



KILKENNY COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS 2000 (AS AMENDED)

NOTIFICATION OF DECISION TO GRANT

TO: Castlecomer Demesne Company Ltd.
c/o Paula McCarthy
S. L. R. Consulting Ireland, Unit 7
Dundrum Business Park
Dundrum
D14n2y7

Planning Register Number: 23/60368

Valid Application Received: 15/08/2023

Further Information Received Date:

In pursuance of the powers conferred upon them by the above-mentioned Acts, Kilkenny County Council has by Order dated 02/10/2023 decided for the reason(s) set out in the First Schedule hereto to GRANT PERMISSION for development as follows:-

for development at this site situated at Castlecomer Discovery Park, The Estate Yard, Castlecomer, Co. Kilkenny. The development (within the curtilage of a protected structure RPS Reference C853 & C510) will consist of an 8.5 km bike trail at the Castlecomer Discovery Park. The bike trail will be between 0.8 – 2.2 m wide including surface and boundary treatment, signage and all associated works within Castlecomer Demesne. The development will be carried out within an overall site area of 26.1 ha. AT Castlecomer Demesne, Castlecomer, Co. Kilkenny IN ACCORDANCE WITH THE PLANS, PARTICULARS AND DOCUMENTATION SUBMITTED SUBJECT TO THE 9 NO. CONDITIONS SPECIFIED IN THE SECOND SCHEDULE HERETO, THE REASONS FOR THE IMPOSITION FOR THE SAID CONDITIONS BEING SET OUT IN THE SAID SECOND SCHEDULE.

In deciding the Planning Application the Planning Authority have regard to submissions or observations received in accordance with the Regulations.

Signed on behalf of Kilkenny County Council

for DIRECTOR OF SERVICES

Date: **02/10/2023**

See final page for details of appeal procedures.

Tel no. Planning Section: 056-7794010
Website: www.kilkennycoco.ie

Note: An applicant for permission and any person who made submissions or observations in writing in relation to the planning application to the planning authority in accordance with the permission regulations and on payment of the appropriate fee, may, at any time before the expiration of the appropriate period – “*the appropriate period*” means the period of four weeks beginning on the day of the decision of the planning authority – appeal to An Bord Pleanála against a decision of a planning authority under Section 34.

AN APPEAL SHALL BE MADE

- (a) by sending the appeal by prepaid post to An Bord Pleanála, 64 Marlborough Street, Dublin 1, Tel 01.8588100 or LoCall 1890 275175
- (a) by leaving the appeal with an employee of An Bord Pleanála at the offices of the Board during office hours (as determined by the Board) or
- (b) by such other means as may be prescribed.

APPEALING A DEVELOPMENT CONTRIBUTION.

- (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.
- (b) An appeal may be brought to the Board where an applicant for permission under Section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

AN APPEAL SHALL

- (a) be made in writing
- (a) state the name and address of the appellant and of the person, if any, acting on his or her behalf
- (b) state the subject matter of the appeal
- (c) state in full the grounds of appeal and the reasons, considerations and arguments on which they are based
- (d) in the case of an appeal under *Section 37* by a person who made submissions or observations in accordance with the permission regulations, be accompanied by the acknowledgement by the planning authority of receipt of the submissions or observations
- (e) be accompanied by such fee (if any) as may be payable in respect of such appeal in accordance with *Section 144* and
- (f) be made within the period specified for making the appeal.

FEES FOR APPEAL

(a)	Appeals against decisions of Planning Authorities	
	Appeal	
	(i) 1 st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
	(ii) 1 st party appeal relating to commercial development (no retention element in application)	€1,500 or €3,000 if EIS or NIS involved
	(iii) 1 st party appeal non-commercial development where the application included the retention of development	€660
	(iv) 1 st party appeal solely against contribution conditions (s) – (2000 Act section 48 or 49)	€220
	(v) Appeal following grant of leave to appeal	€110
	(vi) An appeal other than referred to in (i) to (v) above	€220
(b)	Referral	€220
(c)	Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d)	Application for leave to appeal (section 37(6)(a) of 2000 Act)	€110
(e)	Making submission or observation (specified bodies exempt)	€50
(f)	Request for oral hearing under section 134 of 2000 Act	€50
Note: The above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above)		

ORAL HEARINGS

The Board may, in its absolute discretion, hold an oral hearing of an appeal. A party to an appeal may request an oral hearing of the appeal. A request for an oral hearing of an appeal shall be made in writing to the Board and shall be accompanied by such fee (if any) as may be payable in respect of the request in accordance with *Section 144*. A request for an oral hearing of an appeal which is not accompanied by such fee (if any) as may be payable in respect of the request shall not be considered by the Board.

A request by an appellant for an oral hearing of an appeal under *Section 37* shall be made within the appropriate period referred to in that section (the period of four weeks beginning on the day of the decision of the Planning Authority) and any request received by the Board after the expiration of that period shall not be considered by the Board. A request by a party to an appeal other than the appellant for an oral hearing of an appeal shall be made within the period referred to in *Section 129(2)(a)* (within a period of 4 weeks beginning on the day on which a copy of the appeal is sent to that party by the Board) within which the party may make submissions or observations to the Board in relation to the appeal, and any such request received by the Board after the expiration of that period shall not be considered by the Board. Further details are available on the Board’s website – www.pleanala.ie

First Schedule
Reasons & Considerations for Decision on Planning Ref. P23/60368

Having regard to the policies and objectives of the current Kilkenny City and County Development Plan 2021 – 2027, the Castlecomer Local Area Plan, referral reports received and the location and association of the proposed development within an existing outdoor recreation facility, it is considered that the proposed development would not seriously injure the amenities of the area and if constructed in accordance with the attached conditions, the proposed development would accord with the proper planning and sustainable development of the area.

Second Schedule
9 No. Conditions attached to Planning Ref. P23/60368

1. The development shall be carried out and completed strictly in accordance with:
 - (i) The conditions of this permission.
 - (ii) The documents lodged with this application on the 15th August 2023, except as otherwise required by the conditions of this permission.

Reason: To ensure that the development strictly accords with the permission and to ensure that effective control is maintained.

2. Clean stormwater from the proposed development shall be managed within the curtilage of the landholding via suitably sized soakaways designed in accordance with BRE Digest 365 – Soakaway Design. There shall be **no discharge** to surface waters from the proposed development.

Reason: In the interests of the protection of the environment and proper planning.

3. A site-specific Construction and Environmental Management Plan for the proposed development shall be prepared and submitted prior to commencement of development which shall accord with the recommendations of the Ecological Impact Assessment report submitted.

Reason: In the interests of the protection of the River Barrow and River Nore SAC.

4. The development shall be carried out in accordance with the recommendations set out in the Ecological Impact Assessment report submitted on the 15th August 2023.

Reason: In the interests of the protection of the environment and biodiversity.

5. The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks and/or dredging associated with the development. The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.
 - a) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision

of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [preservation in situ/excavation].

b) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

c) Following the completion of all archaeological work on site and any necessary post excavation specialist analysis, the planning authority and the National Monuments Service of this Department shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

6. The development works shall be designed and undertaken so as to facilitate the minimization of waste production. Any wastes to be removed from site (including waste subsoil, stone and rubble) shall only be removed by an Authorised Waste Contractor and shall be disposed of to an Authorised Recovery/Disposal Site.

Reason: To provide for the proper recovery/disposal of waste and the protection of the environment.

7. The applicant shall design and provide appropriate transition points where the dedicated bike trail intersects the existing walking trails to manage the safe movement of pedestrians and cyclists at these interfaces.

Reason: In the interests of pedestrian and general safety.

8. The applicant shall provide suitable bike parking facilities within the Discovery Park site.

Reason: In the interests of proper planning and general safety of bike trail users.

9. Prior to erection on site, full details to include specification and locations of any proposed signage and new boundary treatments associated with the proposed bike trail shall be submitted for the formal approval of the Planning Authority.

Reason: In the interests of clarity and orderly development.

FOOTNOTES

Section 34 (13) of the Local Government (Planning & Development) Acts 2000 - 2022, reads "A person shall not be entitled solely by reason of a Permission or Approval under this Section to carry out any development."

This is referred to in the context of the need to avoid infringing in any way the rights of the adjoining property owners.

If there is no appeal against the said decision, a Final Grant of PERMISSION will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanala. (See attached).

It should be noted that until the Final Grant of Permission has been issued the development in question is NOT AUTHORISED.

Please note that the Site Notice shall be removed by the Applicant following the notification of the Planning Authority decision under Article 31.

Any vegetation removal shall be carried out between September 1st and February 28th

