



An
Bord
Pleanála

Inspector's Report ABP-309593-21

Development	Dog Boarding Kennels
Location	Cullen, Riverstick, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	206461
Applicant(s)	Brian Barron.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Daniel and Helen Foott.
Observer(s)	Elaine Foott.
Date of Site Inspection	18 th May 2021.
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. This appeal relates to a rural dwelling site located within the townland of Cullen circa 3km to the south-east of Riverstick, and 7km southwest of Carrigaline in County Cork. The appeal site has a stated area of .11hectares and is occupied by an established dwelling and garage located towards the north-western corner. The remaining garden area includes gravelled driveway and entrance and lawned area as well as fenced enclosure areas and kennels used for the applicant's own dogs. To the northeast adjoining the site is a commercial car repair garage. There are a number of dwellings to the north and a dwelling on the opposite side of the local road to the west (home of the appellant) and a dwelling under construction a short distance to the south-east. The appeal site is elevated over the public roadway with site levels falling generally to the south. A gated vehicular entrance is provided from the local roadway to the west.

2.0 Proposed Development

2.1. The proposal involves permission for a commercial dog boarding kennel facility. Application details outline the proposal which is to provide for six kennels (in a building of 50 square metres) allowing a maximum capacity of six dogs boarding on site. An outdoor concrete exercise area and grass exercise area are proposed. The proposal is to construct the kennel block at the north-eastern corner of the site adjacent to existing car maintenance /servicing facility with a concrete outdoor play area adjacent.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 9th February 2021 Cork County Council issued notification of the decision to grant permission and 8 conditions were attached which included the following:

Condition 1. The kennels shall be used solely for boarding of up to 6 dogs and a change of this use or any intensification shall not take place without benefit of a further planning permission.

Condition 2. Noise level limits at the site boundaries shall not exceed 55dBA(30 Minute Leq) between 0800 hours and 20:00 hours Monday to Saturday inclusive and 45 dBA (15minuts Leq) at any other time.

Condition 3. All wash water generated in the kennels to discharge to a suitably designed effluent tank prior to collection by an authorised waste collector or spreading on the operator's landholding. Alternatively wash water can be discharged to the existing wastewater treatment system subject to adequate capacity.

Condition 4. Vermin control.

Condition 5. Uncontaminated surface water run-off from the roof of the kennels and from concrete exercise area to discharge to soakaway or surface of adjoining lands. Inspection chamber or sump to be provided on storm drains immediately before entry to soakaway.

Condition 6. Soiled bedding and faecal waste shall be collected daily and placed in a sealed container for collection by an authorised waste collector.

Condition 7. Kennels to be constructed and operated in accordance with Department or Rural And Community Development document Dog Breeding Establishment Guidelines 2018.

Condition 8. Development Contribution €812.74 in accordance with the development contribution scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's initial report notes that the existing entrance has limited sightlines. The kennel structure is considered to be sufficiently distant from the neighbouring dwellings and noise is not likely to give rise to negative impact on residential amenity. Submission notes that during site visit applicant indicated that domestic /hobby dogs

not likely to form part of future plans due to time constraints. Planner notes liaison with Veterinary Department and requirement for additional information regarding animal welfare and environmental matters. A request for additional information issued seeking details of proposed materials to be used in kennel construction and measures to control noise. Details of management of faecal waste, soiled bedding and soiled washwater. Applicant was advised that there is no sanitary requirement to collect dog urine or faeces for disposal to the onsite septic tank system, and pipe connection could be omitted.

Final planner's report notes that Veterinary Department, Area Engineer and Environment Section outline satisfaction with further information response recommends permission subject to conditions.

3.2.2. Other Technical Reports

3.2.2.1 Environment report requests additional information regarding sound insulation, waste management and capacity of the existing domestic wastewater treatment system.

Second report notes that faecal waste from dogs may contain parasitic worms which would be a risk to other animals if spread to land. Composting of bedding and faecal waste may not kill off such parasites if the temperature generated is not sufficiently high. The safest option is to collect bedding and faecal waste and store in a sealed container prior to disposal to an authorised waste collector. Concrete exercise area to be kept clean and uncontaminated surface water only to run off to land.

Washwater generated in the kennel building should be discharged to a suitably sized effluent tank for storage prior to disposal by landspreading or to the existing wastewater treatment system subject to capacity. Conditions recommended accordingly.

3.2.2.2 Engineering Report no objection.

3.2.2.3 Area Engineer indicates no engineering concerns. Pipe connection to septic tank not necessary.

3.3. Prescribed Bodies

No submissions

3.4. Third Party Observations

3.4.1 Submission from Daniel and Helen Foott, Cullen Riverstick and Elaine Foote, Cullen Riverstick residents of the dwelling opposite to the west of the development raise common objections to the proposed development on the following grounds.

- Significant negative impact on family home which lies within 15m of the appeal site boundary.
- Noise and disturbance,
- Odour and waste.
- Site is under the flightpath to Cork International Airport and flight training school which will act as an agitator to dogs who are unfamiliar with such sounds.
- Veterinary waste risk.
- Potential contamination of well due to seepage,
- Devaluation of property.
- Potential for further expansion,
- Traffic hazard.
- Negative visual impact.
- Existing unauthorised enterprise – Cullen Doggy Day Care pet grooming business on the site. Proposal is an expansion of an unauthorised development.
- Negative impact on health
- Inappropriate development in a quiet rural setting.

4.0 Planning History

204989 and 206165 Incomplete applications for the current proposal on the appeal site.

5.0 Policy Context

5.1. Development Plan

The Cork County Development Plan 2014 and Bandon Kinsale Municipal District Local Area Plan 2017 refer.

5.2. Natural Heritage Designations

The site is not within a designated area. The nearest such sites are
Cork Harbour SPA within 6km
Great Island Channel SAC within 15km
Sovereign Islands SPA within 10km
Old Head of Kinsale SPA within 17km

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is by Daniel and Helen Foott, Cullen Riverstick. Grounds of appeal are summarised as follows:

- Decision to grant permission is incorrect, lacks appropriate consideration to the nature of the operations within this quiet rural location.
- Development is an expansion of existing domestic dog kennels and Cullen dog day-care and grooming a commercial enterprise, established during the course of 2020 without the benefit of planning permission.
- Existing operations on the site have resulted in sleep deprivation as a result noise disturbance thereby exacerbating personal health issues.

- While the location of the kennel structure is 120m from the appellants home the main dog exercise area is within 17 metres
- Operating hours are 24 hours daily giving rise to inevitable disturbance.

6.2. Applicant Response

6.2.1 The response by Cunnane Stratton Reynolds on behalf of the applicant, is accompanied by a noise impact assessment by CLV Consulting. It seeks to address the grounds of appeal and is summarised as follows:

- Precedent for similar development PL12.213355 (PA Ref P04/1082) Letterfine Co Leitrim.
- Site is in a sparsely populated rural area most suitable for such development.
- Council carried out a comprehensive assessment of the application
- Applicant will comply with all relevant conditions including that relating to noise.
- Noise impact assessment included carried out over a 24-hour period with 6 dogs to simulate the proposed development at full operational capacity.
- No significant noise impact is expected from the operation of the boarding kennels.
- The proposal is not an expansion of an existing enterprise. Cullen dog care and grooming is irrelevant to the current proposal.
- Existing kennels on site are for domestic hobby dogs which are unlikely to form part of future plans due to family commitments.
- Primary dog exercise areas are set back circa 50-60m from the appellant's dwelling.
- Dogs will be walked twice daily on the southern portion of the applicant's landholding.
- Sound proofing of the kennels building is a key element of the proposal and the dogs will be kennelled here overnight.

- Outdoor exercise area will be for limited periods during the daytime. The small scale of the proposal in addition to the location of primary outdoor exercise area will ensure that no undue noise impacts on neighbouring properties arise.
- Whether the applicant keeps domestic / hobby dogs is outside the scope of the appeal and not relevant to the proposed development.
- Pick up drop off times are limited. The scale of the proposal will ensure that there is no significant increase in traffic. Pick up drop off service will be offered which will result in limited additional vehicle trips to the site.
- Report by CLV Consulting provides results of noise emission assessment. A simulated operational assessment of the proposed development over a 24-hour period was conducted and concluded that the noise emissions from the dog kennel development with maximum capacity are not expected to raise the existing ambient noise levels in the vicinity of the third-party appeal dwelling and any noise emission experienced during periods of dog barking would be significantly different than those from a dwelling of a typical residential dog owner.
- The results of the noise prediction assessment from the maximum capacity of six dogs housed in the kennel building during night-time periods were in the order of 29dB_{LAeq} with one dog barking and 37 dB_{LAeq} with all six dogs barking simultaneously. These levels would be below established World Health Organisation criteria and consistent with ambient noise levels. Mitigation would be that dogs are housed inside the kennel during all night-time periods.

6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

6.4. Observations

Observations by Elaine Foott, Cullen, Riverstick in support of the appeal. Outlines concerns regarding :

- Negative impact on family home.

- Cullen Dog day-care and grooming business operational site as evidenced on website: <https://cullen-doggy-daycare-grooming.business.site/> This business has been operating since mid-2020 with no apparent limit, on number or times.
- Noise is unbearable due to dog yelping and whining.
- Recordings on usb stick provided with observations demonstrate level of disturbance.
- Local Authority focussed on the building as opposed to disturbance arising for overall use of the whole site.
- Local road is busy and the entrance is unsafe. Safety risk arises due to lack of turning space.

6.5. Further Responses

6.5.1 Response submission from the appellant is summarised as follows:

- Maintain objection to the proposed development,
- Inappropriate to disassociate the current enterprise Cullen Dog Day-care and Grooming with the proposed dog kennels.
- No permission and no limit on number of dogs in day-care business.
- Despite assertion that the development is in accordance with Dog Breeding Establishment Guidelines 2018 important omissions arise in the plans in regard to animal welfare and proper functioning of a dog boarding kennel.
- No isolation area / pen.
- Sound insulation is be compromised by the need for ventilation.
- Safety issues arise at the existing enterprise due to lack of parking provision for customers. Chaotic routine at the site entrance as evidenced in photos appended.
- Public roadway and the appellant's site frontage is being used for customer parking turning and queuing facilities.

- Reference to development in Co Leitrim irrelevant to the current proposal. No correlation to the proposal at Cullen Riverstick.
- PL26.249061 (PA Ref 2017/0713) New Ross more appropriate comparison.
- Measures in relation to cutting back of the hedgerow are inadequate to address road safety concerns. Cosmetic temporary exercise.
- Pick up drop off service will not address the issue.
- Noise assessment contains little meaningful or accurate content.
- Discrepancies within the acoustic report - No mention of breed of dogs. size and maturity. Applicants own domestic and hobby dogs and day care and growing dogs were not present during survey which demonstrates a manipulation of the real ambient environment.
- Noise level limit criteria should refer to the conditions. (ISO recommendation R.1996/1) Table of daytime noise measured does not relate to noise window as conditioned by Cork County Council.
- Consistent errors within the recording instrumentation regarding basic date and time analyses.
- Conclusions and findings are based on applicant's requirements.
- Clear disregard to the real and present concerns and impact on concerns on the appellant's daily lives.

6.5.2 Response of the observer to first party response to the appeal is summarised as follows:

- Minor aesthetic changes at the entrance do little to improve sightlines.
- Pick up / drop off service will have no significant impact on reducing traffic.
- Noise assessment orchestrated by the applicant and his agent to downplay the current activity at the property.
- Inaccuracies in the report do little to instil confidence in the findings and accuracy of the analysis.

- Applicant’s own dogs and day care not included in ambient noise assessment.
- Contradictions within the report.
- Reject claim that the “*contributions from barking noise are below WHO criteria limits given their low level and extreme intermittency*”
- Extreme disruption to sleep patterns experienced during summer 2020
- Proposal cannot be considered in isolation from the existing day care business.

7.0 Assessment

7.1. A number of issues are raised in the grounds of appeal. The main relevant issues can be addressed under the following broad headings:

- Noise and Impact on Residential Amenity.
- Traffic Safety
- Development Standards - Animal Welfare and Waste
- Appropriate Assessment Screening

7.2 As regards the principle of development from a land use perspective I consider that the site which is within a rural area is a reasonable location for a boarding kennel business. On the question of the established use of the site, the third-party appellant and observer contend that the proposal should be viewed as an expansion of an existing unauthorised business (Cullen Doggy day care and grooming) as advertised on <https://cullen-doggy-daycare-grooming.business.site/>. I note that the application does not provide any information on a dog grooming business and I consider that it is appropriate that the current application is assessed on its own merit. On the issue of expansion, unauthorised intensification I note that enforcement matters are for the local authority and are beyond the remit of the Board. I consider it appropriate to assess the proposal as set out on its merit.

7.3 Noise disturbance Impact on Residential Amenity

- 7.3.1 The issue of noise disturbance is the key focus within the third-party appellant submissions and also those of the observer. The submissions outline that whining and barking by the applicant's pets / hobby dogs has resulted in significant noise disturbance and negative impact on established residential amenity and express concerns are that additional dogs on the site will further exacerbate this issue. The first party in response notes that having regard to the location of the proposed kennel and design provision for sound insulation of the building will ensure that no significant noise impact will arise. The kennel building and main external play area are located approximately 100m from the appellant's dwelling. Occasional dog walking activity will take place in the southern part of the site which is within 20m of the appellant's dwelling at its closest point.
- 7.3.2 The first party submission includes a noise Impact Assessment by CLV Consulting. The report notes the results of the simulated operational assessment with measurements taken at the nearest location on the appeal site to the third-party appellant's dwelling. The report concluded that noise barking events were extremely isolated and very occasionally audible and consistent with those from a dwelling of any typical residential dog owner. The results of the noise prediction assessment from the maximum capacity of six dogs housed in the kennel building during night-time periods were in the order of 29dB_{L_{Aeq}} with one dog barking and 37 dB_{L_{Aeq}} with all six dogs barking simultaneously. The report notes that these levels would be below established World Health Organisation criteria and consistent with ambient noise levels. In terms of mitigation the report recommends that dogs are housed inside the kennel during all night-time periods.
- 7.3.3 The third-party appellant and observer are critical of the submitted noise assessment for a number of reasons. It is noted that it did not take account of the existing pets hobby dogs on the site and also notes a number of recording / typographical errors. The appellant also notes potential for significant variation dependent on dog breed, age and other factors. The appellant further notes that ventilation will diminish effectiveness of the kennel building's sound insulation. I

consider that notwithstanding its limitations the submitted assessment provides useful data in terms of the prediction of the potential impact of the proposed development under consideration. I am satisfied that given the limited scale and nature the proposal as outlined and subject to operation in accordance with the submitted details and good practice it will not give rise to any undue effect on residential amenity. I consider that the proposed kennel facility will not adversely affect residential amenity to a significant extent and a condition in relation to noise limits is recommended.

7.4 Traffic Safety

7.4.1 On the issue of traffic safety the third-party appellant outlines concerns with regard to traffic safety having regard to the restricted sightlines at the appeal site entrance and the current practice on the site where the entrance is gated and cars seeking to access the site queue on the roadway or park outside the appellant's entrance. The response on behalf of the first party to the appeal notes that the hedging at either side of the entrance has been cut back to improve the sightlines. I consider that the provision for on site customer parking and turning facilities and the maintenance of sightlines at the entrance is necessary. These issues can be addressed by way of condition. I note the rural location and on the date of site visit I noted that given the nature of the roadway traffic speeds are low. Given the scale and nature of the development the proposal will not give rise to significant traffic generation and the proposal will not in my view give rise to traffic hazard.

7.5 Standard of Development Animal Welfare and Waste

7.5.1 On the issue of development standards, I note that the Council conditioned that the proposed kennels be constructed and operated in accordance with the Department of Rural and Community Development document Dog Breeding Establishment Guidelines July 2018. I note that the applicant outlines details in respect of kennel design, provisions for water, heating, lighting and ventilation as well as provision for chemical storage and isolation. I note that the Council's Veterinary department indicated satisfaction with the proposal.

7.5.2 As outlined in the further information response soiled bedding and faecal matter is to be collected daily and placed in sealed unit prior to collection by a licensed waste collector or for composting. I note that the Local Authority Environment section indicated that composting and land spreading would be unsuitable due to potential for parasitic worms which represent a risk to farm animals therefore disposal to licensed waste collector is the appropriate course of action. A soakaway is to be installed for uncontaminated surface water runoff. I consider that waste and environmental management issues can be appropriately addressed.

7.6 Appropriate Assessment Screening

7.6.1 There are no source/pathway/receptor routes between this site and any Natura 2000 sites. Accordingly, there is no possibility that its development as proposed would have any significant effects upon the Conservation Objectives of these sites. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the proximity of the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Recommendation

Arising from my assessment above I consider the proposed development to be generally in accordance with the proper planning and sustainable development of the area and therefore recommend that planning permission be granted for the proposed development.

REASONS AND CONSIDERATIONS

Having regard to the location of the site within a sparsely populated rural area together with the nature and extent of the development proposed it is considered that subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area and would generally 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.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the drawings received by the Planning Authority on 15th day of January 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to use for boarding of up to 6 dogs and any change of this use or any intensification of its shall not take place without the benefit of a further planning permission.

Reason: To protect the amenities of property in the vicinity.

3. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive location between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: To protect the residential amenities of property in the vicinity of the site.

4. Wash water generated in the kennels shall be discharged to a suitably sized effluent tank prior to collection by an authorised waste collector or can be discharged to the

existing wastewater treatment system subject to the applicant demonstrating adequate capacity within that system.

Reason: In the interest of public health.

5. Faecal waste and soiled bedding shall be collected daily and placed in a suitably sized effluent tank prior to collection by an authorised waste collector. Details of all waste storage on site shall be agreed in writing with the Planning Authority prior to the commencement of development.

Reason: In the interests of Public Health

6. All uncontaminated roof water from building and clean yard water shall be separately collected and discharge in a sealed system to adequate soakpits and shall not discharge or be allowed to discharge to foul effluent drains or to the public road.

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

7. The proposed kennel shall be constructed and operated in accordance with Department of rural and Community Development document "Dog Breeding Establishment Guidelines July 2018.

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

8. Prior to the commencement of construction of the boarding kennels, details of the materials, colours and textures of the external finishes shall be submitted to the Planning Authority for agreement.

Reason: In the interest of orderly development.

9. No advertisement and advertising structure shall be erected or displayed within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of visual amenity.

10. Customer parking and turning facilities shall be provided for on the site and sightlines at the entrance shall be maintained to the satisfaction of the planning authority. Details of all requirements relating to the access, including sightlines and parking provision shall be agreed in writing with the Planning Authority prior to the commencement of development.

Reason: In the interests of Traffic Safety

11. 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. 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

Reason: It is a requirement of the Planning and Development Act 200. 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.

Bríd Maxwell
Planning Inspector

09 June 2021