



An
Bord
Pleanála

Inspector's Report PL93.246872

Development	Indefinite retention of four dog kennels and new dog runs/paddocks and associated works at Harristown, Dunmore East, Co. Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority Reg. Ref.	16/282.
Applicant(s)	Maria Kearney.
Type of Application	Retention permission and permission.
Planning Authority Decision	Grant subject to conditions.
Appellant(s)	Bryan and Jane Cunningham (3 rd Party vs. Grant).
Observer(s)	None.
Date of Site Inspection	6 th October 2016.
Inspector	Ciara Kellett.

1.0 Site Location and Description

- 1.1. The site is located in a predominantly rural part of County Waterford. It is located c. 2.75km north-west of Dunmore East and 400m south-east of Fairybush Cross, off the R685 regional road. The dwelling is one of a cluster of four dwellings on the western side of the Killea Road. The Killea Road is a single lane road linking Fairybush Cross to Dunmore East.
- 1.2. The dwelling, where the development is proposed, is not readily visible from the Killea Road because it is located to the rear of two dwellings. The appellants dwelling is one of those. The fourth dwelling is located to the south. The site has a stated area of 0.824ha and is occupied by a bungalow, a block of three wooden stables, a fenced paddock area and the kennels the subject of this appeal.
- 1.3. The entrance to the bungalow adjoins the appellants entrance – there is a hedgerow separating both entrances. A low concrete rendered wall c1.2m in height provides the boundary between the road and this site. The boundaries between the site and the two dwellings to the front consist of well-established hedgerows. Fields are to the rear of the subject site and surround the cluster of four dwellings
- 1.4. Appendix A includes a map and photos of the development.

2.0 Proposed Development

- Indefinite retention of four dog kennels and permission for proposed new dog run/paddock and associated works.
- The existing four dog kennels comprise a single prefabricated block, 4.8m by 3.62m by 2.154m high. It comprises a galvanised steel box section with a mesh infill. The proposed dog run/paddock is to be surrounded by a timber post and rail garden fence with wire mesh infill. There is a timber screen panelling on the façade facing the house/driveway (east face). The

run/paddock surface is proposed as pea gravel and grass and is c.40sqm in area. There exists a concrete apron outside the kennels. There is a new in-ground dog waste disposal system proposed to the north-east of the kennel area.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 4 conditions.

Condition no.2 restricts the use of the kennels for 3 years, to enable the impact of the development to be reassessed and condition no.4 restricts any use of advertising signs or structures.

3.2. Planning Authority Reports

The Planner's Report is the basis for the Planning Authority decision. The Report:

- Refers to site history and refusal of permission in 2015.
- States that the Waterford County Development Plan 2011-2017 does not provide policies directly for boarding kennels, but notes that Table 10.11 identifies that such a use is *Open for Consideration* on agricultural lands.
- Notes there is a stable block located to the north of the proposed paddock area and between the kennels and the rear of the dwelling.
- States that this application differs from the previous application, because the paddocks is now proposed to the rear of the dwelling house. The use of the existing paddock located between the dwelling and the objector's house is not now proposed.
- Notes the applicant has stated that she intends to house only 4 no. dogs as well as her own 2 no. dogs and has submitted letters of support from the other two neighbours.

- Considers the ongoing development of boarding kennels on the site has not resulted in rural dis-amenity and is satisfied that a small enclosure to the rear of the dwelling will enhance the management of activities on the site.
- Considers a temporary 3-year permission would facilitate the applicant in carrying out the development and enables the Planning Authority to consider the applicant's effectiveness in managing the facility.

3.3. Other Technical Reports

- Water Services: No response but discussed with Supervising Engineer.

3.4. Third Party Observations

One third party submission was received from the appellants, the owners of the neighbouring property to the north-east. It states:

- Notes that the applicant has made every effort to address concerns arising from original application but it is still a commercial boarding kennels.
- Applicant did not appeal the earlier decision.
- Property values will be affected.
- Refer to reasons for refusal of the earlier application.

4.0 Planning History

- 93/514: Original bungalow; 99/785: Garage/Sunroom extension; 99/1272: Permission refused for pitched roof, 2 apartments and septic tank improvements; 07/745: Permission for bungalow extension and garage; and 15/583: Retention permission for pitched/hipped roof.
- In September 2015, Permission was refused for 4 No. steel frame kennels, dog run/paddock, and timber fenced enclosures (Reg. Ref. 15/460). The reason for refusal is stated as:

- *Taking cognisance of the nature of the proposed commercial use, its location in a rural area where the key land use zoning objective of the Waterford County Development Plan 2011-2017, is to provide for the development of agriculture and to protect and improve rural amenity and the close proximity of the proposed development to the rear of 3 no. residential properties, it is considered that the proposed development, for reasons of noise and disturbance would seriously injure the amenities and depreciate the value of properties in the vicinity. The proposed development would therefore contravene materially the development plan for the area and would therefore be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. Waterford County Development Plan 2011 – 2016

Chapter 6 of the Plan refers to Economic Development and Chapter 10 refers to Development Standards.

Section 6.7 of Chapter 6 refers to Rural Employment and Enterprise. It is stated that *“The Council will support micro-enterprises and cottage style industries in rural areas where they do not detract from the rural character of the area or have a significant negative effect on the surrounding environment or landuses”*.

Section 10.57 of Chapter 10 refers to zoning objectives. The area is located within the Agriculture zoning with the objective *“To provide for the development of agriculture and to protect and improve rural amenity”*. Under the land use zoning matrix, Boarding Kennels are Open for Consideration.

6.0 Natural Heritage Designations

River Barrow and River Nore SAC (Site Code 002162) is 3km to the east and Tramore Dunes and Backstrand SAC (Site Code 000671) and SPA (Site Code 004027) is 5kms to the west.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Inappropriate development in a rural location close to three properties.
- This application simply moves the dog runs and paddocks to another location a small distance away – the Executive Planner in the report for the previous application stated that *“permitting of use of any part of the site for commercial kennels would be difficult to control in planning terms....”*.
- More than 4 dogs have been seen at frequent intervals.
- Create a precedent for similar inappropriate planning applications.
- Noise problems with dogs barking and an increase in vermin and crows.
- Property values will be affected.

7.2. Planning Authority Response

No comments

7.3. First Party Response

- The kennels cannot be considered to be a “commercial enterprise” because commercial kennels rarely board less than 15-20 dogs. The applicant intends to board only 4 as per her business plan and in accordance with Condition no.1 on the Planning Authority decision.

- Applicant has agreed to discontinue using the existing paddocks for the dogs and proposes a smaller run to the rear of her dwelling.
- The kennels and paddock are not visible from the road, nor from any window of the appellants dwelling.
- The applicant never used signage to advertise the business – her business stems from repeat boarders and word of mouth.
- Letters of support from the other two neighbours accompany the applicant's response.
- County Development Plan considers Boarding Kennels open for consideration in agricultural areas and this is appropriate rather than in a town or city.
- There are three other kennels within an 8km radius.
- The dwelling is her home and she has every intention of ensuring that conditions are complied with because the Council permitted only three years – she will not flout the planning law because to do so, would mean losing her livelihood if the next application is refused.
- Dogs barking and crows and vermin – the dwelling is surrounded by large cornfields and there are numerous dogs in dwellings in the area. The Waterford Council Dog Warden performed a thorough examination of the site and was completely satisfied.

7.4. **Observations**

None

8.0 **Assessment**

- 8.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate

assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Amenity
- Appropriate Assessment

8.2. Residential Amenity

The appellants state that this location in a rural area is inappropriate for kennels. I would tend to disagree and am of the opinion that a rural area is suitable for kennels but the impact on neighbouring amenities must be considered. I note that the other two neighbours wrote letters of support for the applicant and state that they have no issue with noise and that any noises from dogs, birds, cockerels etc. are synonymous with living in the country. I accept that the previous proposed use of the existing paddocks to the front of the applicants dwelling may have caused a negative impact on the appellants' amenities due to the proximity and potential noise from barking dogs but I am satisfied that the run now proposed to the rear of the applicant's dwelling is at a sufficient distance to mitigate any potential noise (approximately 80-90m with the applicants dwelling in between).

There is reasonably mature hedgerow dividing the appellants dwelling from the applicants (apart from one section which is timber panel). I am of the opinion that there would be no negative impact on the visual amenities of the appellant.

With respect to the previous planning application and the reason for refusal therein, I am satisfied that the proposed location of the new paddocks/run area, combined with the commitment to limit the number of dogs to 4 (as well as the applicant's own two dogs), will not injure the rural amenities and will therefore be in accordance with the Development Plan policies for agriculture areas.

I am satisfied that the revised proposal will not significantly impact on the residential amenities of the appellants. I concur with the Planning Authority with respect to

limiting the duration of the permission to three years to assess the applicant's success in managing the revised proposal.

8.3. Appropriate Assessment

Having regard to the minor nature and scale of development proposed and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

Reasons and Considerations

Having regard to the location of the site on agriculture zoned lands in the current Waterford County Development Plan 2011-2017, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development 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.

Reason: In the interest of clarity.

2. This permission shall be for a period of 3 years from the date of this order and for the boarding of 4 dogs only. The development shall then be removed

unless, prior to the end of the period, permission for its retention shall have been obtained.

Reason: To allow for a review of the development having regard to the impact on residential amenities.

3. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them no advertising signs or structures shall be displayed or erected within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Ciara Kellett
Inspectorate

7th October 2016