme
- Developers PPS / tax reference & tax clearance access numbers (The provision of these numbers enables the Council to verify in real time, using the online verification facility on the Revenue Commissioners Website, that a tax clearance certificate has been issued)
- Details of any encumbrances such as rights of way etc.

### ***Agreement to lease***

- Completed application form for long term leasing submission (available on the “Housing Services Long Term Leasing” Section of the Council’s website [www.donegalcoco.ie](http://www.donegalcoco.ie))
- Site location map (including details of land area, type of existing and proposed development in and around the site together with existing social housing in the immediate area)
- Layout plan at scale 1:500 showing:-
  - Location of Part V units
  - General and services arrangement
  - Details of boundary treatments
- House plan(s) showing type, layout, room sizes, elevations and cross sections of house types proposed.
- House(s) specifications
- “Acquisition-Lease” Cost Plan
- Copy of planning permission
- Copy of professional indemnity insurance for Assigned Certifier (at a level appropriate to the scale of the overall development)

### **Is there an agreement template?**

Yes, an [agreement template](#) is contained at the back of this guide.

### **What happens after agreement is reached?**

On successful completion of negotiations, the Council will issue the agreement for signing by the Developer. Following receipt of the signed agreement, the Council will then invite the Developer to have draft contracts issued to it’s, the Councils, legal representatives.

### **What about the contract for conveyance?**

A turnkey acquisition contract will be entered into for the supply of the unit(s) complete in all respects and fit for purpose with water, sewage, and electrical services. The unit(s) is to be constructed in accordance with the plans, good building practice, planning permission and current Building Regulations. No variation in the agreed contract price shall be admissible, unless specific written instructions are given at later stage by an authorized Engineer of the Council. Any essential extra work required to complete the unit so that it is fit for purpose, shall deem to be included in the contract price (including the works required due to omission / errors in design or drawings).

The following special conditions of contract will apply in the case of new units:-

- 5% of the agreed price (the retention monies) to be retained for a Defects Liability Period. The Defects Liability Period shall be twelve months from the date of completion of the sale of the agreed unit(s). If during the Defects Liability Period, any defect is found, the Developer must, promptly and at his/her own cost repair, replace or otherwise make good (in consultation with the Council) the defect as well as any damage to the property caused by the defect. The Developer will bear all incidental costs, including any costs of removal associated with the repair, replacement or making good of the defect or damage. Subject to no defects being found during the Defects Liability Period or any defects that have been found having been remedied, the retention monies will be released at the expiry of the Defects Liability Period.
- The agreed unit(s) must be covered by Homebond or agreed alternative such as structural defects indemnity.
- The Council will have inspection rights throughout the construction phase together with the right to raise any issues it sees fit with the Assigned Certifier who will retain the overall responsibility for certification of the works.

### **What about the construction stage?**

Throughout the construction phase, the Council will have the right to monitor and spot check the construction works on site in the interests of highlighting any potential issues at an early stage thereby avoiding disputes at snagging stage and ensuring that the handover process is completed as quickly as possible. Any such potential issues identified will be raised with the Assigned Certifier who will retain the overall responsibility for certification of the works.

### **What about closing the sale?**

The normal conveyance closing documentation requirements will apply such as the book of title, safety file, BER & BCAR certificates etc.

### **What about the lease?**

Upon completion of the house(s) to the satisfaction of the Council and where sufficient works have been completed to the overall development which would render it reasonable for a prospective tenant to take up occupation of the house(s), a Letter of Intent will be issued by the Council setting out the “closing” documentation required (compliance certificates, evidence of title / relevant charges having been paid, lenders consent etc.).

Upon receipt of this documentation, the lease will then be issued for signing. Any lease entered into will be for a minimum of ten years.

## **What are the tax requirements?**

The Developer must hold a current eTax Clearance certificate issued by the Revenue Commissioners. The certificate must be current on the date of the making / signing of the agreement **and** on the date of payment of the agreed price / retention monies / lease rental.

## **Who can issue a certificate of compliance with a Part V condition?**

A certificate of compliance in respect of a Part V condition can only be issued by the Council and not by your architect or agent.

## **When will the certificate of compliance be issued?**

Certificates will be issued in respect of individual dwellings on a pro-rata basis in conjunction with the implementation of the agreement. For instance, where the agreement provides for the building and transfer of four number dwellings to the Council, a certificate of compliance in respect of 25% of the overall number of dwellings in the development will be issued upon the transfer of one dwelling and so on until the final dwelling is transferred.

Certificates of compliance with financial conditions will also be issued on a similar pro-rata basis.

## **What are the contact details for the local Public Information Service Centres?**

Glenties Municipal District, Gweedore Road, Dungloe  
Inishowen Municipal District, Malin Road, Carndonagh  
Letterkenny Municipal District, Neil T Blaney Road, Letterkenny  
Donegal Municipal District, Drumlonagher, Donegal Town  
Stranorlar Municipal District, County House, Lifford

Telephone Number for all offices: 074 91 53900

Email: [info@donegalcoco.ie](mailto:info@donegalcoco.ie)

**Agreement in Principle**

**Donegal County Council**

**Planning & Development Act 2000 (as amended)**

**Section 96 (2) & (4)**

**Development Location** : \_\_\_\_\_

**Development Description** : \_\_\_\_\_

This is to certify that agreement in principle has been reached in relation to the above development as to how a condition imposed under Section 96(2) of the Planning & Development Act 2000 might be complied with. The preferred option is as follows-

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed:                      \_\_\_\_\_                      \_\_\_\_\_  
   Developer    Area Manager

Date:                      \_\_\_\_\_                      \_\_\_\_\_

Note: It is accepted by both parties that this certification is not a certificate of compliance with any condition that might be imposed on any grant of planning permission that may be granted but rather a certificate to enable the lodgement of a valid application for planning permission in accordance with the requirements of Section 96(4) of the Planning & Development Act 2000 as amended & Article 22(2) (e) of the Planning & Development Regulations 2001, as amended.

Any application to which Part V of the Planning and Development Act 2000 applies will be deemed to be invalid in the absence of this certificate.



## Form of Agreement

### Planning and Development Act, 2000 (as amended)

**Name of Developer:** \_\_\_\_\_  
**Name of Local Authority:** Donegal County Council  
**Planning Reference Number** \_\_\_\_\_

This Agreement made the \_\_\_\_ day of \_\_\_\_\_ 201\_ between \_\_\_\_\_ (hereinafter called the Developer) and Donegal County Council (hereinafter called the Council) in compliance with condition no \_\_\_\_\_ of Planning Permission Number \_\_\_\_\_

It is hereby agreed between the parties as follows: -

The Developer shall:

- a) transfer \_\_\_ no. completed units to Donegal County Council for an agreed all in price of \_\_\_\_\_ per unit (the agreed price).
- b) transfer house/apartment numbers \_\_\_\_\_ (the agreed units) as set out on Drawing no. \_\_\_\_\_ (attached).
- c) construct the agreed units in accordance with the plans and specifications set out in drawing no. \_\_\_\_\_ and specification marked \_\_\_\_\_ and to a similar specification and finish as other units in the same phase being sold on the private market.
- d) pay development levies and charges in respect of the agreed units to be transferred as set out in conditions attached to relevant planning permission(s) granted.
- e) ensure adequate supervision by a suitably qualified Architect/Engineer with professional indemnity insurance during the course of construction to ensure compliance with planning conditions and the building regulations.
- a) ensure the agreed unit(s) will be covered by Homebond or agreed alternative such as structural defects indemnity.
- f) on completion of the agreed units to be transferred, provide certificate of compliance from an appropriately qualified professional, confirming that the development has been constructed in accordance with the conditions of planning permission and the building regulations.
- g) submit details of phasing of development (if applicable).

h) submit details of management/maintenance agreement (it applicable).

The Council shall:

a) acquire the agreed unit(s) for the agreed price upon completion of the unit(s) to the satisfaction of the Council and where sufficient works have been completed to the overall development which would render it reasonable for a prospective tenant to take up occupation of the unit(s)

It is further agreed between the parties that:

b) should the developer dispose of his interest in the site the subject of the relevant planning permission(s) specified herein and this agreement, the agreement will be binding on the purchaser and any subsequent purchasers.

c) no deviation from the above agreement is acceptable unless it is jointly agreed in writing between the Developer and the Council.

d) 5% of the agreed price (the retention monies) will be retained for a Defects Liability Period. The Defects Liability Period shall be twelve months from the date of completion of the sale of the agreed unit(s). If during the Defects Liability Period, any defect is found, the Developer must, promptly and at his/her own cost repair, replace or otherwise make good (in consultation with the Council) the defect as well as any damage to the property caused by the defect. The Developer will bear all incidental costs, including any costs of removal associated with the repair, replacement or making good of the defect or damage. Subject to no defects being found during the Defects Liability Period or any defects that have been found having been remedied, the retention monies will be released at the expiry of the Defects Liability Period.

e) The Council will have inspection rights throughout the construction phase together with the right to raise any issues it sees fit with the Assigned Certifier who will retain the overall responsibility for certification of the works.

**Signed by the Developer**

\_\_\_\_\_

In the presence of

\_\_\_\_\_

Seal of Donegal County Council affixed hereto as authenticated by the signature of

\_\_\_\_\_  
Nominated Officer

**Cost Plan**

(See overleaf)

# PART V BUILD & TRANSFER COST PLAN SUMMARY

(Version 1 May 2017)

Note: Green cells to be completed						
<b>(1) Existing Use Value (€24,710 per hectare)</b>		Area				Name / Reference / Development Location
Size of site (hectares)				€0.00		
<b>(2) Market Value</b>						
Type (in overall development)	No.	@				
Detached		€20,000		€0.00		
Semi-detached		€16,500		€0.00		
Terraced, end of terrace		€16,500		€0.00		
Terraced, mid terrace		€14,500		€0.00		
Duplex, house element		€14,500		€0.00		
Duplex, apartment element		€9,000		€0.00		
Non - duplex, apartment		€11,000		€0.00		
<b>Total</b>	<b>0</b>			<b>€0.00</b>		<b>€0.00</b>
Units proposed and costings to be entered on "Build & Transfer Detail" sheet						
<b>(4) Cost payable per house.</b>						
House Type		Type A	Type B	Type C	Type D	Total
MV of this type of site		€0	€0	€0	€0	
Number of units proposed		0	0	0	0	0
Description		0	0	0	0	
Square Metres (per house type)		0	0	0	0	0
House / Site Number(s)		0	0	0	0	
<i>Costs are only brought forward from detail sheet where number of units is not equal to zero</i>						
Building Works (excl VAT)	<b>A</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Site Curtilage (excl VAT)	<b>B</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Site Development Works (excl VAT)	<b>C</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Preliminaries (excl VAT)	<b>D</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Total Construction Costs (excl VAT) (A+B+C+D)	<b>E</b>	€0.00	€0.00	€0.00	€0.00	€0.00
VAT @ 13.5% (E x 13.5%)	<b>F</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Total Estimated Construction Cost (Incl VAT) (E+F)	<b>G</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Fees / Charges (incl VAT)	<b>H</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Builders Profit (on Construction Costs)	<b>I</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Total Estimated Development Cost (Incl VAT & Profit) (G+H+I)	<b>J</b>	<b>€0.00</b>	<b>€0.00</b>	<b>€0.00</b>	<b>€0.00</b>	<b>€0.00</b>
Land Costs (Agricultural value)	<b>K</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Net Monetary Value Attained (DUV less EUV)	<b>L</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Net Monetary Value Excess (+) (where net monetary value attained exceeds amount actually due)	<b>M</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Net Monetary Value Shortfall (-) (where net monetary value attained is less than amount actually due)	<b>N</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Total Estimated Cost (J+K+M+N)	<b>O</b>	<b>€0.00</b>	<b>€0.00</b>	<b>€0.00</b>	<b>€0.00</b>	<b>€0.00</b>
Cost per Dwelling (O / No Units)		€0.00	€0.00	€0.00	€0.00	€0.00
Cost Per Square Metre (excl Land) (J / (No & Sq Metres))						
Total Estimated Cost if no Part V (O+(L-M-N))	<b>P</b>	€0.00	€0.00	€0.00	€0.00	€0.00
Cost per Dwelling if no Part V (P / No Units)		€0.00	€0.00	€0.00	€0.00	€0.00

Part V build & transfer cost plan detail (version 1 May 2017)				Type A				Type B	
House Type									
Number to be built & transferred to Local Authority									
Description									
Square Metres (per house type)									
House / Site Number(s)									
<b>BUILDING WORKS</b>				Cost per house type	Per Sq Metre			Cost per house type	Per Sq Metre
Substructures									
Upper Floors									
Roofing (Structure & Finishes)									
Stairs									
External walls									
Windows & External Doors									
Internal Walls and Partitions									
Internal doors									
Wall Finishes Externally									
Wall Finishes Internally									
Floor Finishes									
Ceiling Finishes									
Fittings: Kitchens/Utility Room Units/Fireplace/Sanitary Ware etc									
Mechanical									
Electrical									
<b>Sub Total: Building Works (excl VAT)</b>	A			€0.00				€0.00	
<b>SITE CURTILAGE WORKS</b>									
Surface Treatments									
Site Enclosures									
Landscaping									
Drainage									
<b>Sub Total: Site Curtilage Works (excl VAT)</b>	B			€0.00				€0.00	
<b>SITE DEVELOPMENT WORKS</b>									
Prepare Site									
Roads, Paths, Pavings									
Site Services (Piped & Ducted)									
Site Services (Other)									
Landscaping									
<b>Sub Total: Site Development Works (excl VAT)</b>	C			€0.00				€0.00	
<b>PRELIMINARIES</b>									
Preliminaries									
<b>Sub Total: Preliminaries (excl VAT)</b>	D			€0.00				€0.00	
<b>Total Construction Costs (excl VAT) (A+B+C+D)</b>	E			€0.00				€0.00	
<b>VAT @ 13.5% (E x 13.5%)</b>	F			€0.00				€0.00	
<b>TOTAL ESTIMATED CONSTRUCTION COST (Incl VAT) (E + F)</b>	G			€0.00				€0.00	
<b>FEES / CHARGES</b>									
Design Team Fees									
Legal Fees									
Sub Total		€0.00						€0.00	
Vat @23%		€0.00	€0.00					€0.00	€0.00
Statutory Fees - Development Contributions									
<b>Statutory Connection Fees</b>									
Electricity									
Water / Sewerage									
Sub Total		€0.00						€0.00	
Add VAT @ 13.5%		€0.00	€0.00					€0.00	€0.00
<b>Sub Total: Fees / Charges (incl VAT)</b>	H			€0.00				€0.00	
<b>BUILDERS PROFIT</b>									
Notional Builders Profit on Construction Costs	I	0.00%		€0.00			0.00%	€0.00	
<b>TOTAL ESTIMATED DEVELOPMENT COST (Incl VAT &amp; Profit) (G + H + I)</b>	J			€0.00				€0.00	

Part V build & transfer cost plan detail (version 1 May 2017)		Type C		Type D	
House Type					
Number to be built & transferred to Local Authority					
Description					
Square Metres (per house type)					
House / Site Number(s)					
<b>BUILDING WORKS</b>		<b>Cost per house type</b>	<b>Per Sq Metre</b>	<b>Cost per house type</b>	<b>Per Sq Metre</b>
Substructures					
Upper Floors					
Roofing (Structure & Finishes)					
Stairs					
External walls					
Windows & External Doors					
Internal Walls and Partitions					
Internal doors					
Wall Finishes Externally					
Wall Finishes Internally					
Floor Finishes					
Ceiling Finishes					
Fittings: Kitchens/Utility Room Units/Fireplace/Sanitary Ware etc					
Mechanical					
Electrical					
<b>Sub Total: Building Works (excl VAT)</b>		<b>€0.00</b>		<b>€0.00</b>	
<b>SITE CURTILAGE WORKS</b>					
Surface Treatments					
Site Enclosures					
Landscaping					
Drainage					
<b>Sub Total: Site Curtilage Works (excl VAT)</b>		<b>€0.00</b>		<b>€0.00</b>	
<b>SITE DEVELOPMENT WORKS</b>					
Prepare Site					
Roads, Paths, Pavings					
Site Services (Piped & Ducted)					
Site Services (Other)					
Landscaping					
<b>Sub Total: Site Development Works (excl VAT)</b>		<b>€0.00</b>		<b>€0.00</b>	
<b>PRELIMINARIES</b>					
Preliminaries					
<b>Sub Total: Preliminaries (excl VAT)</b>		<b>€0.00</b>		<b>€0.00</b>	
<b>Total Construction Costs (excl VAT) (A+B+C+D)</b>		<b>€0.00</b>		<b>€0.00</b>	
<b>VAT @ 13.5% (E x 13.5%)</b>		<b>€0.00</b>		<b>€0.00</b>	
<b>TOTAL ESTIMATED CONSTRUCTION COST (Incl VAT) (E + F)</b>		<b>€0.00</b>		<b>€0.00</b>	
<b>FEES / CHARGES</b>					
Design Team Fees					
Legal Fees					
Sub Total	€0.00			€0.00	
Vat @23%	€0.00	€0.00		€0.00	€0.00
Statutory Fees - Development Contributions					
<b>Statutory Connection Fees</b>					
Electricity					
Water / Sewerage					
Sub Total	€0.00			€0.00	
Add VAT @ 13.5%	€0.00	€0.00		€0.00	€0.00
<b>Sub Total: Fees / Charges (incl VAT)</b>		<b>€0.00</b>		<b>€0.00</b>	
<b>BUILDERS PROFIT</b>					
Notional Builders Profit on Construction Costs	0.00%	€0.00		0.00%	€0.00
<b>TOTAL ESTIMATED DEVELOPMENT COST (Incl VAT &amp; Profit) (G + H + I)</b>		<b>€0.00</b>		<b>€0.00</b>	

## PART V ACQUISITION / LEASE

(Version 1 May 2017)

					Note: Green cells to be completed	
<b>(1) Existing Use Value (€24,710 per hectare)</b>		Area				Name / Reference
Size of site (hectares)				€0.00		
<b>(2) Market Value</b>						
	Type	No.	@			
Detached			€20,000	€0.00		
Semi-detached			€16,500	€0.00		
Terraced, end of terrace			€16,500	€0.00		
Terraced, mid terrace			€14,500	€0.00		
Duplex, house element			€14,500	€0.00		
Duplex, apartment element			€9,000	€0.00		
Non - duplex, apartment			€11,000	€0.00		
<b>Total</b>		<b>0</b>		<b>€0.00</b>		<b>€0.00</b>
<u>Units proposed</u>						
			Type A	Type B	Type C	Type D Total
House Type						
Number of units to be sold / leased to Local Authority)						0
Description						
House / Site Number(s)						
<b>Acquisition of built unit(s)</b>						
Purchase Price (per house type) incl VAT (Based on Market Value)						€0.00
Less Net Monetary Value Due						€0.00
<b>Amount Payable</b>						<b>€0.00</b>
Cost per Dwelling						€0.00
<b>Lease Arrangement</b>						
Length (months)						
Average market rent (per house type) (monthly)						
Monthly payment due to landlord (80% disc. to cover responsibilities taken on by local authority)		€0.00	€0.00	€0.00	€0.00	€0.00
Less Net Monetary Value Due (incl VAT)						€0.00
No months net monetary value is to be recouped						
Monthly reduction to cover net monetary value						€0.00
Revised monthly payment to landlord						<b>€0.00</b>