



An
Bord
Pleanála

Inspector's Report ABP-309137-21.

Development	Change of use from use as light industrial to commercial use as daycare centre for dogs.
Location	Unit 2, Childers Road Enterprise Centre, Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	20/326.
Applicant(s)	Urban Tails Doggy Daycare.
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions.
Type of Appeal	Third Party
Appellant(s)	Charly & Teresa O'Neill
Observer(s)	None.
Date of Site Inspection	03/07/2021.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The appeal site is located within the Childers Road Enterprise Centre which was established by Shannon Development in the late 1970s/early 1980s. The centre includes 16 units of various sizes, with the subject site comprising Unit 2. The unit is set back from the adjacent nos. 1 and 3 and includes a triangular site with open spaces. The railway line runs along the western boundary and St. Brigids National School is located to the north. Access to the Enterprise Centre is off Childers Road to the east, and the site is bound to the south by the R527 Ballysimon Road.
- 1.2. The site has a stated area of 0.16 hectares and the existing industrial building on the site has a stated floor area of 520m². The building is connected to public services.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the change of use from use as light industrial to commercial use as daycare centre for dogs, all at Unit 2 Childers Road Enterprise Centre, Limerick.
- 2.2. Following a request for further information, the applicant submitted the following details relating to the operation of the centre:
 - The number of dogs catered for is approximately 20 per day.
 - Opening times are 7.30am-6.30 Monday to Friday.
 - The centre operates a system at drop-off and collection times with owners parked for approximately 1 minute, and never obstructing passers-by.
 - Details of how waste is dealt with is also provided.
 - The outside area is fenced off with metal fencing from the train track. It is unused at the minute due to being damaged.
- 2.3. In addition, the response to the FI includes a noise impact assessment, prepared by John Delaney of Geoenvironmental. The applicant has noted the complaints from neighbours and indicates that the dogs will not be outside. As such, the installation of sound barriers internally is not necessary.

2.4. In terms of the issue of payment of contributions, a letter from the owner of the building is included.

2.5. Photographs are included with the response to the FI request.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 7 conditions.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial Planning Report concludes that further information is required in relation to the development in terms of details of the operation and management of the unit including numbers of dogs catered for, outdoor space etc, a noise impact assessment, car parking provision, the objections raised and clarification on the payment of development contributions in the past.

Following the submission of a response to the FI request, the final planning report concludes that proposed development is acceptable. The Planning Officer recommends that permission be granted for the proposed development, subject to 7 conditions. This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. **Other Technical Reports**

Fire & Building Control: No objection in principle subject to the following:

- Ground floor corridor shall have a cross-corridor fire door subdividing the corridor where required.

- Both protected stairwells must deliver directly to a final exit at ground floor level.
- First floor layout may require re-design to protect alternative escape route.
- Access to the building to comply with the Technical Guidance Document Part M 2010.
- A fire safety certificate will be required.
- A disability access certificate will be required.
- The works shall be designed and constructed in accordance with Building Regulations 1997-2019.

MWNRDO: No observations.

Environment Section: Further information required in relation to the need for a noise impact assessment and hours of operation to be clarified.

3.2.3. Prescribed Bodies

TII: No comments to make.

HSE: Requests that the applicant ensures that any water supply connection to the canteen comes directly from the rising main. The quality of the water shall be in compliance with the Drinking Water Regulations 2014.

3.2.4. Third Party Submissions

There are 2 no. third party objections/submissions noted on the planning authority file. The issues raised are summarised as follows:

- Noise associated with the operation of the doggy day care centre severely disturbs the residential amenity of adjacent homes and impacts on residents using their back gardens.
- The facility operates from 7.30am to 6pm and the noise is non-stop. Recordings of the noise emanating from the site were submitted to the PA.

4.0 Planning History

There is no recent planning history pertaining to the subject site.

PA Ref. 14/1056: Permission was refused for extension to an adjacent unit to facilitate a dentist on the grounds it would materially contravene the light industrial zoning afforded to the site.

Enforcement:

DC296-19: Current case for change of use.

5.0 Policy and Context

5.1. Development Plan

The Limerick City Development Plan 2010 – 2016 (as extended), is the relevant policy document relating to the subject site.

The site is located on lands zoned light industrial – Mixed / general commercial / industrial / enterprise uses.

5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 1.8km to the north of the subject site and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077) which is located approximately 2.3km to the west of the site.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised reflect those raised with the PA during their assessment of the proposed development and are summarised as follows:

- The doggy day care centre has been in operation since 2019 and the noise emanating amounts to nuisance.
- Several recordings have been submitted.
- The appellants have been unable to enjoy their home without interference and the noise of dogs barking has made it impossible for the residents to enjoy their home, which has had a detrimental impact on both their physical and mental health.
- Questions whether a noise survey has been carried out by the local authority.
- Issues raised in terms of traffic and parking.
- It is submitted that there are a number of vacant units further out in industrial estates.

It is requested that the decision to grant be overturned.

6.2. Applicant Response

The first party submitted a response to the third-party appeal. The submission is summarised as follows:

- A Noise Impact Assessment was undertaken which concluded that noise levels are well within the permitted range.
- Dogs will not be allowed to out in the open area any longer.
- There is a busy railway line between the site and the appellants property which causes some noise pollution in its own right.

- The boundaries of the site are heavily tree lined which acts as a buffer to sound transmission.

The response includes a letter from the consultant who carried out the noise survey who submits that the results of the noise impact assessment do not substantiate the claims of the appellants. The outdoor ambient levels, when the facility was operational was measured at the boundary of the facility – 40m east of the appellants dwelling – at 49.3dB, below the daytime limit of 55dB set out in the EPA Guidance Note Noise Guidance Note (NG4) issued by the Agency in 2016.

The background levels measured at N1 of 57.5dB when the facility was closed were higher than that when the facility was operational. The area is subject to vehicle related noise from the nearby Childers Road and Ballysimon Road, and from intermittent noise from the railway line. The submission also notes that the operator of the centre has implemented a number of measures to ensure that noise is kept to a minimum.

The survey also noted other dogs barking from private homes in the area. The octave band analysis concludes that there is no significant tonal content associated with the activities at the site. The difference between the specific noise level (LAeq) level and the background levels were found to be marginal indicating that the likelihood of complaints in the vicinity from the facility was unlikely. Finally, it is noted that the PA granted the proposed development after carrying out their own due diligence and on assessment of the information submitted.

In addition to the above, the operators of the Urban Tails facility submitted a response to the third-party appeal as follows:

- The facility was closed in compliance with government legislation and when they re-opened, they did so on a reduced number of dogs on a daily basis.
- There has been a large amount of work carried out on a car park near the appellants property which has also been a source of nuisance to them.
- The noise report noted other dogs barking in the area.
- The appellants live in an area where many businesses operate and attract traffic and noise.

It is requested that the decision to grant be upheld.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Residential Amenity
3. Roads & Traffic
4. Development Contribution
5. Appropriate Assessment

7.1. **Principle of the development**

- 7.1.1. The subject application seeks permission to change the use of a long established light industrial building for use as a day care centre for dogs. The site is located within a Shannon Development Enterprise Centre and comprises Unit 2, with a floor area of 520m², of the development. The site is located just off the Childers Road, a busy road, the R509, which skirts the eastern edge of Limerick city.
- 7.1.2. The site is zoned Light Industrial and while the zoning matrix of the Limerick City Development Plan 2010 – 2016 (as extended), does not specifically provide for 'doggy day care' use, I note that boarding kennels are a use which are listed as open for consideration within such zoned areas. In the context of the zoning objective afforded to the site, I am satisfied that the nature of the proposed use can be

considered as being acceptable and in accordance with the City Plan requirements in principle.

7.2. Residential Amenity

- 7.2.1. While the site is located within a light industrial zone, I note that the lands to the west, and beyond the railway line, are zoned for residential purposes, while the lands to the north, associated with St. Brigid's National School, are zoned for community and educational uses. To the east of Childers Road, the lands are zoned Mixed Use and residential. The third-party appellant's primary concern relates to noise associated with the subject site and its use as a day care facility for dogs.
- 7.2.2. In response to the further information request of the planning authority, the Board will note that the facility caters for approximately 20 dogs daily, with capacity for 30 dogs, of various sizes. The facility operates from 7.30am to 6.30pm and I note that no dogs are kept overnight at the facility. I also note that the applicant has indicated that the dogs will not be outside the rear of the unit, which is fenced in and grassed in an effort to minimise any noise arising. In addition, a Noise Impact Assessment was carried out at the facility to assess the likelihood of complaints arising at the nearest noise receptor.
- 7.2.3. The major source of noise from the development is barking dogs, which can vary depending on the temperament of the animal. Other noise sources related to the animals would be from vehicles dropping and collecting them from the facility. In order to establish the noise environment, a noise survey was carried out at two locations within the site, one at the western boundary and one at the northern boundary.
- 7.2.4. Section 7 of the Noise Impact Assessment sets out the methodology employed in the carrying out of the survey, which included both indoor and outdoor measurements of 30-minute duration. Measurements were taken while the facility was operational and again after 6.30pm when there were no dogs present. The objective was to obtain information of both ambient and background levels so the likelihood of noise complaints could be predicted.
- 7.2.5. The background noise environment was measured at 47.8dB at N1 and 46.9dB at N2. Using the British Standard 4142 'Method for Rating Industrial Noise Affecting

Mixed Residential and Industrial Areas, the background LA90 measurement is compared against the specific noise level, which if exceeds the background level by 10dBA or more, this would indicate that complaints are likely. The difference between the Specific Noise Level (LAeq) level and the background levels measured at the site is considered marginal at 3.5dB at N1 and 6.4dB at N2. The report concludes that the likelihood of complaints in this regard is considered unlikely. Table 3.0 of the assessment sets out the noise levels measured at the facility. The high background LAeq level recorded during the survey is attributed to the fact that a number of trains passed during the period and a high volume of traffic on Childers Road was noted in the evening.

- 7.2.6. In terms of the noise levels at the closest noise sensitive receptors, it is estimated that the sound levels attributable to the facility at the house 40m to the southwest will be 31.3dB and at the house 50m to the west will be 29.72dB. The noise levels at the national school to the north is calculated to be 39.23dB.
- 7.2.7. The report concludes that the noise levels inside the building measure 72.1dB but that the outdoor ambient levels at N1 and N2 were measured to be 49.3 and 51.3dB respectively. These are below the daytime limit of 55dB as set out in the relevant EPA guidance. The results show that the fabric of the building provides considerable noise attenuation and reduction. I would also agree that the site is located within an environment which experiences noise from both road traffic associated with Childers Road and the Ballysimon Road as well as the railway line.
- 7.2.8. Overall, I would accept the findings of the Noise Impact Assessment report and would agree that no significant impacts arise in terms of the amenity of adjacent residential properties. The facility will operate during the day, with no animals being kept overnight and that the outside area of the site will not be used by the dogs at any time. In this regard, I would accept that the need for acoustic mitigation measures is unnecessary.

7.3. Roads & Traffic

- 7.3.1. The appellants suggest that the level of traffic arising from the operation of the day care centre will add to the already congested road. Having regard to the location of the site within a long-established enterprise estate, together with the indicated

opening hours for the facility and the drop-off and collection system in place, I am satisfied that the development is unlikely to give rise to any significant roads or traffic impacts on the Childers Road or adjoining road network. I have no objection to the proposed development in this regard.

7.4. Development Contribution

The Board will note that the issue of the payment of a development contribution was raised at further information stage of the PAs assessment of the proposed development. The Limerick City & County Council Development Contribution Scheme 2017-2021 is relevant. I refer the Board to Section 10 of the Scheme which stated that where a proposed change of use does not lead to the need for new or upgraded infrastructure/services or a significant intensification of demand placed on existing infrastructure and where a contribution was paid previously for the existing use, the development shall be exempt from paying a contribution.

I note the indication in the PAs Planning Report, that a financial contribution was paid as part of the governing permission for the enterprise centre – PA ref 79/770175 refers. As such, the subject development is not liable to pay development contribution, a no condition to this effect should be included in any grant of planning permission.

7.5. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 1.8km to the north of the subject site and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077) which is located approximately 2.3km to the west of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the provisions of the Limerick City Development Plan 2010-2016 (as extended), to the zoning afforded to the site and to the nature and extent of the proposed change of use proposed, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of adjoining properties, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 16th day of November 2020, 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. The building the subject of this change of use shall be restricted to that of a day care facility for dogs as described in the submitted plans and particulars. No animals will be housed overnight.

Reason: In the interest of clarity and residential amenity.