



An
Bord
Pleanála

Inspector's Report ABP-302479-18

Development	Permission for retention of four (4 no.) Dog Kennels including fenced outdoor run/paddocks with associated works at Islandkeane East, Fennor, Tramore County Waterford
Location	Islandkeane East, Fennor, Tramore County Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	18/90
Applicant(s)	Bill & Anne Marie Lennon
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Brian & Sonya Henessy
Date of Site Inspection	23/11/18
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.4976 hectares, is located in the townland of Islandkeane East approximately 2.7km west of Tramore and 2.3km south of Fenor. The appeal site is located on the northern side of the L4054. The appeal site is occupied by a detached single-storey dwelling. There is a detached single-storey dwelling located to the east and a detached dormer style dwelling to the west. To the north are agricultural lands. Boundary treatment on site consists of a stone wall along the roadside boundary (south), a wooden fence along the northern boundary and an embankment with some planting along the western boundary. Other structures on site apart from the dwelling and the structure for retention include two sheds located to the east of kennels.

2.0 Proposed Development

2.1. Permission is sought for the retention of 4 no. dog kennels including fenced outdoor run/paddocks with associated works. The proposed development has a total floor area of 80.5sqm and is located to the rear of an existing dwelling. The floor area is the total footprint of the development, which consist of a small metal shed with a pitched roof with four enclosures with access flaps on the side wall to dogs runs leading to a larger open space. The dog runs and open space are defined by metal fencing. The kennel development is a commercial development.

3.0 Planning Authority Decision

3.1. Decision

Grant of permission subject to 3 conditions. Of note is the following condition...

Condition no. 2: The number of dogs to be accommodated shall not exceed the number specified in the further information response.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (05/03/18): Further information required including details of the maximum number of dogs catered for, submission of a Noise Assessment Report and details of waste generated and disposal of such.

Planning report (08/08/18): Based on the information submitted it was considered that the proposal was small scale in nature and would be open for consideration within agricultural zoned lands. It was considered that the proposal would be acceptable in the context of the proper planning and sustainable development of the area.

3.3. Third Party Observations

A submission was received from Brian & Sonya Hennessy, Islandkeane East, Fenor, Co. Waterford. The issues raised can be summarised as follows...

- Concern is raised by potential noise impact and future compliance with conditions regarding number of dogs and noise limits.
- The development was constructed without planning permission.
- Surface water runoff onto the observers' property.
- Inadequate fencing on site to prevent dogs accessing adjoining properties.
- Child safety concerns.
- Inadequate details regarding waste storage/disposal.
- Additional traffic generated on a narrow rural road.
- Examples of other applications noted in which permission was refused for development of similar nature.
- Video and audio files submitted to demonstrate noise impact.

4.0 Planning History

No planning history.

Cases referred to for boarding kennels by both the appellants and applicants

PL03.227802: Split decision to retain 7 no. Greyhound kennels, training track, 11 enclosed dog runs including kennels, permission for rehabilitation unit, retain pump house as constructed at Cullen, Newmarket-on-Fergus, Co. Clare. Kennels refused to noise impact.

PL93.246872: Permission granted for indefinite retention of four no. dog kennels and for proposed new dog run/paddock and associated works at Harristown, Dunmore East, Co. Waterford. Temporary permission for three years granted.

PL24.215429: Permission granted for boarding kennels with septic tank and percolation area at Knockacronaun, Cappoquin, Co. Waterford.

PL06D.127824: Permission refused for Twenty four commercial dog boarding kennels with ancillary food preparation, grooming and exercise areas. Marlfield Bridge Road, Glencullen, Co.Dublin.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Waterford County Development Plan 2011-2017. The site is in an area zoned A, Agriculture with a stated objective ‘to provide for the development of agriculture and to protect and improve rural amenity’.

Under Table 10.11, Land Use Matrix, boarding kennels are listed as being open for consideration within agricultural zoned land.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been lodged by Brian & Sonya Hennessy, Islandkeane East, Fenor, Co. Waterford.

- The description in the public notices is incorrect as the proposal is commercial in nature and such was not indicated in the notices.
- It is noted that there has been disregard for the planning process as the proposal is for retention of commercial development set up without planning permission.
- There are inconsistencies in the planners report. Firstly it noted that no consideration was given to the fact that the applicant indicated that the numbers of dogs catered for does exceed the 4/5 indicated in the further information request. Secondly the fact that the applicant failed to submit a noise assessment report despite being requested as further information was ignored and thirdly the responses to requests for information on waste generation and disposal were unsatisfactory.
- The appellant note that false and misleading information was submitted in response to further information, this relates to a solicitors letters (civil case between the parties) and statements in the applicants' FI response regarding animals kept by the appellants.
- It is noted that the proposal if granted would generate significant additional traffic on a narrow rural road.
- It is noted that the proposal would result in property devaluation due to noise impact. It is noted that there has been excessive noise generated to the detriment of the appellants' amenity and that there is no sound insulation on the outdoor area of the kennels due to use of open metal fencing.

- The appellants refer to two precedent case where permission was refused for boarding kennels due to proximity and impact on adjoining residential properties.
- The appellants note concerns regarding impact on children placed in their care.
- It is noted that the conditions attached are lenient when compared with similar cases with it considered that proper consideration was not given to adjoining residential amenity or impact of noise.

6.2. Applicant Response

A response has been by Peter Thomson Planning Solutions on behalf of the applicants Bill & Ann Marie Lennon.

- It is noted the description in the public notices is accurate and that if the kennels were for the applicant own use they would not have required permission. It is noted the description is similar to other cases in Waterford of similar nature.
- The applicants note that they did not think the small nature of the proposal required permission and that the retention application was prepared promptly in response to enforcement issues raised by the Planning Authority.
- The applicants clarify that no more than 5 dogs will be kept on the premises at any one time and note that more than 5 dogs have never been kept on site despite the claims of the appellants.
- It was accepted by the Planning Authority that a noise assessment was not required and the applicants refer to two cases where the Board granted permission for boarding kennels where a noise assessment were not required.
- The applicant clarify waste disposal on site noting disposal to a below ground proprietary dog waste composter and wash water to an on-site soakaway. It is noted the site is not prone to flooding and there are no hydrological pathways to any of the Natura 2000 sites in the area.

- The applicants disagree with the appellants' concerns regarding false documents being submitted (relates to solicitors letters and a civil case between the parties).
- The small scale nature of the proposal would mean no significant traffic impact.
- The applicants do not concur with the appellants' views regarding property devaluation.
- In relation to noise impact it is noted that the kennels are within an insulated building and that there is significant distance between the kennels and the appellants' property as well as tool shed, a timber panel fence, another shed and a mature hedgerow between them.
- It is noted that the cases referred to by the appellants are not comparable and of a significantly larger scale. A comparable case is PL93.246872 in which a temporary permission was granted. The applicants are amenable to a temporary permission to allow further assessment if necessary.
- The applicants refute the claims regarding impact on children.

6.3. **Planning Authority Response**

No response.

7.0 **Assessment**

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/development plan policy

Noise/adjoining amenity

Traffic

Waste/surface water

Other issues

7.2. Principle of the proposed development/development plan policy:

7.2.1 The proposal is for retention of boarding kennels within the curtilage of an existing dwelling in the rural area of Co. Waterford. Under the County Development Plan the site is in an area zoned A, Agriculture with a stated objective 'to provide for the development of agriculture and to protect and improve rural amenity'. Under Table 10.11, Land Use Matrix, boarding kennels are listed as being open for consideration within this zoning. I would consider that the principle of the proposed development is acceptable and is in accordance with land use zoning policy under the County Development Plan.

7.3 Noise/adjoining amenity:

7.3.1 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. The appeal site is large and there is a good degree of separation distance between the kennels and adjoining residential properties both to the east and west. Boundary treatment between the appeal site and appellants property is of a good standard.

7.3.2 It is noted that the applicants have indicated that the maximum number of dogs to be catered for will be five and that such has been the case previously. The appellants have noted that more dogs than five have been catered on site. I would note that the development being assessed in this case is dog kennels catering for a maximum of five dogs. I would consider that given the facility has 4 kennels then it should be restricted to a maximum of 4 dogs and such should be confined by way of condition.

7.3.3 Given the small scale nature of the proposal, its rural location and the degree of separation from adjoining properties. I would consider that subject to a number of

conditions the proposal would be satisfactory in regards to adjoining amenity and noise impact. I would consider that a noise impact assessment is not required to assess the proposal. Firstly as already noted, the maximum number of dogs should be confined to four as this is the number kennels being provided for. I would also recommend a condition restricting the timing that dogs are permitted in to the external area. I would be satisfied that based on the small scale of the activity, its rural location, its proximity relative to adjoining properties and subject to conditions that the proposed development proposed development will not unduly impact on the amenities of any of the adjoining properties.

7.3.4 The applicant has indicated a willingness for a restriction to a temporary permission. I would note that I am satisfied that the small scale nature of the proposal would be satisfactory in eh context of adjoining amenity, but the Board may wish to implement a temporary permission to allow review of the development at a later date if considered necessary.

7.4 Traffic:

7.4.1 The proposal is small scale in nature and is to be confined to 5 dogs maximum. Having regard to the small scale nature of the proposal, I am satisfied that it will not generate significant traffic and would note that the existing road network and access arrangements appear of sufficient standard to cater for such without any adverse impacts.

7.5 Waste/surface water:

7.5.1 The applicant has noted that waste disposal on site is to a below ground proprietary dog waste composter and wash water to is to be disposed to an on-site soakaway. Having regard to the small scale nature of the proposal I am satisfied that appropriate conditions are adequate to deal with the issue of waste disposal. I would recommend imposition of a number of conditions. There should be no disposal of surface water onto adjoining properties and I would consider that such should be a condition in the event of a grant of permission.

7.6 Other issues:

7.6.1 In relation to concerns regarding public notices, I am satisfied that the description is accurate. In relation to complaints regarding failure to have adequate regard to the planning process and the requirements of such, I would note that such is not a matter of the Board who are not the enforcement authority. Permission is sought for retention of a development and such is facilitated under the Planning and Development Act. In this regard the proposal is being assessed on its merits and not on the basis of being unauthorised development.

8.0 **Appropriate Assessment**

8.1 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.

9.0 **Recommendation**

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

10.0 **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.

8.0 **Conditions**

1. The proposed development shall be carried out 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. The total number of dogs to be housed at any given time shall not exceed four.

Reason: In the interest of clarity.

3. All dogs shall be housed and shall not be in the open air after 20.00 hours or before 08.00 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. 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.

6. 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 and no surface shall discharge onto adjoining properties or the public road.

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

7. 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.

8. 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.

9. 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 within three months of the date of this order 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.

Colin McBride
Planning Inspector

28th November 2018

