
The Housing Agency

Part V Houses and Apartments, Case Studies

Contents

Example 1: Development of Houses Only – Unequal Plots	2
Example 2: Apartment Developments – Equal Sized Apartments.....	4
Example 3: Apartment Developments – Unequal Sized Apartments	6
Example 4: Developments of Apartments and Houses: where Part V is to be satisfied through the provision of apartments only	8
Example 5: Developments of Apartments and Houses: where Part V is to be satisfied through the provision of both apartments and houses	11

Note: To satisfy the Part V requirement with housing onsite, the local authority's aim is to achieve the equivalent of 20% of the land. If the local authority can purchase sufficient homes to achieve this and pays land costs for these homes at existing use value (EUV), no Part V "discount" is required.

In cases where the local authority does not purchase sufficient homes to achieve the equivalent of 20% of the land (the equivalent net monetary value or ENMV), a balancing discount on construction costs may be required.

Where the local authority purchases homes which are in excess of 20% of the land, a balancing payment to the developer may be required.

The price paid for houses and apartments purchased onsite should be calculated as follows:

Land costs at EUV + constructions costs + site development costs + builder's profit.

Further guidance is available in the *Part V of the Planning and Development Act 2000, Guidelines* issued by the Minister for Housing, Planning, Community and Local Government under section 28 of the Planning and Development Act 2000, Circular Housing 05/2017.

Example 1: Development of Houses Only – Unequal Plots

Taking a site of 87 houses with unequal sized gardens and allocated parking spaces.

In considering how many houses to acquire under Part V, the local authority aims to achieve the equivalent of the net monetary value (NMV) which would have been achieved by purchasing 20% of the land at existing use value (EUV).

The local authority considers the developer's proposal to purchase sixteen houses under Part V and calculates the percentage of the net monetary value which would be achieved.

The developer provides a schedule of the plot sizes for each house i.e., the area of land the house sits on, plus the back garden, the front garden and any parking spaces allocated for the exclusive use of the house. All houses in the development have equal access to the roads and green spaces, therefore plot sizes can be used as a proxy for the entire site.

In examining this schedule, the local authority sees that the proposed sixteen houses sit on plots of between 155m² and 187m². Some of the other houses in the development sit on plots of up to 500m². Therefore, it cannot be assumed that 20% of the houses will be equal to 20% of the total area of the housing plots.

The total of the 16 plots of the proposed local authority houses is 2,700m².

The total of the plots of all 87 houses is 15,000m².

$$(2,700\text{m}^2 \div 15,000 \text{m}^2) \times 100 = 18\%$$

The area of the sixteen plots to be purchased by the local authority are only 18% of the total area of all 87 plots. To achieve the equivalent net monetary value, the local authority would have to purchase 20% of the total of all 87 plots. A shortfall of 2% exists.



<i>Example 1</i>	
Assume 87 houses with unequal plot sizes	
Total plot size for 87 houses:	15,000m ²
Plot size of 16 Part V houses:	2,700m ²
Plot size of 16 Part V houses as % of total plots:	18%
Shortfall from 20% of plot size to be achieved:	2%
NMV for entire site:	€3,630,000
NMV to be achieved for 20% of the site:	€726,000
18% of total NMV (achieved in 16 houses):	€653,400
2% of NMV (balance of ENMV to be achieved):	€72,600

Therefore, if purchasing the proposed sixteen houses, the local authority would require a discount of €72,600 on the agreed construction costs of the houses and the equivalent net monetary value (ENMV) would be achieved.

An alternative approach would be to calculate the NMV achieved per square metre of plot and multiply the total area of the plots by this figure to calculate the NMV achieved.

Regarding what the local authority should pay for the land on which the sixteen houses sit, there are several different approaches for calculating this, however the local authority is effectively purchasing 18% of the site. Whatever approach is used to calculate the land costs, the total paid should equate to 18% of the EUV for the entire site. Further guidance on this is provided in the 2017 guidelines¹.

¹ DHLGH, 2017, Part V of the Planning and Development Act 2000, Guidelines issued by the Minister for Housing, Planning, Community and Local Government under section 28 of the Planning and Development Act 2000. Circular Housing 05/2017.

Example 2: Apartment Developments – Equal Sized Apartments

Taking for example, a development solely comprised of 44 apartments, on a plot of 5,000m².

When calculating the Part V requirement for this development, the floor area of the apartments is used in the calculation. As apartments, unlike houses, are not all at ground level, the same piece of land is occupied by two or more apartments. In addition, all apartments will have the benefit of some areas exclusively for the apartment development such as private green areas, bins, parking etc.

For apartment-only developments, the treatment of these communal facilities works in a similar way to example 1, whereby, the common spaces such as roads, green spaces etc. are disregarded when calculating Part V. In the case of apartment-only developments, the communal facilities are removed from the calculations and the internal floor area is used to calculate the Part V requirement.



In a development of 44 equally sized apartments, where each apartment was 75m²:

<i>Example 2a</i>	
Floor area of each apartment:	75m ²
Total floor area of all 44 apartments:	3300m ²
20% Part V for apartment portion:	660m ²
No. of apartments required to achieve 20% of floor area:	8.8

As all of the apartments are equally sized, the Part V requirement is therefore 8.8 apartments (660m² divided by 75m²). If the local authority could purchase 8.8 apartments, Part V would be satisfied without the requirement for a balancing discount or balancing payment. Of course, it is not possible to sell 0.8 of an apartment. The local authority could

take eight apartments and receive a construction discount for the remaining 0.8 land value. Alternatively, they can choose to take nine apartments and offer a balancing payment for the additional 0.2 portion of land plot of that apartment.

To calculate the construction discount if the local authority takes eight apartments, the net monetary value (NMV) is required. The net monetary value is the open market or development value of the land, minus its existing use value.

<i>Example 2a continued</i>	
Assume 44 apartments with equal floor area:	75m ²
NMV for entire site:	€907,500
NMV to be achieved for 20% of the site:	€181,500
NMV achieved per apartment (€907,500 ÷ 44):	€20,625
NMV achieved by buying 8 apartments (€20,625 x 8)	€165,000
Balance of ENMV to be achieved (€181,500- €165,000):	€16,500

The local authority requires a discount of €16,500 on the agreed construction costs to achieve the equivalent net monetary value (ENMV). As all apartments are the same size, 20% of the floor area equals 20% of the homes which equates to a benefit of 20% of the overall site. The local authority purchases the eight apartments and pays:

- land at existing use value: (total site EUV ÷ 44) x 8,
- + construction costs minus the discount of €16,500
- + $\frac{8}{44}$ of the site development costs,
- + builders' profit.

Alternatively, the local authority may wish to purchase nine 75m² apartments instead of eight. As they are only entitled to purchase 8.8 apartments under Part V, instead of receiving a balancing discount from the agreed construction costs for 0.2 of an apartment as per the table above, the local authority instead must pay the developer a balancing payment for the additional 0.2 of an apartment it wishes to purchase:

<i>Example 2b</i>	
Assume 44 apartments with equal floor area:	75m ²
NMV for entire site:	€907,500
NMV to be achieved for 20% of the site:	€181,500
NMV achieved per apartment (€907,500 ÷ 44):	€20,625
NMV achieved by buying 9 apartments (€20,625 x 9)	€185,625
Excess ENMV (€181,500 – €186,625)	– €4,125

The local authority pays the developer a balancing payment of €4,125 in addition to the agreed construction costs.

Example 3: Apartment Developments – Unequal Sized Apartments

In another example, the 44 apartments are different sizes.

10 apartments are 55m² in size, 26 apartments are 75m² and 8 apartments are 100m² in size:

<i>Example 3</i>	
10 apartments at 55m ² :	550m ²
26 apartments at 75m ² :	1,950m ²
8 apartments at 100m ² :	800m ²
Total apartment floor area:	3,300m ²
20% Part V for apartment portion:	660m ²
Apartments @ 55m ² ((3,300m ² ÷ 55m ²) x 20%):	12
Apartments @ 75m ² ((3,300m ² ÷ 75m ²) x 20%):	8.8
Apartments @ 100m ² ((3,300m ² ÷ 100m ²) x 20%):	6.6

Where the local authority wishes to purchase the smaller 55m² apartments, the Part V requirement is 12 apartments (660m² divided by 55m²). This is greater than 20% of the 44 homes (8.8) as shown in example 2, because the floor areas are smaller than the average floor size in the development and, therefore the planning gain is proportionately smaller.

Current guidance states that it is not appropriate for the local authority to require more than 20% of the homes in a Part V agreement where the developer does not wish this. Therefore, the local authority might agree to purchase either eight apartments or nine apartments. In example 2, as all the apartments were the same size (75m²), purchasing eight apartments would result in a small balancing discount and purchasing nine apartments would result in a small balancing payment. In this case, where local authority purchases apartments of 55m² which are smaller than the average size of 75m², a balancing discount would be required whether eight or nine apartments are purchased.

Where the local authority wishes to purchase eight 55m² apartments, they would be entitled to a discount on the agreed construction costs. Below are two alternative approaches to calculate this:

<i>Example 3 – approach (i): calculate % of total floor area</i>	
Total apartment floor area:	3,300m ²
Floor area of 8 Part V apartments (55m ² x 8):	440m ²
Floor area of 8 Part V apartments as % of total floor area:	13 $\frac{1}{3}$ %
Shortfall from 20% of plot size to be achieved:	6 $\frac{2}{3}$ %
NMV for entire site:	€907,500
NMV to be achieved for 20% of the site:	€181,500
13 $\frac{1}{3}$ % of total NMV (achieved in 8 apartments):	€121,000
6 $\frac{2}{3}$ % of NMV (balance of ENMV to be achieved):	€60,500

An alternative approach to calculate the NMV achieved through the purchase of eight 55m² apartments is:

<i>Example 3 – approach (ii): calculate the NMV per 1m²</i>	
Total apartment floor area:	3,300m ²
20 % Part V floor area:	660m ²
NMV for entire site:	€907,500
NMV to be achieved for 20% of the site:	€181,500
NMV per 1m ² (€907,500 ÷ 3,300m ²)	€275
NMV achieved by buying 8 no. 55m ² apartments ((55m ² x 8) x €275:	€121,000
Balance of ENMV to be achieved (€181,500 – €121,000)	€60,500

The local authority requires a discount of €60,500 on the agreed construction costs. As in example 2, the local authority purchases the 8 apartments and pays:

- land at existing use value: (total site EUV ÷ 3,300m²) x (55m² x 8),
- + construction costs minus the discount of €60,500,
- + $\frac{8}{44}$ of the site development costs,
- + builders' profit.

In both examples 2 and 3, the Part V requirement is determined by calculating 20% of the total floor area and calculating how many apartments would be required to equal that floor area. Because all residents have the benefit of the private green areas, bins, parking etc., 20% of the total floor area equates to 20% of the land.

Example 4: Developments of Apartments and Houses: where Part V is to be satisfied through the provision of apartments only

When the apartment development sits within a wider development of houses, the floor area alone cannot be used as a proxy for the land to calculate the Part V requirement. As per example 1, the plot areas that the houses sit on, including gardens and/or private parking, are used as the basis for calculating Part V. Justice Clarke, in his 2007 judgement² on Part V was clear that the legislation provides no basis for using the floor areas of houses for calculating Part V. The only limited context for using floor areas is with multi-story apartment blocks where it is not possible to calculate the plot area of an individual apartment. However, the floor area of the apartments must be equated back to the land in order to compare the apartments with the plots of the houses.

The solution for this is to take the plot area for the exclusive use of the apartments and divide it by the number of apartments to calculate the area of the “apartment-exclusive plot” that is relevant to each apartment.

Combining example 1 of no. 87 houses and example 2 of no. 44 apartments gives a total of 131 homes in this development. The total area of the plots of all 87 houses is 15,000m². The total “apartment-exclusive” area for the use of the 44 apartments is 5,000m².

If each of the 44 apartments were the same size (75m² as in example 2), each apartment would be allocated one forty-fourth of the 5,000m² apartment exclusive plot area or 113.6m².



² Cork County Council v Shackleton [2007] IEHC 241:
<https://www.casemine.com/judgement/uk/5da051ce4653d07dedfd5590>

This figure can be used to calculate how many apartments would be required to achieve 20% of the development plots on the site. For example:

<i>Example 4a</i>	
Apartment exclusive plot area:	5,000m ²
Sum of house plot areas:	15,000m ²
Total plot areas:	20,000m ²
20% Part V of plot areas:	4,000m ²
Plot area per apartment (5,000m ² ÷ 44):	113.6m ²
Apartments required to satisfy Part V for entire development @ plot area 113.6m ² (4,000m ² ÷ 113.6m ²):	35.2

To achieve the equivalent of purchasing 20% of the land, the local authority must purchase 35.2 apartments. However, current guidance states that it is not appropriate for the local authority to require more than 20% of the homes in a Part V agreement where the developer does not wish this. 20% of the 131 homes in the development is just 26.2 homes.

As calculated in the table above, each apartment occupies an average plot area equivalent of 113.6m². The development has 87 houses on a total plot area of 15,000m² which is an average plot area of 172m² per house. By satisfying Part V through the provision of apartments only, it is not possible to achieve 20% of the NMV by purchasing 20% of the total number of homes. If the local authority agrees to purchase 26 apartments, which is close to 20% of the total number of homes, a greater balancing discount will be required than in examples 2 and 3.

To equate the apartments back to the land and allow for comparison with the plots associated with houses, the apartment exclusive plot area must be apportioned according to each apartment's size. If the total floor area of the apartments is 3,300m² as in example 3 and the local authority are proposing to purchase 26 apartments, ten with a floor area of 55m² and sixteen with a floor area of 75m², the most straightforward approach is to calculate the NMV per 1m² of floor area.

<i>Example 4b – approach (i): calculate the NMV per 1m²</i>	
NMV for entire site:	€3,630,000
NMV to be achieved for 20% of the site:	€726,000
Total plot areas (houses + apartments):	20,000m ²
Apartment exclusive plot area:	5,000m ²
Total internal floor area of apartments:	3,300m ²
NMV of apartment exclusive plot area ((€3,630,000 ÷ 20,000m ²) x 5,000m ²):	€907,500
NMV per 1m ² of apartment floor area (€907,500 ÷ 3,300m ²):	€275

Floor area of 10 no. 55m ² apartments:	550m ²
NMV achieved by buying 10 no. 55m ² apartments (550m ² x €275):	€151,250
Floor area of 16 no. 75m ² apartments:	1,200m ²
NMV achieved by buying 16 no. 75m ² apartments (1,200m ² x €275):	€330,000
Total NMV achieved in buying these 26 apartments:	€481,250
Balance of ENMV to be achieved (€726,000 - €481,250):	€244,750

The local authority requires a discount of €244,750 on the agreed construction costs. As in previous examples, the local authority purchases the apartments and pays:

- land at existing use value,
- + construction costs (plus or minus a balancing payment / balancing discount),
- + relevant share of the site development costs,
- + builders' profit.

An alternative approach is to calculate the area of "apartment-exclusive" plot allocated to each apartment by dividing the total plot area by the total floor area to obtain a ratio:

<i>Example 4b – approach (ii): obtain ratio of plot area to floor area</i>	
Apartment exclusive plot area:	5,000m ²
Total floor area of apartments:	3,330m ²
Ratio of plot area to floor area (5,000m ² ÷ 3,330m ²):	1.515:1
Floor area of 10 no. 55m ² apartments:	550m ²
Floor area of 16 no. 75m ² apartments:	1,200m ²
Total floor area of 26 Part V apartments:	1,750m ²
Equivalent plot area of the 26 apartments: (1,750m ² x ratio of 1.515)	2,651.5m ²
Total plot areas in the development:	20,000m ²
Part V plot area as a % of total (2,651.5m ² ÷ 20,000m ²):	13.25758%
Shortfall from 20% of NMV (20% – 13.25758%):	6.74242%
NMV for entire site:	€3,630,000
NMV to be achieved for 20% of the site:	€726,000
13.25758% of total NMV (achieved in 26 apartments):	€481,250
6.74242% of NMV (balance of ENMV to be achieved):	€244,750

Example 5: Developments of Apartments and Houses: where Part V is to be satisfied through the provision of both apartments and houses

Where Part V is to be satisfied through the provision of both apartments and houses onsite, it is critical to find a way to relate both the apartments and houses provided, to the land, in order to ensure that the agreement achieves the equivalent of purchasing 20% of the land. Otherwise, it would not be possible to calculate how much of the net monetary value (NMV) had been achieved through the provision of the apartments and houses and subsequently, whether any additional discount or balancing payment was required.

One approach is to use the “apartment-exclusive” plot area to determine the share of land apportioned to each apartment (as in example 4).

Determining the share of land apportioned to each house is more straightforward as each house sits on a plot of land, designated for its exclusive use, generally the footprint of the house, any gardens and perhaps private parking (as in example 1).

Taking the development in example 4 of 131 homes, consisting of 44 apartments and 87 houses.

The developer proposes that the local authority purchase ten apartments and sixteen houses under the Part V agreement. The apartments each have an internal floor area of 55m² and the sixteen houses have a range of plot sizes, totalling 2,700m².

The first step is to calculate the NMV per 1m² of apartment internal floor area (as in example 4b) and then the NMV achieved by purchasing the proposed ten 55m² apartments:

<i>Example 5 – approach (i): using NMV per 1m²</i>	
NMV for entire site:	€3,630,000
Total plot areas (houses + apartments):	20,000m ²
Apartment exclusive plot area:	5,000m ²
Total internal floor area of apartments:	3,300m ²
NMV of apartment exclusive plot area ((€3,630,000 ÷ 20,000m ²) x 5,000m ²):	€907,500
NMV per 1m ² of apartment floor area (€907,500 ÷ 3,300m ²):	€275
Floor area of ten 55m ² apartments:	550m ²
NMV achieved by buying ten 55m ² apartments (550m ² x €275):	€151,250

The next step is to calculate the NMV per 1m² of house plot area and then the NMV achieved by purchasing the proposed sixteen houses with plots totalling 2,700m²:

<i>Example 5 approach (i) continued</i>	
NMV for entire site:	€3,630,000
Total plot areas (houses + apartments):	20,000m ²
Total sum of house plots:	15,000m ²
NMV of total house plot area ((€3,630,000 ÷ 20,000m ²) x 15,000m ²):	€2,722,500
NMV per 1m ² of house plot (€2,722,500 ÷ 15,000m ²):	€181.50
NMV achieved by buying sixteen houses with plots totalling 2,700m ² (2,700m ² x €181.50):	€490,050

Combining the NMV achieved through the purchase of the ten apartments and the sixteen houses allows the calculation of the total NMV achieved and any shortfall or excess ENMV:

<i>Example 5 – approach (i) continued</i>	
NMV achieved by buying ten 55m ² apartments:	€151,250
NMV achieved by buying sixteen houses with plots totalling 2,700m ²	€490,050
Total NMV achieved by buying ten apartments and sixteen houses	€641,300
NMV for entire site:	€3,630,000
NMV to be achieved for 20% of the site:	€726,000
Balance of ENMV to be achieved (€726,000 – €641,300):	€84,700

Therefore, if the local authority accepts the developer's proposal to purchase the ten apartments and sixteen houses, the local authority will require a balancing discount of €84,700 on the agreed construction costs. As in previous examples, the local authority would purchase the apartments and the houses and pay:

- land at existing use value,
- + construction costs (plus or minus a balancing payment / balancing discount),
- + relevant share of the site development costs,
- + builders' profit.

An alternative approach, as in example 4, is to use a ratio of plot area to floor area. The first step is to assign a "plot area" to the ten apartments:

<i>Example 5 – approach (ii): using ratio of plot area to floor area</i>	
Apartment exclusive plot area:	5,000m ²
Total floor area of apartments:	3,300m ²
Ratio of plot area to floor area (5,000m ² ÷ 3,300m ²):	1.515
Floor area of the ten Part V apartments @ 55m ²	550m ²
Equivalent plot area of the ten apartments: (550m ² x ratio of 1.515:1)	833m ²

Now the plot areas for the proposed apartments and houses can be related to the total plot area available:

<i>Example 5 – approach (ii) continued</i>	
Total plot area of the sixteen houses:	2,700m ²
Equivalent plot area of the ten apartments:	833m ²
Total plot area of Part V homes:	3,533m ²
Total plot areas in the development:	20,000m ²
Part V plot area as a % of total (3,533m ² ÷ 20,000m ²):	17 ² / ₃ %
Shortfall from 20% of NMV (20% – 17 ² / ₃ %):	2 ¹ / ₃ %

Therefore, through the purchase of ten apartments and sixteen houses, the local authority would only achieve the equivalent of 17²/₃% of the net monetary value (NMV). To achieve 20% of the net monetary value for the site, the local authority will require the additional 2¹/₃% of the NMV as a discount on the agreed construction costs:

<i>Example 5 – approach (ii) continued</i>	
NMV for entire site:	€3,630,00
NMV to be achieved for 20% of the site:	€726,000
17 ² / ₃ % of total NMV (achieved in ten apartments and sixteen houses):	€641,300
2 ¹ / ₃ % of NMV (balance of ENMV to be achieved):	€84,700

The local authority would require a balancing discount of €84,700 on the agreed construction costs, as under approach (i).