



Social housing in Ireland: Planning for Part V

Insights - 12/06/2020

Part V of the Planning & Development Act

In a country faced with a housing crisis, the development and delivery of social housing stock is imperative. One of the ways in which local authorities in Ireland obtain social housing units is through Part V of the Planning & Development Act (“Part V”).

What is Part V?

Part V is a mechanism by which Local Authorities can obtain up to 10% of land zoned residential at the “existing use value” at the date planning permission was granted. Part V applies to any planning application submitted for a residential development of 9 or more housing units or where the development is on a site which exceeds 0.1 hectares in size.

An agreement outlining the conditions which must be met in order to satisfy the developer’s Part V obligations will be negotiated between the developer and the Local Authority. Negotiations can often be protracted, and it is advisable that developers engage with Local Authorities to discuss Part V options prior to lodging a planning application. Pricing and unit details are often the subject of considerable negotiation and some Local Authorities are faster than others in getting deals concluded. We have been involved in negotiations ranging from two months to a full year on similar sized projects.

The aim of Part V is to promote social integration and avoid a return to the traditional “council estate”. It has however, been reported that social housing units are being clustered within larger developments at the request of local authorities in order to cut back on maintenance costs.

What are the options available to local authorities?

The options available to local authorities include:

- The developer transfers land which is required by the Part V agreement to be reserved for the

provision of housing, to the local authority.

- The developer builds and transfers the agreed number of units within the development to the local authority.
- The developer builds and transfers units on offsite land within the functional area of the local authority.
- A long term lease of units within the development is granted to the local authority.
- A long term lease of offsite units within the functional area of the local authority is granted to the local authority.

What are the trends and opportunities?

Although relatively new to the landscape (and not without controversy), long term leasing is an initiative providing an alternative acquisition option to local authorities and which is becoming more common as a means of satisfying Part V obligations. The leasing model can reduce capital requirements, mix public/private risk and return and keep housing units off balance sheet for the local authorities.

There are two leasing models available and recently the Enhanced Long Term Social Housing Leasing Scheme, which operates similarly to a service level agreement, has been promoted by local authorities as a method of attracting institutional investors and property managers - promoting greater gross returns on their investment while maintaining a steady covenant and management structure. The leasing documents vary in detail and complexity and require a clear understanding of the social housing model and relationships.

Watch this space in 2020 for many more Enhanced Lease transactions as local authorities outsource management to specialists and investors become more comfortable with the business model.

Ogier Leman has extensive experience dealing with a wide range of real estate matters, including provide strategic legal advice to property developers, investors and approved housing bodies on all aspects of social housing development. Please do not hesitate to contact Aoife O'Dea by emailing aoife.o'dea@ogier.com.

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