



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

September 2019



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1.0 INTRODUCTION

1.1 Purpose of this Report

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.

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. We note that this policy was provided 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.

It is our professional planning opinion that as this Urban Framework Plan has not be prepared and given the progression of National Policy, there is significant potential for the subject site to provide increased heights, subject to appropriate safeguards.

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.'

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, the same analysis should apply 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: We note that the site is zoned Objective 'RS' 'Residential' in the *Fingal Development Plan 2017 – 2023* and residential use is 'permitted in principle' on 'RS' zoned lands. As the subject scheme proposes a Shared Living Residential Development, the proposed development fully complies with the zoning objective of the site. Therefore, the subject of this Material Contravention Statement relates solely to building height which we consider is appropriate and justified for the subject lands having regard to recently adopted National Policy as detailed throughout this Report.

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: 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) 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*. We note that 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.

The subject development having regard to its location 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), is appropriate to ensure that the subject lands are sustainably redeveloped.

We note that the subject site is located within a central and accessible urban location as defined in the *Apartment Guidelines, 2018* as the site is located within 15 No. minutes or 1,500 metres walking distance of Connolly Hospital, in addition to other significant employment locations. The subject scheme is therefore fully in accordance and consistent with the standards set out in the *Apartments Guidelines, 2018*.

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).

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.

4.0 JUSTIFICATION FOR THE 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.

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 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 would therefore 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.

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]

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. 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 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 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"> <i>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).</i>
<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"> <i>It has been detailed in Architect's Design Statement and TOC documents how the development will be assimilated into its surrounding context. 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</i>

<p>by a suitably qualified practitioner such as a chartered landscape architect.</p>	<p>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).</p> <ul style="list-style-type: none"> • An LVIA and Daylight /Sunlight Analysis have been carried out which demonstrate that no material impacts will occur.
<ul style="list-style-type: none"> • 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. 	<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"> • The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape. 	<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. We submit that no material impacts on residential amenity will occur as a result of the proposed development, having regard to the positive

	<p><i>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.</i></p>
<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"> <i>We note that the scheme provides large setbacks at second, third and fourth floor levels. 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 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.</i>
<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"> <i>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.</i>
<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"> <i>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.</i>
<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"> <i>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</i>

	<p><i>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 typology is appropriate for the subject lands.</i></p>
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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"> <i>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.</i>
<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</i> 	<ul style="list-style-type: none"> <i>As noted above, the Daylight/Sunlight Assessment ultimately concludes that no material impacts will occur on neighbouring properties.</i> <i>The Report also notes that the future occupants 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.</i> <i>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</i>

<i>regeneration and an effective urban design and streetscape solution.</i>	<i>floor ensuring a high level of outdoor amenity space is provided for residents to utilise.</i>
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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"> <i>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.</i>
<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"> <i>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.</i>
<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"> <i>N/A</i>
<ul style="list-style-type: none"> <i>An assessment that the proposal maintains safe air navigation.</i> 	<ul style="list-style-type: none"> <i>N/A</i>
<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"> <i>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.</i>
<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"> <i>An AA screening report and Environmental Report has been submitted with the application.</i>

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 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 minutes or 1,500 metres of numerous substantial employment locations including, *inter alia*, Connolly Hospital, Dublin Enterprise Zone and Blanchardstown Town Centre, 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 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 PM4.4 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.

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.

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 be 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. However, 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.

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)*.

