



An  
Bord  
Pleanála

## Inspector's Report PL26.247157

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<b>Development</b>	Retention of boarding kennels and ancillary site works.
<b>Location</b>	Ballybrennan, Bree, Enniscorthy, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council.
<b>Planning Authority Reg. Ref.</b>	20160646
<b>Applicant(s)</b>	William & Breda Kennedy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-v-Grant
<b>Appellant(s)</b>	Brian Kennedy
<b>Date of Site Inspection</b>	09 <sup>th</sup> November 2016
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

1.1. The appeal site, which has a stated area of 0.27 hectares, is located approximately 8km south west of Enniscorthy in the rural area of the county. The site is located to the south of a public road that joins the R375 to the west of the site. The appeal site is occupied by a single-storey dwelling. There are existing boarding kennels located at the south western corner of the site. Immediately to the east is a similar detached single-storey dwelling with two more similar dwellings located further east. To the west of the site is a small area of forest and to the south is a field.

## **2.0 Proposed Development**

2.1. Permission is sought for retention of boarding kennels and ancillary site works. The structure to be retained has a floor area of 39sqm and a ridge height of 2.425m and is located in the rear garden of an existing dwelling. The structure consists of four separate kennels with a roofed area with and external roofless area. There are also two separate outdoor areas attached to the kennels.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 6 conditions. Of note are the following conditions...

Condition no. 4: Noise emission limits conditioned.

Condition no. 5: Between 21:00 and 08:00 all doors, hatches and windows to the kennels shall be closed and secure so that the dogs are contained within the building.

### **3.2. Local Authority and External reports**

3.2.1. Environment Section (12/07/16): Conditions regarding noise levels and waste.

3.2.2. Planning Report (25/07/16): It was considered that subject to appropriate conditions that the proposal would be satisfactory in the context of adjoining amenities. A grant of permission was recommended subject to the conditions outlined above.

### 3.3. **Third Party Observations**

3.3.1 A third party submission was received from Brian Kennedy, Ballybrennan, Bree, Enniscorthy, Co. Wexford. The submission can be summarised as follows.

- The submission outlines the adverse impact of the constant noise from the dogs on the amenities of the adjoining residents in the dwelling immediately to the east of the site.

## 4.0 **Planning History**

4.1 20043174: Permission consequent on outline granted for dwelling on the appeal site.

## 5.0 **Development Plan**

5.1 The relevant Development Plan is the Wexford County Development Plan 2013-2019. The site is located in the rural area of the county.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1 A third party appeal has been lodged by Brain Kennedy, Ballybrennan, Bree, Enniscorthy, Co. Wexford. The grounds of appeal are as follows...

- The appellant notes that his submission had not been given proper consideration.

- The appellant notes that the development subject to retention generates significant noise and that there is no limit to the number of dogs that are catered for at this location.
- It is noted that noise levels were not measured at the appellant's homes. It is considered that the measures used to evaluate noise level is flawed.
- It is noted that the conditions applied to grant of permission are not being complied with and it is noted that there is no one to police or enforce such conditions.
- It is noted that the appellant's wife is seriously ill and that the constant noise associated with the proposed development has exacerbated this situation.
- It is noted that existing noise levels from development in question exceed the levels conditioned under the permission granted.
- It is noted that the disposal of waste is to the field beside the appellant's property with concerns regarding health impacts.
- The proposal should not be permitted as it would not comply with noise pollution limits and would impact adversely on the residential amenity.
- The appellant has included a letter from a doctor noting that the noisy environment is not good for the stress of the appellant or his wife's health.

## 6.2. Responses

### 6.2.1 Response by Wexford County Council

- During a site inspection noise pollution from the dogs was not evident.
- The design and layout of the kennels is suitable for 4 dogs with appropriate noise control measures. The Planning Authority would have no objections to a conditions regarding the number of dogs.

### 6.2.2 Response by the applicants, William & Breda Kennedy.

- The scale and visual impact of the kennels is minimal and acceptable. The kennels are constructed of block walls and have full timber openings reducing likelihood of noise between 8pm and 8am. All waste is disposed of by a licensed waste contractor.
- It is noted that the occupancy of the kennels is seasonal and are rarely fully occupied and it is noted there is somebody on site at all times if noise issues arise. The intensity of the development is small and creates no issues regarding traffic impact.
- The applicants refute all the issues raised in the appeal.

## 7.0 **Assessment**

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the Proposed Development

Physical/Noise Impact/residential amenity

Other Issues

## 7.2 **Principle of the proposed development:**

7.2.1 The proposal is for retention of existing boarding kennels within the curtilage of an existing dwelling. From the information on file the kennels are commercial development allowing dog owners to leave their dogs. There are 4 kennels in the form of a roofed block built structure with wooden doors on each kennel. Each kennel has an area with no roof and gated entrance. In addition, there are two dog run areas adjacent the kennels. According to the information on file each separate kennel can cater for at most two dogs in each. As noted above the kennels are located in the rear garden of an existing single-storey dwelling. The appeal site is in a rural area, however there are a number of existing dwellings adjoining the site

(three similar type dwellings immediately to the east). I would consider that THE location of the proposal in a rural area would be acceptable and the principle of the proposed development would be acceptable subject to the proposal being satisfactory in regards to adjoining amenity and overall physical impact at this location.

### **7.3 Physical/Noise Impact/residential amenity:**

7.3.1 In terms of overall physical impact, the structure proposed for retention is small in scale and located at the south western corner of the appeal site to the rear of the existing dwelling. The structure to be retained and its associated outdoors areas would have no significant visual impact in the surrounding area or when viewed from adjoining properties.

7.3.2 The main issue of consideration in this appeal and raised in the appeal submission relates to its potential to impact adversely on the residential amenity of surrounding properties through excessive noise levels from dogs barking, howling etc. and the overall nuisance factor associated with same. In terms of overall scale, the proposal is small scale in nature. The structure on site provides secure accommodation for dogs including fully enclosed kennels that would mitigate against noise impact. In addition, the kennels have a significant degree of defined boundary treatment around its outer perimeter and the two external dog runs. At the time of the site visit I would note that despite being occupied by a number of dogs there was not a significant degree of noise. I would consider that it is however appropriate to apply a condition limiting noise levels identical to the noise emission levels applied to the grant of permission subject to this appeal. In addition, I would also recommend a condition be applied allow a maximum number of 4 dogs (one per kennel). I would be satisfied that based on the small scale of the activity, the extent of structures and boundary treatment on site and its proximity relative to adjoining properties and subject to conditions that the proposed development proposed development will not unduly impact on the amenities of the area.

## **7.4 Other Issues:**

7.4.1 In regards to waste management/surface water I am satisfied that conditions can be applied to deal with these matters. In regards to surface water drainage I would note the condition should specify that no surface water runoff should be discharged outside the site or onto the public road and all soiled water / foul drainage from the kennels area and yards used by the dogs shall be discharged to the existing wastewater treatment plant on site. The applicant has indicated that all waste is disposed of by a licensed waste contractor and I would recommend a condition to this effect is also applied in the event of grant of permission.

7.4.2 I would consider that nature of the proposed development and use to be small in scale and that existing access arrangements and availability of car parking is sufficient to the degree that the proposal would have no significant or adverse traffic impact.

7.4.3 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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.

## **8.0 Recommendation**

8.1. I recommend a grant of permission subject to the following conditions.

## **9.0 Reasons and Considerations**

Having regard to the rural location, the scale of the activity proposed and its distance from adjoining residential properties, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area

## 10.0 Conditions

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by the planning authority on 10<sup>th</sup> day of June 2016, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The total number of dogs to be housed at any given time shall not exceed 4.

Reason: In the interest of clarity.

3. All dogs shall be housed and shall not be in the open air after 2000 hours or before 0800 hours on any day.

Reason: To safeguard the amenities of the area.

4. The existing house and the proposed development shall be jointly occupied as a single unit and shall not be sold, let or otherwise transferred or conveyed save as part of an overall development.

Reason: To restrict the use of this development in the interest of residential amenity.

5. Activities at the site shall not give rise to noise levels off-site at noise sensitive locations, which exceed 55dB(A) rated sound level. Prior to commencement of development, the applicant shall agree with the planning authority procedures for the purposes of determining compliance with this limit.

Reason: In the interest of the residential amenities of the area.

6. All animal feeds shall be stored in dog and rodent proof containers within the confines of the boarding kennel building.



Reason: In the interest of public health.

7. Water supply and drainage arrangements, including the disposal of uncontaminated surface water and solid waste, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

8. All soiled water / foul drainage from the kennels area and yards used by the dogs shall be discharged to the wastewater treatment plant on site. The developer shall provide a sampling manhole to the requirements of the planning authority for the sampling of the effluent from the wastewater treatment plant.

Reason: To prevent pollution of watercourses, ground water and all other waters and to safeguard the amenities of the area.

9. Waste sent off site for recovery or disposal shall only be conveyed by an authorised waste contractor and transported from the proposed development site to an authorised site of recovery/disposal in a manner which will not adversely affect the environment.

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

10. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

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Colin McBride  
Planning Inspector

28<sup>th</sup> November 2016