

An  
Bord  
Pleanála

**Board Direction**  
**BD-016028-24**  
**ABP-315747-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/04/2024.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

Having regard to the planning history of the site, specifically extant permission Reg. Ref: 21/417 which addresses material matters of substance such as traffic, services, utilities, to the nature and extent of the proposed development which is confined to a change of design for 12 no. dwellings already permitted under Reg. Ref: 21/417, and to the policies and objectives of the Kilkenny City and County Development Plan 2021-2027 it is considered, subject to compliance with the following conditions, that the proposed development would not seriously injure the residential amenities of the area, would constitute an appropriate change of design to dwellings for which permission already exists, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such

conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Except as required by conditions attached to this permission the development shall comply in full with the conditions attached to permission PA Ref 21/417.

**Reason:** In the interests of clarifying the scope of this permission.

3. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

4. Details of the external finishes of the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The external finishes shall generally harmonise with the existing houses in Togher Crescent.

**Reason:** In the interest of visual amenity.

5. The developer shall provide a number of electric vehicle charging points within the development in accordance with a scheme to be submitted to, and

agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In order to facilitate and encourage the use of electric vehicles.

6. Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority, such agreement must specify the number and location of each housing unit, pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

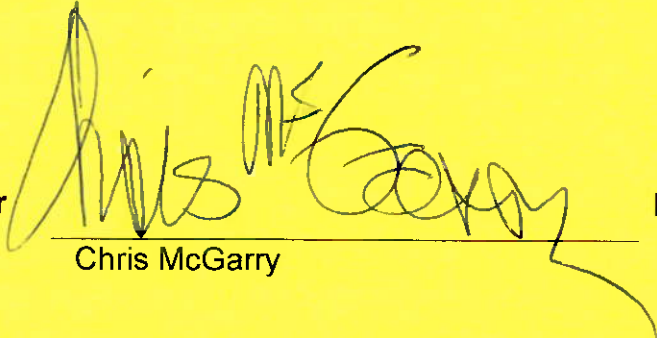
**Reason:** To restrict new housing, to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Contribution Scheme made under section 48 of the Act be applied to the permission.

**Note:** The Board noted the recommendation of the Inspector, as part of condition no. 3, that no more than 6 no houses in the proposed development shall be for the purposes of social and/or affordable housing. However, the Board noted that the proposed development is confined to a change of design for 12 no. dwellings as previously granted permission. Furthermore, the Board noted that the statutory notice for the parent permission and for the current application, simply refer to dwellings and do not seek specific permission for social/affordable housing. The Board therefore determined that the appropriate condition relating to Part V obligations should continue to apply. In this regard, the Board agreed with the relevant condition (condition 3) as contained in the decision to grant permission by the planning authority.

**Board Member**

A handwritten signature in black ink, appearing to read 'Chris McGarry', written over a horizontal line.

Chris McGarry

**Date:** 09/04/2024