



THORNTON O'CONNOR
TOWN PLANNING

Material Contravention Statement

Planning Application

In respect of a Shared Living Residential
Development at

Brady's Public House
Old Navan Road
Dublin 15
D15 W3FW

Submitted on Behalf of
Bartra Property (Castleknock) Limited

August 2020



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1.0 INTRODUCTION

1.1 Purpose of this Report

It is our opinion that the proposed development does not materially contravene the *Fingal County Development Plan 2017-2023*.

The *Fingal County Development Plan 2017-2023* does include an objective 'Blanchardstown 1' within the Development Plan, which states that it is an objective to prepare an Urban Framework Plan for Blanchardstown Village to guide future development including infill development that would not exceed 3 No. storeys. However, no Urban Framework Plan in accordance with this objective has been prepared to date and there is current plan to prepare this Urban Framework Plan. This was confirmed in an email by Fingal County Council on 23rd July 2020 (see Appendix A) where the following was stated:

'The preparation of the Blanchardstown Framework Plan is not on the current work programme for the Planning and Strategic Infrastructure Department. At the moment, there is no indicative timeframe available for its preparation.'

As there is reference to the preparation of an Urban Framework Plan where heights in Blanchardstown would not exceed 3 No. storeys, there is potentially an argument that the proposed development, which provides a maximum height of 5 No. storeys (ranging in height from part one to part five storeys), could be considered to materially contravene an objective of the Development Plan.

Thus, in the event that the Board consider the development materially contravenes the Plan, the purpose of this Material Contravention Statement is to set out the justification for increased height (towards the centre of the subject site) as part of the proposed development to provide a Shared Living Residential Development at Brady's Public House, Old Navan Road, Dublin 15.

The proposed development comprises (in summary) the demolition of the existing public house on site and the construction of a part 1 to part 5 No. storey over basement Build-to-Rent Shared Living Residential Development comprising 210 No. bedspaces with ancillary amenities and facilities.

Under Planning Application Reg. Ref. FW16A/0079 (ABP Ref: PL06F.248037), there is an extant permission on the subject site for a part 3-part 4 No. storey development apartment development.

1.2 Background to the Preparation of this Report

Although the *Fingal Development Plan 2017 – 2023* does not set out specific maximum building heights for the subject location, the Development Plan does include an objective denoted as 'BLANCHARDSTOWN 1' which states that it is an objective to prepare an Urban Framework Plan for Blanchardstown Village to guide future development including infill development that would not exceed 3 No. storeys. However, no Urban Framework Plan in accordance with this objective has been prepared and there is currently no timeframe in place for the preparation of this Urban Framework Plan as confirmed by Fingal County Council on 23rd July 2020.

We note that this objective was included prior to the introduction of the *Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018)*, which were introduced under Section 28 of the *Planning and Development Act, 2000 (as amended)*. An Bord Pleanála and Planning Authorities must have regard to these Guidelines and we note with particular reference to the Specific Planning Policy Requirements (SPPRs) set out in the *Building Height Guidelines*, these elements are mandatory.

SPPR 1 of the Guidelines notes that blanket numerical limitations on building height shall not be provided for through statutory plans therefore the imposition of the 3 No. storey height restriction at the subject site would be contrary to SPPR 1 without detailed consideration of the Building Height Guidelines.

It is our professional planning opinion that as this Urban Framework Plan has not been prepared and given the progression of National Policy, there is significant potential for the subject site to provide increased heights, subject to appropriate consideration of issues arising at:

- At the scale of the City/Town
- At the scale of District/ Neighbourhood / Street
- At the scale of the Site/Building.

Although there is only **an objective** to prepare this Urban Framework Plan to include a height restriction, we note that as there is no timeframe to prepare such a Plan, the proposed development is not explicitly materially contravening the Development Plan, rather the development could be considered to materially contravene an objective to prepare a future Urban Framework Plan. However, in the interest of completeness, we have prepared this Material Contravention Statement to ensure that a robust assessment of the subject scheme is carried out.

1.3 Analysis of Recent Residential Planning Application at the Site

We note that heights of up to 4 No. storeys were granted at the subject site under FCC Reg. Ref. FW16A/0079 / ABP Ref. PLo6F.248037, which exceeded the 3 No. storeys referenced for the future Urban Framework Plan. The proposed development provides a partial additional floor level however the addition relates only to the centre of the site in the form of a narrow strip at a distance from any sensitive residential receptors and therefore in our professional planning opinion, no adverse impact will occur as a result of this additional floor area.

We note that the Inspector in their Assessment of the extant permission notes the following:

'While no framework plan on foot of this objective has to date been prepared, the intention of Objective BLANCHARDSTOWN 1 is, in my opinion, clear and development to the scale proposed could be considered to be contrary to the aims of this objective. Against this, I note the fact that the design approach proposed utilises a stepped design with the four storey element of the development restricted to the central part of the site.'

The Inspector further notes that:

'I do not consider that the development of parts of the site to a height of four storeys should be excluded in principle or that permission should be refused solely on this basis.'

(It is noted that neither the Inspector nor the Board considered the provision of 4 No. storeys as a Material Contravention of the Development Plan.)

Therefore, we consider that as the partial additional floor level (scheme provides partial heights of 4 and 5 No. storeys) is located towards the centre of the site in order to protect surrounding residential amenity, the same analysis should apply, particularly given the progression of National Policy that has taken place since the adoption of the *Fingal Development Plan 2017 – 2023*, which includes the introduction of the *National Planning Framework – Ireland 2040*, the *Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018)* and the *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines Planning Authorities 2018*.

2.0 PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES ACT, 2016 (AS AMENDED)

Section 9 (6) of the *Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended)* sets out the following in relation to developments which materially contravene the policies and objectives of a Development Plan:

- (a) *'Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application Planning and Development (Housing) [2016.] and Residential Tenancies Act 2016 under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.*
- (b) *The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.*
- (c) *Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.'* [Our Emphasis]

TOC Comment: Section 10 of the Planning and Development Act dealing with the context of Development Plans states that "a development plan shall include objectives for the zoning of land for the use, solely or primarily of particular areas for particular purposes (whether residential/ commercial/ open space etc or a mixture of such uses)." The statutory land use zoning of this site is RS- Residential and shared living is a residential use. There is therefore no material contravention on zoning grounds.

The qualitative and quantitative assessment of the objectives and policies associated with a zoning is a matter for the assessing authority as part of the adjudication process, including whether elements constitute a non-zoning Material Contravention, in this instance in relation to building height.

3.0 PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)

As noted above, the *Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended)* sets out in summary that ‘where the proposed strategic housing development would materially contravene the development plan...then the Board may only grant permission where it considers that, if section 37(2)(b) of the Act of 2000 were to apply’.

Section 37 (2) of the *Planning and Development Act 2000 (as amended)* states the following in relation to material contravention:

- (a) *Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*
- (b) *Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—*
 - i. the proposed development is of strategic or national importance,*
 - ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
 - iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
 - iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.’ [Our Emphasis]*

TOC Comment: In response to Section 37(2)(b)(ii), it is noted that the proposed development constitutes a ‘Strategic’ Housing Development as defined by the 2016 Act and thus the development can be considered of strategic importance.

Section 37(2)(b)(iv), as noted previously in Section 1.1, Objective ‘BLANCHARDSTOWN 1’ states that it is an objective to prepare an Urban Framework Plan for Blanchardstown Village to guide future development including infill development that would not exceed 3 No. storeys (no Urban Framework Plan has been prepared and there is no timeframe in place to prepare this Plan).

However, having regard to Section 37 (2)(b)(iv) of the Act as set out above, we respectfully request that An Bord Pleanála consider that the heights proposed are appropriate having regard to the advancement of National Policy since the adoption of the *Fingal Development Plan 2017 – 2023*.

The *Building Height Guidelines* set out that a key objective of the National Planning Framework is to see that greatly increased levels of residential development in our urban

centres and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning processes and particularly so at Local Authority and An Bord Pleanála levels. We reiterate that the partial heights of 4 and 5 No. storeys only relate to a narrow strip towards the centre of the site.

We note that the subject site is located within a central and accessible and core urban location, which is defined in the Apartment Guidelines as sites within walking distance (i.e. up to 15 minutes or 1,000- 1,500m), of principal city centres, **or significant employment locations, that may include hospitals** and third-level institutions. [Our emphasis.]

This also expressly aligns with Objective EDo4 in the *Fingal County Development Plan 2017-2023*, which states the following:

'Prioritise locating quality employment and residential developments in proximity to each other in order to reduce the need to travel, and ensure that suitable local accommodation is available to meet the needs of workers in the County'.

The site is located within 15 No. minutes or 1,500 metres walking distance of Connolly Hospital, in addition to other significant employment locations as detailed below:

Connolly Hospital

- Connolly Hospital (c. 11 No. minute walk/ c. 4 No. minute cycle) is a major teaching hospital providing a range of services – acute medical & surgical service, acute psychiatric services, long stay care, daycare, outpatient, diagnostic and support services to a population of 290,000 No. persons. The Hospital's catchment area extends into West Dublin, Meath & Kildare. Emergency services are provided 365 days a year 24 hours a day. It also provides satellite services for the National Children's Hospital.
- It is further noted that there is an intention to expand the existing facility at Connolly to house the existing and expanding facilities of the Rotunda Hospital. This is detailed in the *Rotunda Strategic Plan 2017- 2021*:

*GOAL: The Rotunda will continue to develop our current physical infrastructure at Parnell Square to support the optimal patient experience, **in advance of our proposed move to Connolly.*** (Our Emphasis.)

Dublin Enterprise Zone

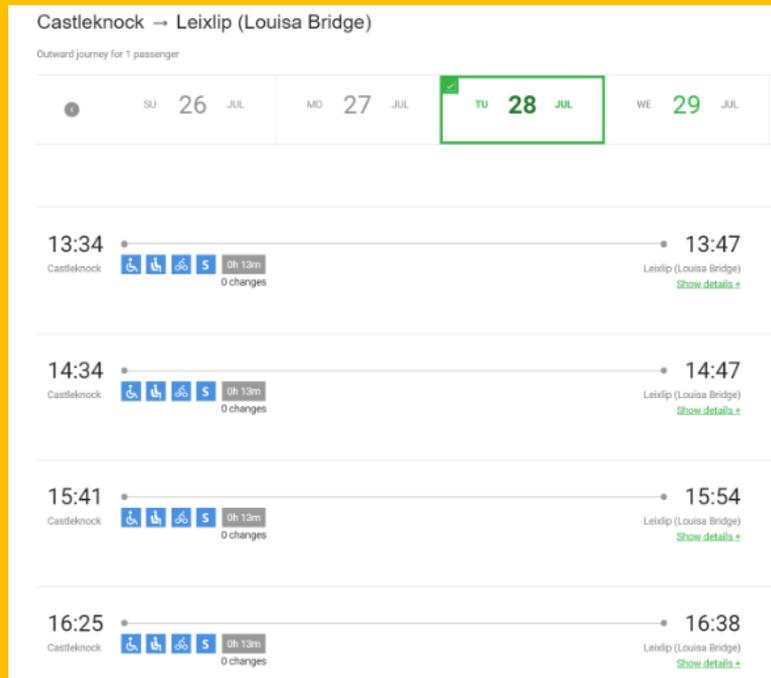
- Dublin Enterprise Zone (c. 21 No. minute walk/c. 6 No. minute cycle distance) consists of 779 No. businesses, 16,920 No. employees and 1.18 million sq m of building floor area. It is stated on www.dez.ie that only half of the Dublin Enterprise Zone has been developed so far and there is the potential to create an additional 20,000 No. jobs on the 716 hectares of undeveloped, zoned and serviced land available in the Zone.

Blanchardstown Town Centre

- Blanchardstown Town Centre (c. 21 No. minute walk/c. 8 No. minute cycle distance), has c. 125,000 sq m of retail and leisure floorspace requiring a significant employment base.

Intel, Leixlip

- Intel in Leixlip is easily accessible from the subject site via a 13 No. minute train trip from Castleknock Train Station(commuter peak flow), which is c. 600 metres from the subject site to Leixlip (Louisa Bridge) station, which in turn is 600 metres from Intel. Intel employs c. 10,000 No. persons.



Thus, with just these 4 No. large employees in the vicinity of the site, there are approximately 30,000 No. employees within a 30 minute commute by rail, cycle or foot, making the proposed location a sustainable and practicable housing solution for Shared Living.

The site is also well served by public transport with Castleknock Train Station located within c. 600 No. metres walking distance of the site (7 No. minutes) and various bus stops which provide easy access to employment generators such as Blanchardstown Shopping Centre (No. 17a) and Ongar Village (39a) from the N3 Navan Road and Dublin City Centre (No. 38a and No. 39 from Navan Road, No. 179 from Connolly Hospital and No. 38 from the R806 Castleknock Road). The current high level of services set out in the Mobility Management Plan and ongoing investment will further improve service levels.

Therefore, it is clear that the site is well connected due to its location in proximity to significant employment locations and public transport. In addition, it is our opinion that the open aspect of the public park to the north-east of the site provides the opportunity

for the site to accommodate additional height without any material impacts as is been demonstrated in the suite of technical documents submitted with the application.

The subject scheme is therefore fully in accordance and consistent with the standards set out in the *Apartments Guidelines, 2018* and the *Building Height Guidelines 2018*.

4.0 JUSTIFICATION FOR A POTENTIAL MATERIAL CONTRAVENTION

4.1 *Project Ireland 2040: National Planning Framework*

Project Ireland 2040: National Planning Framework (NPF) is the Government’s high-level overarching strategic plan that aims to shape the future growth and development of the country. The NPF is a long-term Framework that sets out how Ireland can move away from the current ‘business as usual’ pattern of development.

A number of key national policy objectives are identified throughout the NPF such as the following (in summary):

- **National Policy Objective 3a and National Policy Objective 3b** aim to deliver at least 40% of all new homes nationally, within the build-up of existing settlements and to deliver at least 50% of all new homes that are targeted in the five main Cities within their existing built-up footprints.
- **National Policy Objective 33** prioritises the provision of residential development at appropriate scales within sustainable locations.
- **National Policy Objective 35** notes the aim to increase residential density in settlements through a range of measures including (amongst others) in-fill development schemes and increased building heights.

The NPF sets out that:

‘to effectively address the challenge of meeting the housing needs of a growing population in our key urban areas, it is clear that we need to build inwards and upwards rather than outwards.’ [Our Emphasis]

TOC Comment: The proposed scheme involves the redevelopment of an existing underutilised brownfield, infill site within an existing residential area which will contribute towards compact growth in Dublin in line with the objectives of the NPF.

We note that the NPF recognises that building inwards and upwards is important to effectively address the housing crisis. Therefore, we consider that as there is a significant importance placed in the NPF to increase building heights in existing urban areas, the heights proposed on parts of the subject site (part 1 to part 5 No. storeys with the highest elements only located towards the centre of the site) are appropriate given the site’s location in an existing core urban area and its proximity to significant employment locations and public transport as discussed above.

A key tenet of the application was ensuring that there is no material impact on surrounding residential amenity and in our opinion that has been addressed in both the Visual Impact Assessment and Daylight/Sunlight report submitted with the application.

4.2 **Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018)**

The *Urban Development and Building Heights Guidelines for Planning Authorities* were adopted in December 2018. The Guidelines set out that a key objective of the NPF is to significantly increase the building heights and overall density of developments.

The Minister's foreword to the *Heights Guidelines, 2018* acknowledges that Ireland's classic development models for city and town cores has tended to be dominated by employment and retail uses, surrounded by extensive and constantly expanding low-rise suburban residential areas which is an unsustainable model. There is an opportunity for our cities and towns to be developed differently. Urban centres and urban cores could have much better use of land, facilitating well located and taller buildings, meeting the highest architectural and planning standards. The Guidelines are intended to set a new and more responsive policy and regulatory framework for planning the growth and development of cities and towns upwards rather than outwards.

The *Height Guidelines, 2018* denote that the:

*'Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, **by building up and consolidating the development of our existing urban areas.**'* [Our Emphasis]

The Guidelines also note that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development and it notes that the planning process must actively address how this objective will be secured.

Chapter 2 of the Guidelines sets out the following Specific Planning Policy Requirement:

Specific Planning Policy Requirement 1

*'In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and **shall not provide for blanket numerical limitations on building height.**'* [Our Emphasis]

TOC Comment: It is our professional planning opinion that the imposition of the 3 No. storey height restriction at the subject site has been superseded by Specific Planning Policy Requirement 1 which notes that blanket numerical limitations on building height shall not be provided for through statutory plans without reference to the Building Height Guidelines 2018 which were not in force when the *Fingal County Development Plan 2017-2023* was adopted and hence when objective 'BLANCHARDSTOWN 1' was adopted. Thus, it is evident that the Building Height Guidelines 2018 are the relevant document in this regard.

Chapter 3 of the *Height Guidelines, 2018* expressly seeks increased building heights in urban locations:

*'In relation to the assessment of individual planning applications and appeals, it is Government policy that **building heights must be generally increased in appropriate urban locations**. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.'* [Our Emphasis]

In this regard, it is noted that Chapter 4 of the Fingal Development Plan designated Blanchardstown Town Centre and Blanchardstown Village together under 'Urban Fingal'.

The Guidelines further note that '*Planning Authorities must apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines:*

- 1. Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?**

TOC Response: As noted in Section 4.1, the proposed scheme involves the redevelopment of an existing underutilised brownfield, infill site within an existing residential area which will contribute to delivering compact growth in urban centres, whilst protecting surrounding residential amenity. The scheme is therefore fully in accordance with the preferred approach of the National Planning Framework.

- 2. Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these Guidelines?**

TOC Response: SPPR 1 within Chapter 2 of the Guidelines sets out that blanket numerical restrictions on building heights shall not be provided for in plans, in order to support building height and density in locations with good public transport accessibility and particularly in town/ city cores. As previously noted, the *Fingal Development Plan 2017 - 2023* does not specifically set out a numerical limitation on height, rather there is an objective in the plan to prepare an Urban Framework Plan to guide development in the area, including infill development which would not exceed 3 No. storeys. This Plan has not been prepared and there is no timeline for such a plan to be prepared.

We reiterate that it is our professional planning opinion that imposing this height restriction at the subject site through an Urban Framework Plan without reference to the

Building Height Guidelines (adopted after the adoption of the Fingal Development Plan and thus objective BLANCHARDSTOWN 1' would be contrary to Specific Planning Policy Requirement 1 which notes that blanket numerical limitations on building height shall not be provided for through statutory plans. Therefore, we consider the heights proposed consisting of partial heights of 4 and 5 No. storeys towards the centre of the site are appropriate in order to accord with Government policy to increase building heights in sustainable locations.

3. ***Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?***

TOC Response: We have clearly demonstrated that the objective of the Development Plan to prepare the aforementioned Urban Framework Plan restricting infill developments to 3 No. storeys in height is now outdated as a result of the progression of National Policy, and implementing such an objective would be contrary to SPPR₁ of the *Height Guidelines, 2018* as discussed above. We note that an LVIA and Daylight/Sunlight Analysis have been carried out which demonstrate that no material impacts will occur to existing residential amenity as a result of the proposed development.

Specific Planning Policy Requirement 3

SPPR₃ of the Building Height Guidelines sets out that:

'It is a specific planning policy requirement that where;

- (A) *1. an applicant for planning permission sets out how a development proposal complies with the criteria [below]; and*
2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.' [Our Emphasis]

We note the provisions of 'Objective BLANCHARDSTOWN 1' of the *Fingal Development Plan 2017 – 2023* (discussed in Section 1.1 of this Report), which states that it is an objective to prepare an Urban Framework Plan for Blanchardstown Village to guide future development including infill development that would not exceed 3 No. storeys. As noted previously, no Urban Framework Plan in accordance with this objective has been prepared and there is currently no timeframe in place for the preparation of this Urban Framework Plan.

However as increased heights are proposed at the subject site and having regard to the Inspector's Assessment of the extant permission at the subject site (see Section 1.3), we have demonstrated how the proposed development satisfies the specified criteria set out in Section 3 of the Height Guidelines as follows:

Development Management Criteria	
At the Scale of the Relevant City/ Town	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i> 	<ul style="list-style-type: none"> The accessibility of the subject site via public transport has been extensively detailed in Section 3.0 of this Report and throughout the Thornton O'Connor Planning Report and Statement of Consistency Report submitted with this Strategic Housing Development planning application (Castleknock Train station and bus services). Capacity figures of DART, Commuter Rail and InterCity services were published by the NTA in the National Heavy Rail Census Report 2018 (released July 2019). Peak Hourly Passenger Flow published in Table 21 of this report indicate a maximum peak hourly flow of 4,166 No. passengers in the morning peak hour for commuter services on the Maynooth/Dublin Line. According to Irish Rail Timetables, 6 No. trains serve Castleknock Station with a maximum capacity (seated + standing) of 1280 No. passengers per train (based on an 8-car train) during the morning peak between 8.00-9.00am. This equates to a total hourly flow capacity of 7,680 No. passengers for the peak hour. Based on these figures, it can be concluded that the Commuter service between Castleknock and Dublin city centre is operating at approximately 54% of its total capacity during the peak hour. Therefore capacity exists to cater for residents from the proposed development to utilise this service.
<ul style="list-style-type: none"> <i>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake landscape and visual assessment (LVIA),</i> 	<ul style="list-style-type: none"> It has been detailed in Architect's Design Statement and TOC documents how the development will be assimilated into its surrounding context through modulation in heights at the edges of the scheme and the use of high quality materials that reflect the context of each elevation of the building. The proposed development will replace a functionally and stylistically outdated

<p><i>by a suitably qualified practitioner such as a chartered landscape architect.</i></p>	<p>pub/restaurant with a high-quality, bespoke contemporary design.</p> <ul style="list-style-type: none"> • We note that the subject site is not located within an architecturally sensitive area and is not surrounded by any unique locational characteristics, having regard to its position fronting the Old Navan Road and adjacent to typical low-density housing. The proposed development has been designed generally within the parameters of the previously granted residential scheme at the subject site (FCC. Reg. Ref. FW16A/0079 and ABP Ref. PLo6F.248037). • A LVIA and Daylight /Sunlight Analysis have been carried out which demonstrate that no material impacts will occur on surrounding residential amenity.
<ul style="list-style-type: none"> • <i>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</i> 	<ul style="list-style-type: none"> • Notwithstanding that the site is a smaller infill, brownfield site, we note that the scheme provides access to the public park to the north-east at 2 No. locations along the north-eastern boundary which will enhance connectivity and permeability within the surrounding area. • We note that the appropriate setbacks have been provided at second, third and fourth floor levels ensuring that the scheme can be appropriately assimilated into the surrounding area. The higher elements are provided towards the centre of the site where they will have minimal impacts on surrounding properties, with the scale and massing stepping down towards the edges of the site. The high quality design including a palette of simple materials will allow the scheme to successfully integrate the surrounding area.

Development Management Criteria	
At the scale of District/ Neighbourhood / Street	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</i> 	<ul style="list-style-type: none"> The high quality design of the proposed development and considered setbacks provide an appropriate transition between the neighbouring dwellings and the subject proposal having regard to clear guidance provided in national planning policy, which seeks the densification of brownfield, infill sites in close proximity to significant employment locations and public transport such as the subject site. The front elevation of the building presents a 'stepped' façade to the Old Navan Road with the different volumes articulated by contrasting external finishes. The height of the proposed development reduces at its eastern and western ends; this reduction in scale is designed to eliminate any overshadowing or visual dominance when viewed from the adjoining private residences. We submit that no material impacts on residential amenity will occur as a result of the proposed development, having regard to the positive results of the Daylight Assessment and the LVIA. The high quality materials utilised in the scheme ensures that the scheme, whilst changing the existing very low density character, will make a positive contribution to the streetscape. The provision of 2 No. accesses to the public park to the north-east will encourage connectivity and permeability for the residents, which will create a sense of place.
<ul style="list-style-type: none"> <i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</i> 	<ul style="list-style-type: none"> We note that the scheme provides large setbacks at second, third and fourth floor levels to ensure the building was modulated and to ensure it is not monolithic. For example, the scheme provides setbacks ranging from c. 25 No. metres – 40 No. metres from the dwellings along Talbot Court to the south-east and setbacks ranging from c. 22 – 43 No. metres from dwellings along Talbot

	<p>Downs. We note that subsequent to the pre-planning consultation meeting with An Bord Pleanála, the building was set back at second floor level by an additional 6.63 m and by an additional 3.43 m at third and fourth floor levels from the rear of properties along Talbot Court.</p> <ul style="list-style-type: none"> • It is evident from reviewing the photomontages that the building has been broken up through height modulation and through contrasting materials, ensuring its height, scale and massing is appropriate in its receiving environment. As seen in the image below, the bulk of the building is 3 No. storeys with modulation down to a single storey and up to 5 No. storeys. • With regard to materials, two contrasting external materials have been employed to articulate the different volumes; clay facing brick, and a dark self-coloured cementitious render. The intention is that in expressing different elements in contrasting external materials in this way, is that the impact of the building within the neighborhood street and receiving environment is reduced. 
<ul style="list-style-type: none"> • <i>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)".</i> 	<ul style="list-style-type: none"> • We note that the scheme will provide active surveillance of the public park to the north and will also provide 2 No. access points onto this park for residents to utilise, therefore enhancing the urban design context for public spaces. • By providing a taller building in this location to the existing building, this provides a building of scale and enclosure to the open public park to the north. • A site specific flood risk assessment has been prepared for the subject scheme

	<p>detailing that the development is in line with the Flood Risk Guidelines.</p>
<ul style="list-style-type: none"> <i>The proposal makes a positive contribution to the improvements of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</i> 	<ul style="list-style-type: none"> The high quality design of the scheme will ensure the development will be a legible and attractive addition to the area. As previously noted, the access provided onto the public park will contribute towards enhancing the legibility of the scheme within its context.
<ul style="list-style-type: none"> <i>The proposal positively contributes to the mix of uses and/ or building / dwelling typologies available in the neighbourhood.</i> 	<ul style="list-style-type: none"> As set out in the Justification Report prepared by Thornton O'Connor Town Planning, Shared Living is a housing typology to be encouraged in Ireland. The site has the potential to provide an accommodation typology that is lacking in the local area, a typology that is predominantly targeted towards single workers (but also provides double occupancy rooms to provide choice in tenure) that may be unable to afford the sparse rental options available in the local area and persons that may prefer to live in a designed environment that provides social interaction spaces. Having regard to the significant employment locations such as Connolly Hospital, Dublin Enterprise Zone and Blanchardstown Town Centre located in close proximity to the site, it is clear that the Shared Living residential typology is appropriate for the subject lands.

Development Management Criteria	
At the Scale of the Site/ Building	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <i>The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</i> 	<ul style="list-style-type: none"> The Daylight/Sunlight Analysis notes that all of the individual bedroom suites at basement level comfortably meet the BRE guidelines on average daylight factor which indicates that rooms on subsequent floor levels will also meet the guidelines. The Report also concludes that the proposed development will not result in any significant impact on level of daylight or sunlight to surrounding properties, thus ensuring the protection of surrounding residential amenity.

<ul style="list-style-type: none"> • <i>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guidelines. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and an effective urban design and streetscape solution.</i> 	<ul style="list-style-type: none"> • As noted above, the Daylight/Sunlight Assessment ultimately concludes that no material impacts will occur on neighbouring properties. • The Report also notes that the future occupants of the proposed residential development will have access to external amenity areas with good level of sunlight throughout the year and all private habitable rooms and communal multi purposed rooms will receive adequate levels of daylight through-out the development. • The only instance where the BRE Guidelines are not met is in respect of the ground floor courtyard. However, we note that a public park is located adjacent to the site to the north-east and a second courtyard is provided at basement in addition to a roof terrace at third floor ensuring a high level of outdoor amenity space is provided for residents to utilise.
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Development Management Criteria	
Site Specific Assessments	
Assessment Criteria	Comment
<ul style="list-style-type: none"> • <i>Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measurements to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</i> 	<ul style="list-style-type: none"> • These assessments are generally required when buildings are at least 30 No. metres in height. Therefore, as the subject proposed building has a maximum height of c. 17.575 m, this assessment is not required.
<ul style="list-style-type: none"> • <i>In development locations in proximity to sensitive bird and/ or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and/ or collision.</i> 	<ul style="list-style-type: none"> • The AA Screening Report prepared by Moore Group has found that the Project, alone or in combination with other projects, is not likely to have significant effects on the European sites considered in this assessment.
<ul style="list-style-type: none"> • <i>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</i> 	<ul style="list-style-type: none"> • There are no important telecommunications channels in the vicinity of the subject site that the proposed development could materially impact upon.

<ul style="list-style-type: none"> • <i>An assessment that the proposal maintains safe air navigation.</i> 	<ul style="list-style-type: none"> • Having regard to the location of the subject site and the maximum height of 5 No. storeys, the proposed development will not impact upon air navigation. • This was confirmed in correspondence with daa who stated in correspondence on 10th August 2020 (see Appendix B) that <i>'the height of the proposed buildings will not have any implications for obstacle limitation surfaces at Dublin Airport'</i>. • The Applicant will consult with the daa on the location/nature of PV panels prior to their erection.
<ul style="list-style-type: none"> • <i>An urban design statement including, as appropriate, impact on the historic built environment.</i> 	<ul style="list-style-type: none"> • A Design Statement prepared by Todd Architects has been submitted with the application. The principle of demolishing the existing public house building was established previously at the subject site.
<ul style="list-style-type: none"> • <i>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</i> 	<ul style="list-style-type: none"> • An AA Screening Report and Environmental Report has been submitted with the application.

TOC Comment: Having regard to the response to each element of the Development Management Criteria outlined above, it is clear that the proposed development is in accordance with the policies and objectives of the *Building Height Guidelines*.

The application proposes a part 1 to part 5 No. storey over basement Shared Living Building in 1 No. block (in addition to a single storey bin store and substation/switchroom), which is considered to be appropriate within the surrounding context having regard to the location of the subject site within an existing core urban area which is well served by public transport with many bus stops located in close proximity to the subject site in addition to Castleknock Train station c. 350 No. metres to the south-west (as the crow flies) and c. 550 No. metres / 7 No. minutes walking distance and the various employment locations and services and facilities accessible by foot and by bike (discussed in full detail in Section 3.3 of the Statement of Consistency and Section 2 of the Planning Report).

We reiterate that the site is located in close proximity to a wide range of employment locations such as, *inter alia*, Connolly Hospital, Dublin Enterprise Zone, Intel and Blanchardstown Town Centre.

We note that a 4 No. storey scheme was previously granted in 2017 however it is considered appropriate to propose an additional partial storey at the centre of the site on foot of the introduction of the *National Planning Framework* and the *Height Guidelines* which encourages increased height and density on appropriate sites. It is considered that the

design response provided strikes a balance between respecting the planning parameters of the extant scheme and ensuring the development potential of a strategically positioned underutilised plot is maximised.

4.3 *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2018*

The Department of Housing, Planning and Local Government published the updated *Sustainable Urban Housing: Design Standards for New Apartments* in March 2018.

These Guidelines update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply and projected need for additional housing supply out to 2020, the Government's *Rebuilding Ireland – Action Plan for Homelessness, 2016* and the *National Planning Framework – Ireland 2040*, published since the 2015 Guidelines. We note that the Apartment Guidelines take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes.

The subject site is considered to be located in a central and/or accessible urban location as set out in the Apartment Guidelines, which states the following:

'Such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:

- *Sites within walking distance (i.e. up to 15 minutes or 1,000 – 1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions.'*

TOC Comment: The subject site is located either within 15 No. minutes or 1,500 metres of numerous substantial employment locations including, *inter alia*, Connolly Hospital, Dublin Enterprise Zone and Blanchardstown Town Centre and therefore can be described as a central and/or accessible urban location. The proposed development providing increased height and density is fully in accordance with the *Apartment Guidelines, 2018*.

4.4 *Regional Spatial and Economic Strategy for the Eastern and Midlands Region*

The *Regional Spatial and Economic Strategy* (or RSES) for the East and Midland Regional Assembly was adopted on 28th June 2019. From this document a number of core Regional Policy Objectives have emerged to work in concert with the National Planning Framework (NPF), and to guide all Local Authority future plans, projects and activities requiring consent of the Regional Assembly.

Under **RPO 4.3** 'Consolidation and Re-intensification' the following objective is stated:

'Support the consolidation and reintensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin

city and suburbs and ensure that the development of future development areas is coordinated with the delivery of key water infrastructure and public transport projects.
[Our Emphasis]

TOC Comment: The subject development will provide 210 No. Shared Living bedspaces with ancillary resident support facilities and amenities replacing the existing 1 – 2 No. storey public house/restaurant therefore appropriately densifying this brownfield site in an existing residential area in proximity to employment locations and public transport. Therefore, the proposed development will result in the intensification of a brownfield site in a built up area in accordance with the RSES.

4.5 *Fingal Development Plan 2017 - 2023*

In addition to Objective 'BLANCHARDSTOWN 1' relating to the publication of an **Urban Framework Plan** and Chapter 4 of the Development Plan referring to Blanchardstown Village and Blanchardstown Town Centre as '**Urban Fingal**', as discussed throughout this Material Contravention Statement, the Development Plan notes a number of main aims which will be delivered by the strategic policies of the Plan including the following:

'Consolidate the growth of the major centres of Blanchardstown by encouraging infill development and intensification of development within appropriate locations.' [Our Emphasis]

Objective PM44 also aims to '*encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.*' [Our Emphasis]

Objective SSo8 aims to identify opportunities for infill development which will in turn reduce the need to zone additional greenbelt lands.

Objective SS15 highlights the need to maximise the efficient use of existing infrastructure and services by consolidating existing urban areas through infill and appropriate brownfield redevelopment.

Objective MT05 refers to providing higher density development along higher capacity public transport corridors.

Objective EDo4: Prioritise locating quality employment and residential developments in proximity to each other in order to reduce the need to travel, and ensure that suitable local accommodation is available to meet the needs of workers in the County.

TOC Comment: Having regard to the above policies and objectives of the Development Plan, the proposed scheme which involves the redevelopment of an existing underutilised, brownfield, infill site is fully in accordance with these strategic policies. We note that 4 No. storeys has previously been granted at the subject site and the addition of a partial extra floor towards the centre of the site represents the proper planning and sustainable development of the area. We also note that an LVIA and Daylight/Sunlight Analysis have been carried out which demonstrate that no material impacts will occur as a result of the proposed development, therefore the proposed development is appropriate for the

subject lands. Finally, we have demonstrated that the proposed residential development is proximate to a very significant existing and future employment base, thus providing residential accommodation adjacent to employment, reducing the need to travel and ensuring suitable local accommodation is available to meet the needs of workers in Blanchardstown.

5.0 CONCLUSION

According to Section 9(6) of the *Planning and Development (Housing) and Residential Tenancies Act, 2016*, An Bord Pleanála may grant permission for a Strategic Housing Development where national policy takes precedence over the objectives of the Development Plan as prescribed in Section 37 (2)(b) of the *Planning and Development Act (as amended)*.

As noted throughout this Material Contravention Statement, the *Fingal Development Plan 2017–2023* includes an Objective 'BLANCHARDSTOWN 1' which states that it is an objective to prepare an Urban Framework Plan for Blanchardstown Village to guide future development including infill development that would not exceed 3 No. storeys. However, no Urban Framework Plan in accordance with this objective has been prepared and there is currently no timeframe in place for the preparation of this Urban Framework Plan.

We note that this policy was provided prior to the introduction of the *Building Height Guidelines*. An Bord Pleanála and Planning Authorities must have regard to these Guidelines and we note with particular reference to the Specific Planning Policy Requirements (SPPRs) set out in the *Building Height Guidelines*, these elements are mandatory. SPPR 1 of the Guidelines notes that blanket numerical limitations on building height shall not be provided for through statutory plans therefore the imposition of the 3 No. storey height restriction at the subject site would be contrary to SPPR 1.

It is our professional planning opinion that as this Urban Framework Plan has not been prepared and given the progression of National Policy, the *Building Height Guidelines* takes precedence over this objective. We note that as there is no timeframe to prepare such a Plan, the proposed development is not explicitly materially contravening the Development Plan, rather the development could be considered to materially contravene an objective to prepare a future Urban Framework Plan. In the interest of completeness, we have prepared this Material Contravention Statement as part of the planning application to ensure that a robust assessment of the subject scheme is carried out, notwithstanding it is our professional planning opinion that no material contravention exists.

It is our professional planning opinion that the increased height and density proposed as part of the subject scheme represents proper planning and sustainable development and is fully in accordance with National Policy which seeks to increase height and density in appropriate core urban areas.

The subject site is suitable to provide additional height in line with National Policy due to its central and/or accessible location (as set out in the *Apartment Guidelines, 2018*) in close proximity to numerous substantial employers located within easy walking and cycling distance from the site such as Connolly Hospital (c. 11 No. minute walk/ c. 4 No. minute cycle), Dublin Enterprise Zone (c. 21 No. minute walk/c. 6 No. minute cycle distance) and

Blanchardstown Town Centre (c. 21 No. minute walk/c. 8 No. minute cycle distance) and the site is also well served by public transport with Castleknock Train Station located within c. 550 No. metres walking distance of the site (7 No. minutes) and various bus stops which provide easy access to locations such as Blanchardstown Shopping Centre (No. 17a) and Ongar Village (39a) from the N3 Navan Road and Dublin City Centre (No. 38a and No. 39 from Navan Road, No. 179 from Connolly Hospital and No. 38 from the R806 Castleknock Road).

Having regard to the reasons set out in this Material Contravention Statement for increased height located towards the centre of the subject site as part of the proposed development, it is our professional planning opinion that An Bord Pleanála should be favourably disposed to granting permission for the subject scheme in accordance with Section 37 (2)(b) of the *Planning and Development Act, 2000 (as amended)*.

Appendix A: Email from Fingal County Council dated 23rd July 2020

FW: Blanchardstown Urban Framework Plan - Message (HTML)

File Message Help Acrobat Tell me what you want to do

Ignore Delete Archive Reply Reply All Forward

Quick Steps

Move Actions

Assign Policy Mark Unread Categorize Follow Up

Translate Read Aloud Zoom Send to OneNote Insights

FW: Blanchardstown Urban Framework Plan

Conor Doyle
To ● Patricia Thornton

You replied to this message on 23/07/2020 15:57.

↩ Reply ↩ Reply All → Forward

Thu 23/07/2020 15:57

From: Deirdre Fallon <Deirdre.Fallon@fingal.ie>
Sent: 23 July 2020 15:52
To: Conor Doyle <conor@towntownplanning.ie>
Cc: Derek Kavanagh <Derek.Kavanagh@fingal.ie>; Ann Murphy <Ann.Murphy@fingal.ie>
Subject: FW: Blanchardstown Urban Framework Plan

Dear Conor,

I refer to your query below. The preparation of the Blanchardstown Framework Plan is not on the current work programme for the Planning and Strategic Infrastructure Department. At the moment, there is no indicative timeframe available for its preparation.

Regards,

Deirdre Fallon
 Senior Executive Planner | Fingal County Council | Planning & Strategic Infrastructure Department
 County Hall | Main Street | Swords | Co. Dublin | Eircode: K67X8Y2
 T: +353 (0)1 890 5849 | E-mail: deirdre.fallon@fingal.ie

Comhairle Contae
Fhine Gall
 Fingal County
 Council

Appendix B: Email correspondence from daa dated 10th August 2020 including correspondence from IAA

Patricia Thornton

Subject: FW: Bartra Planning application - Brady's Site

From: Nigel Somerfield <Nigel.Somerfield@daa.ie>
Sent: Monday 10 August 2020 10:55
To: Ian Fennell <ifennell@bartracapitalproperty.com>
Subject: RE: Bartra Planning application - Brady's Site

Ian

Regarding the point made by Paul Mullins, I can confirm that the height of the proposed buildings will not have any implications for obstacle limitation surfaces at Dublin Airport.

In relation to the proposed PV panels, typically we would ask that the developer demonstrates that there would be no impact to the safety of operations at Dublin Airport, with particular regard to the new ATC Control Tower. We would also ask for consultation with the IAA on the specific matter of PV panels.

Regards



Nigel Somerfield
Aerodrome Standards Manager
T: 00353-1-814 4349 **email:** nigel.somerfield@daa.ie

Document Classification: Class 1 - General

From: Ian Fennell <ifennell@bartracapitalproperty.com>
Sent: Wednesday 5 August 2020 14:28
To: Nigel Somerfield <Nigel.Somerfield@daa.ie>
Subject: Bartra Planning application - Brady's Site

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Nigel

Thank you for taking my call a short while ago.

Attached on this email are the particulars proposed for the development, including,

- Site location plan
- Building details
- Elevational details including heights AGL and OD

As per the note from Paul Mullins, IAA Aerodromes Inspector, he has indicated that I should also engage with yourselves in the DAA Planning Dept.
Please let me know if you need anything further

1

Regards

Ian Fennell
Head of Development



Batra Capital Property
Third Floor, Longfort House
Earlsfort Centre
Dublin 2

Tel: +353 1 244 0724
Mob: +353 87 6703830
Email: ifennell@batracapitalproperty.com
Web: www.batracapitalproperty.com

From: MULLINS Paul <Paul.MULLINS@IAA.ie>
Sent: Wednesday 5 August 2020 12:59
To: Ian Fennell <ifennell@batracapitalproperty.com>
Cc: HUGHES John <john.HUGHES@IAA.ie>; O'BRIEN Christophe <Christophe.O'BRIEN@IAA.ie>
Subject: RE: Bradys

Good afternoon Ian,

Thank you for your correspondence and the attachments provided.

Based on the information provided, the Authority's main observations with regard to the proposed development are as follows:

- As the development is approximately 6.7km Southwest of Dublin Airport with a maximum height of some 18M, the applicant/developer is required to engage with the Dublin Airport Authority in relation to the development to consider any potential impact on the obstacle limitation surfaces for Dublin Airport.
- With regard to crane operations, the Authority should be notified 30 days in advance of erection of a tower or mobile crane so as to agree an aviation warning light scheme, as appropriate.

Depending on the hours of operation, a mobile crane may also have further lighting requirements particularly if it is proposed to not be lowered during hours of darkness.

I hope that this is helpful in the context of finalising the SHD planning application for this development.

Regards,

Paul Mullins
Aerodromes Inspector

Irish Aviation Authority, The Times Building, 11-12 D'Olier Street, Dublin 2, Ireland.

Tel: +353 1 6031513

+353 85 8748569

paul.mullins@iaa.ie



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SÉANADH: Tá an fhaisnéis sa ríomhphost seo agus i gceangaltáin ar bith faoi rún agus tá sé d'áird agus d'úsáid an Fhreagróra (na bhFreagróirí) dá bhfuil sé ceaptha amháin. Más rud é nach tusa an freagróir (na freagróirí) dá bhfuil an ríomhphost seo ceaptha, ní chéadáltear duit an teachtaireacht, an ceangaltáil(n) nó cuid ar bith dó a úsáid, a nochtadh, a chóipeáil, a scaipeadh nó a choinneáil. Má chreideann tú go bhfuair tú an ríomhphost seo trí earráid, bheimis buíoch dá gcuirfeá é sin in iúl dúinn láithreach. Scríob gach cóip den ríomhphost seo agus ceangaltáil(n) ar bith ó chóras do ríomhaire chomh maith le do thoil.

Mura bhfuil sé luaithe go sainráite, níl sé beartaíte leis an ríomhphost seo caidreamh conarthach ar bith a chruthú. Mura seoladh an ríomhphost seo i gcúrsaí fhostalócht an tseoitóra nó i gcomhlíonadh a dhualgas/a dualgas ní ghlacfaidh daa dliteanas ar bith as ábhar na teachtaireachta nó ceangaltáil(n) ar bith.

daa cpt. Oifig Chláraithe: Aerfort Bhaile Átha Cliath, Co. Bhaile Átha Cliath. Uimhir Chláraithe: 9401 Éire.

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