



An
Bord
Pleanála

Inspector's Report ABP317554-23

Development	Retention and completion permission for a boat storage shed to the rear of property.
Location	Valhalla, 1 Strand Road, Sutton, Dublin 13.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F23/0088.
Applicant(s)	James & Victoria McMahon.
Type of Application	Retention.
Planning Authority Decision	Grant.
Type of Appeal	Third Party.
Appellant(s)	David Turner. Joan Harpur. John & Miriam Maher. Ree & Michael Callan.
Observer(s)	None.
Date of Site Inspection	10/11/23 and 17/11/23.
Inspector	Aisling Dineen.

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1.0 Site Location and Description

- 1.1. The site is located in a prominent coastal setting along Dublin Bay, approximately 0.5 km southeast of Sutton Cross. The site contains a two-storey dwelling house and landscaped gardens. The site is the first site in the subject row of residential dwellings orientated east west along Strand Road. The dwellings to the north of the site are oriented towards Carrickbrack Road are on a c. north-south axis.
- 1.2. The subject site boundary includes an access lane way running along its north boundary. There is also a main front vehicular access to the dwelling on the appeal site, which runs c. parallel to the lane. This lane provides rear access to the subject site along with rear vehicular access to some of the said dwellings fronting Carrickbrack Road. The ownership of this laneway is in dispute under the current appeal.
- 1.3. There is a boat shed constructed at the rear of the said laneway, adjunct to the north site boundary, which is subject of the current retention application.

2.0 Proposed Development

- 2.1. It is proposed to retain a single storey boat shed with flat roof to the rear of dwelling house. The boat shed is stated to measure 57 sq. m. in floor area. The plans demonstrate that the side walls are 'existing' walls and that there is an existing sliding door on the south elevation. The proposal includes the retention of a new front garage door which is stated to be 3.07 m in width.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to grant retention permission on the 15th June 2023, subject to 6 No conditions. Conditions are of a generic nature.

The Chief Executive's decision reflects the planner's report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report sets out the planning history for the area including adjacent lands. The land use zoning designation is RS 'Residential'. The report summarises the items raised under the observations submitted to the planning authority. Owing to the set back nature of the structure it would not unduly impact upon the visual amenities of the area. The height of the structure is below the height of the wall which would mitigate any undue impact in the form of overshadowing or overbearance. Transportation Planning Section reviewed the application and has no objection. Water Services and Irish Water had no objection subject to conditions.

Further information was requested relating to ownership of the lands. It required information to demonstrate land ownership, information to demonstrate that any and all registered easements and burdens associated with adjacent landowners, to facilitate access to foul drainage infrastructure, are not impacted by the development or the installation of gates.

The response to the FI included a letter from solicitor confirming that the lands outlined in red are in ownership of the applicants. The applicants submit that there are no registered burdens or easements on the property outlined in red. However, the applicants submit that it is their knowledge that a private sewer, which serves Syngfield, Auburn Lodge and Gypsy's acre, passes through 2 inspection chambers, which are on the applicant's property. The applicants are willing to facilitate access to the sewer for maintenance.

The planner reports states that applicants have not submitted any of the requested documents and have just provided a site location map.

The planners report states that issues relating to title to land are ultimately matters for resolution in the courts. An advisory note should be issued in the event of a grant of planning permission.

3.2.2. Other Technical Reports

Water Services Department

No surface water/rainwater is to discharge into the foul water system under any circumstances.

The surface water drainage must be in compliance with the "Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006".

Transportation Section

No objection. The proposed development of a boat storage shed to the rear of the property is not considered an intensification of use by the Transportation Planning Section. The proposed development is not proposing any changes to the existing vehicular access onto the public road, nor any new vehicular access onto the public road.

3.3. Prescribed Bodies

Irish Water

No objection: The applicant shall sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in the agreement. All development shall be carried out in compliance with Irish Water Standards codes and practices. Reason: To ensure proper planning and sustainable development.

4.0 Planning History

On the 22 November 2023 planning permission was granted on the subject site, subject to conditions, for the following: (i) the demolition of the existing two storey house (ii), the construction of a two storey detached dwelling (403 sqm) over basement (30sqm) with small solarium (16 sqm incl) and three sets of angled PV on racking at roof level and (iii) single storey garage (48 sqm) to the front and side; (iv) new vehicular entrance with flood barrier, car-parking spaces, private open space, and boundary fencing, landscaping, and all site development works including drainage and SUDs.

ENF 22/239B

F01A/1233 Retention of North Garden Walls abutting laneway at Valhalla, 1 Strand Road, Sutton, Dublin 13. Decision to grant planning issued on the 17th January 2002.

F97B/0271 Rebuild and increase height, a portion of boundary wall at Valhalla, 1 Strand Road, Sutton, Dublin 13. Decision to grant planning permission issued on 21st May 1997.

5.0 Policy and Context

Fingal Development Plan 2023 – 2029

The operative plan for the area is the Fingal Development Plan 2017-2023. The site is zoned 'RS – Residential Area', the objective of which is to 'Provide for residential development and protect and improve residential amenity'. Residential use is 'permitted in principle' within such zones, as confirmed in section 11.8 of the Plan.

Policy SPQHP 41- Residential Extensions:

Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities.

Objective SPQH045 – Domestic Extensions:

Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

Policy GINHP26 – Preservation of Views and Prospects:

Preserve views and prospects and the amenities of places and features of natural beauty or interest including those located within and outside the County.

Objective GINHO60 - Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.

Views along Strand Road are protected.

5.1. Natural Heritage Designations

The site is not located within a designated Natura 2000 site. The nearest Natura 2000 sites are North Bull Island SPA (Site code 004006) and North Dublin Bay SAC (Site code 000206), both of which generally adjoining the coastline on the opposite side of the road (c. 40 metres away).

5.2. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

David Turner (Medina, Strand Road)

- The boat storage shed comprises the majority of the southern boundary of the appellants property at 'Medina', which is located to the north of the boat/storage/garage shed.
- The boat storage shed/garage obstructs the appellants access to service waste water infrastructure, which is now below the boat storage shed/garage.
- The Council requested further information on one point regarding the ownership of the lane and the response submitted did not contain folio maps, land registry documents or title deeds. The grant of planning permission was subject to 6 No conditions, but none of the conditions reflect the appellants concerns.
- There is a history of non-compliance with planning on the appeal site. In 1997 planning permission was sought and granted to rebuild a portion of the wall between the applicants and the appellants properties. The development was not built as permitted and retention permission had to be sought under F01A/1233. It is requested that the Board take non-compliance with earlier permissions into account in the determination of this appeal.
- The main concern relates to the ownership of the lane. This was raised under Further Information and the response submitted was acknowledged by the planner to be insufficient. The Planning Officer notes that '*The applicants*

have not submitted any of the documents requested and have just provided a site location map'.

- The appellant has a right to access services and this right is blocked by the construction of the shed. While the manhole is open it is still blocked on four sides by high walls making access and servicing almost impossible. The manhole is substandard and may be dangerous by way of gas build up as the void for the manhole is bound on all four sides.
- There will be long term impacts on the appellants property and neighbouring properties regarding the delivery of services.
- Regarding amenity the subject large building within a residential garden is out of keeping with the character of the area. It will harm the residential amenity enjoyed by the appellant and nearby residents and future residents of Medina.
- The construction of a boat storage shed would imply the requirement for a boat to be towed into and out of the site. Site access onto the main road would be dangerous as a boat would have to be reversed into and out of the site, in excess of 200 metres, which would cause obstruction to road users.
- The storage of a large boat, would require a shed of this size in a residential area is not considered to be appropriate.
- The works are in breach of the Land Conveyancing and Reform Act 2009, particularly sections 43-47. This is requested to be considered.
- The applicant has constructed a sizable boat shed on top of the appellants wall and over services without planning permission and it is considered that Fingal Co. Co. did not adequately assess the impact of this development on the appellants property.

Joan Harpur (Auburn Lodge, Strand Road)

- There is inaccuracy in the drawings provided and there is no evidence that Fingal investigated this issue.

- A drawing in the application shows the outflow pipe from Medina to be outside the laneway boundary but the original submission (Planning Reference F17A/0601) shows the pipe to be set back from the eastern boundary wall.
- Irish Water main drainage clearly intersects the lane and there is no deviation in the line, according to the drawing submitted under F17A/0601.
- Fingal's attention was drawn to the concurrent application F23A/0016, which demonstrates that the outflow pipe from Medina intersects the laneway.
- An Bord Pleanála must declare the permission invalid because part of the boat shed and new boundary wall are built over the main pipe line, which carries effluent from six houses.
- Fingal did not address concerns about risk of subsidence or collapse of pipeline.
- The applicant acknowledges the presence of a private foul sewer. In the event of an emergency the residents must rely on contacting the owners to gain access.

John & Miriam Maher (Syngefield, Strand Road)

- The development is unsuited to the location as it completely blocks access to the laneway for essential services therein.
- There is an inaccuracy in the drawings submitted to Fingal. The drawing shows a deviation in the outflow pipe from Medina such that the outflow pipe is indicated to be outside of the applicants' fence in the laneway. The main drawing shows the manhole in Medina to be abutting the eastern boundary wall, with outflow pipe emerging behind the applicants' fence, at the end of the lane. However, the included extract from A17A/0601 clearly show the manhole at Medina to be set back from the eastern boundary wall. The outflow pipe, apart from a small segment, continues outside the fence at the end of the lane without deviation. The original planning application under F17A/0601 shows a different situation, which indicates on an Irish Water drawing, that the outflow pipe intersects the lane and there is no deviation in

the line. Page 2 of said drawing clearly shows the manhole well back from the boundary of Medina.

- Another concurrent application, F23A/0016, which addresses the same laneway, shows that the outflow pipe from Medina intersects the lane inside of the applicants fence and there is no deviation in the line.
- Irish Waters submission is puzzling as it addresses requirements pertinent to an unbuilt development. Fingal did not question the inadequacy of Irish Waters report.
- The above clearly demonstrates that part of the boatshed and the new boundary wall are built over the main pipeline and are exerting downward pressure on vital infrastructure.
- Discharge from six properties on the lane is now in an inaccessible vestibule created by the boatshed walls, boundary walls and a newly built end wall, in excess of 2 metres high.
- There is a risk of subsidence or collapse regarding the outflow via the lane and there is no record of a technical evaluation by Fingal or this matter.
- It is accepted that Fingal has no role in boundary disputes however it is submitted that the private foul sewer, which intersects the main foul sewer coming from Cooltray/Medina is jointly owned by the owners of Syngefield, Auburn Lodge and Gypsy's Acre and the private sewer is an integral part of said properties and the owners have a right to access it, and the right of access is frustrated by the presence of gates/boatshed.
- The letter submitted by the applicant dated 29/05/23 acknowledges the presence of a private foul sewer, which needs servicing from time to time. The applicant – owners of Valhalla may be away when an emergency arises or when servicing is required and the future ownership may change and there is no mechanism to ensure a commitment into the future.
- Planning regulations do not provide for the denial of homeowner's rights of access in order to maintain sanitation services and therefore the Board is required to declare that this permission and retention is invalid.

Ree & Michael Callan (owners of Gypsy's Acre)

- The developer/applicant has a history of building without planning permission and seeking approval on retention. This ad hoc building endorses building without planning and is unfair to others. This strategy of acquiring building approval circumvents and violates the rights of neighbours.
- The applicant has built the boat shed in addition to two unapproved structures which impinge on and compromise the established easement service right of adjacent residents.
- The cement floored boat shed blocks the access to foul waste water, water inflow and other services. In addition, locked gates measuring 1.93 metres high also block the easement access to foul water sewer and other services.
- The planning map submitted to Fingal is inaccurate because it does not demonstrate the unapproved gates in the easement laneway or the underground water pipe layout.
- The applicants' contention that he owns the easement laneway without encumbrance is contested. The applicants claim of ownership is based on a memorial, which does not entitle him to overwrite or violate the long-term residents established rights in the historic easement.
- The original easement was established in 1970 when Syngefield was built. Subsequently the easement laneway was defined in title deeds for Auburn Lodge in 1982 and Gypsy's Acre in 1983/84.
- The certified folio map submitted shows that in the deeds of purchase the appellants were granted car parking rights via the lane and other service rights.
- The appellants, the owners of Gypsy's Acre in collaboration with the builder of Gypsy's Acre and Auburn Lodge, paid for, landscaped and laid the easement laneway in the aspect it now assumes, in the Winter of 1983/Spring of 1984. The appellants have maintained the laneway over the years.
- The entrance of the easement laneway has been flooded during high tide conditions. Such flooding is linked to foul water blockages and overflow, which represent serious health and hygiene risks. The boatshed denies the

appellants access to sewer and denies the means to safeguard the appellants homes and health.

- Uisce Eireann has reported leaks in the laneway and concern is raised regarding unauthorised building of the foundations and locked gates.

6.2. Applicant Response

- There is a lot of inaccurate and misleading information contained in the appeals.
- The boundary of Valhalla, the red line, is in the applicant's ownership. A solicitor's letter was submitted to Fingal stating that the lands in red were in the applicant's ownership and it was also clarified to Fingal that there are no registered easements or burdens on the lands outlined in drawing number 8003 – RT – 001.
- The boat shed is entirely on the applicant's property and is located between the garden wall and the boundary with Medina. The flat roof of the boat shed is independent of the northern boundary and does not rely on the northern boundary wall for support.
- The boatshed is for general household and garden equipment and it is also for 1 person dinghy boats, which measure 4.2 metres in length and 1.4 metres in width. During Spring and Summer these boats are sailed and stored at various sailing clubs. In Autumn and Winter, it is desirable to store the boats.
- The limited dimensions of the boat-shed and the floor to underside roof clearance will not facilitate the use of the shed for larger boats.
- It is acknowledged that there is a private sewer (100 mm diameter) running along the length of the laneway on the applicant's property and it serves only 3 houses; Syngefield, Auburn Lodge and Gypsy's Acre. A drawing showing the layout of the three neighbouring houses was submitted under the current planning application.
- The private sewer does not serve the houses at Medina or Cooltray. These are entirely separate and are part of a planning application F17A/0601.

- The boat shed has no impact on the working of the sewer. The sewer and two existing manhole access chambers remain unchanged and are accessible.
- As part of the further information request, Boyne Waste visited the site and inspected the sewer and chambers and provided written confirmation that they could access the sewer for maintenance.
- The applicants undertake to continue to fully co-operate and facilitate access beyond the gate and boat shed if maintenance is required.
- The concrete floor of the boatshed spans the entire width of the boatshed between two existing walls. The sewer was not exposed or altered in any way during construction.
- The appellants refer to Irish Water a number of times and they state that the 100mm private sewer is 'in charge' and is on the asset register of Irish Water. The Irish Water Web Map for the general area is attached. The map identifies the sewers that are 'in charge' and on the asset register. The map does not include the 100 mm private sewer, which is consistent with Irish Water not taking ownership of a sewer less than 225mm in diameter.
- The map shows the Irish Water sewer (225 mm) having its head in Medina and running southward from there through lands at No 1, 3A and No 4 Strand Road.
- The houses at Medina and Cooltray are not connected to the 100 mm private sewer. These are entirely separate and have been subject to a new foul sewer connection under F17A/0601.
- The Irish Water Web map clearly states that the line of the 225 mm sewer is indicative only and its location on the web-based mapping should not be relied on. The applicant's information is that the 225 mm sewer is located in the property of Casa Blanca and not under the boat shed. This is entirely consistent with last chamber on the 100mm private sewer being at the back end of the applicants' property, abutting the boundary with Casa Blanca.
- If access beyond the gate is required for maintenance the applicants undertake to continue to fully cooperate and facilitate such access.

6.3. **Planning Authority Response**

- The initial application was assessed against the policies and objectives of Fingal Development Plan 2023 – 2029 and existing government policy and guidelines.
- It was assessed having regard for the development plan zoning objective as well as impact on adjoining neighbours and the character of the area.
- Concerns raised in the third-party objections were acknowledged and considered and the development was considered to be acceptable subject to conditions.
- The development seeking retention is considered to be consistent with the proper planning and sustainable development of the area.
- The Board is requested to uphold the decision of the planning authority and in the event that it is upheld, it is requested that the Board applies the Councils' Section 48 Development Contribution Scheme as appropriate.

6.4. **Observations**

None.

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authorities' reason to grant planning permission and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Laneway/Right of Way

- Gate
- Visual & Residential Amenity
- Traffic Safety
- Other Issues
- Appropriate Assessment

Laneway/Right of Way

- 7.2. A considerable element of the appeal submissions relate to a stated or alleged right of way and 'historic easement' over the lane way, which runs along and adjunct to the north boundary of No 1 Strand Road, 'Valhalla' and which also appears to run to the rear and south of properties named: Syngefield, Auburn Lodge, and Gypsy's Acre. There are vehicular rear entrances to some of the above properties off the disputed lane way. The claim made by the applicant that he owns the lane is contested.
- 7.3. Appeal submissions draw attention to the presence of two manholes on the lane, within the appeal site boundary, access to which is stated to be necessitated to service the foul sewer system, which is reasonable. I noted at the time of inspection that one man hole is situated to the front of the gate, which is positioned forward of the boat shed, subject of retention, and one manhole is situated to the rear of the boatshed and is enclosed by the rear wall of the boatshed and high containing walls.
- 7.4. The applicant was asked under a further information request to '*clarify that the lands within the red line of the application site are within their ownership or that they have the consent of the relevant landowner.....demonstrate ownership should include certified folio maps, associated land registry documentation and title deeds....demonstrate that any and all registered easements and burdens associated with adjacent landowners to facilitate access to foul drainage are not impacted*'.
- 7.5. The response to this request, as noted by the planning officer, did not provide the details requested. However, it did include a letter from a solicitor stating that the lands outlined in red were in the applicants' ownership. The planning authority

accepted this letter and naturally did not question the bone fides of the solicitor's letter.

- 7.6. The applicant has also submitted under the FI response that there are no registered easements or burdens on the lands outlined in red submitted with the application. The applicants also undertook to fully comply with access requests for maintenance. A letter from Boyne Waste was submitted which stated that they inspected the property and that maintenance work is achievable and is not compromised by the boat shed.
- 7.7. Having assessed the information on file, I do not consider that there is any impediment to routine maintenance of the private sewer on the subject laneway based on the premise that the applicant has given his consent to providing access for such inspections/maintenance. However, should ownership of the property change, this agreement may or may not hold in law. It is apparent that, without prejudice, clarity on legal standing on behalf of all parties to the appeal would bring transparency to the situation.
- 7.8. The Planning and Development Act 2000 (as amended) is clear that a person, without legal authority, cannot develop land solely based on a grant of planning permission:
- Section 34 (13) of the Planning and Development Act 2000 (as amended) states:
- (13) A person shall not be entitled solely by reason of a permission under this section to carry out any development.*
- 7.9. Furthermore, in relation to boundary disputes it may be noted that the Development Management Guidelines (paragraph 5.13) also makes the point that the planning system is not designed to resolve disputes about title to land and that section 34(13) of the Act provides that a person is not entitled solely by reason of a permission to carry out development.
- 7.10. I conclude therefore that the proposed development should not be refused on the basis of a dispute in relation to site boundaries.

Underground Water Infrastructure

- 7.11. An issue has been raised regarding the drawings submitted and it is alleged that the location of the underground water services infrastructure has been misrepresented in the drawings submitted with the application.
- 7.12. A rudimentary Irish Water drawing of the sub-surface waste water infrastructure system in this area is submitted under the appeal submissions, which relates to a concurrent application and which appears to infer that the water pipe rises from Medina and intersects the rear of the laneway and runs south to the rear of Valhalla, Yondercot and Kilcrouney before it turns west and joins the existing foul sewer network on Strand Road. It is noted that the drawings submitted under the application, on behalf of the applicant denote a more detailed layout of the underground infrastructure showing a deviation of the pipes, to the rear of the boat shed. It is reasonably assumed that Irish Water drawing submitted under the appeal documents relating to a concurrent application, is accurate and that the infrastructure intersects the rear of the laneway at the location of the manhole, positioned directly to the rear of the boatshed. The location of this manhole and image presented under on the instant appeals (Figures 5 and 7, appeal submission by David Turner) appear to support the information demonstrated on the Irish Water drawing.
- 7.13. Irish Water has reviewed the application and has stated no objection subject to a standard condition. They have not raised any issue with regard to load bearing or excessive pressure from the proposal damaging underground infrastructure. It is noted that the planning authority has not raised any issues in this regard either.
- 7.14. The appellants have argued that the condition applied by Uisce Eireann appears to be for a new development. I appreciate that the condition applied by Uisce Eireann is a generic condition and I consider that the latter clause in the condition to be relevant; *'All development shall be carried out in compliance with Irish Water standards, codes and practices'*.

Status of Gate

- 7.15. Submissions under the appeal relate that the locked gate constructed in front of the boatshed is over 2 metres in height and has not been included under the development description in the subject application. Other submissions indicate that the gate is in fact 1.93 metres in height.

- 7.16. I noted on the date of inspection that the gate constructed is in fact just shy of 2 metres, which would concur with one of the appeal submissions.
- 7.17. Accordingly, Class 5, Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, is relevant.
- 7.18. CLASS 5 states that *'The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete'* with the following limitation: 1. *The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*
- 7.19. Therefore, I consider that the subject gate is development, which is exempt development and therefore there was no requirement for it to be specifically stated under the development description.
- 7.20. Notwithstanding this, there are other restrictions to exemptions under Article 9 (1) (a) that warrant further consideration, including if the carrying out of such development would –
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
 - (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
 - (xi) obstruct any public right of way.
- 7.21. In relation to (ii) and (iii) I am satisfied that the proposed development of a gateway, now the subject of retention, would not be subject of said restrictions on exemptions, in each of these contexts.
- 7.22. In relation to (xi) I am satisfied that the proposed development of a gateway, now the subject of retention, would not be subject of said restriction on exemption, as without prejudice, if a right of way, or historic easement exists, this would presumably be a private right of way/easement as opposed to a 'public right of way', therefore this restriction on exemption is not considered to be applicable.
- 7.23. However, as previously stated, given the dispute regarding the ownership of the lane, the nuances and interpretation relating to this issue, does not fall within the

Boards remit and as such, is one that the Courts would more appropriately adjudicate on.

Visual & Residential Amenity

- 7.24. I am satisfied that the boat shed, the subject of retention is more than adequately concealed from views along Strand Road and there would consequently be no negative impacts on the visual amenity of the area as a result of granting planning permission for retention of the subject boat shed.
- 7.25. Regarding residential amenity, the boatshed is the same height as the adjoining boundary wall and therefore there would be no further impacts on adjacent properties to the north with regard to overshadowing or overbearance. Therefore, I consider that there will be no impact on the residential amenities of properties in the area.

Traffic Safety

- 7.26. Submissions to the appeal state concern regarding additional traffic movements and manoeuvring, which would result from reversing a large boat onto the public road at the end of the lane. The applicant has submitted that the type of boats to be housed in the boatshed are relatively small, described as 'dinghys' and measuring 4.2 metres in length and 1.4 metres in width. I noted small boats, akin to the said description present in the boatshed at the time of inspection. The applicant has also submitted that for the most part these boats would be docked in the harbour during sailing season and would be brought into the boat shed during the autumn/winter months. I consider this to be reasonable and I do not consider that the number of additional turning/traffic movements would amount to considerable additional turning traffic movements on the public road, such as to create a traffic hazard. The proposed use would therefore be incidental to the enjoyment of the dwelling house and would not comprise an intensification of use.

The Transportation Planning Section of Fingal Co. Co. in a report dated 7th March 2023 stated that *'The proposed development of a boat storage shed to the rear of the property is not considered an intensification of use by the Transportation Planning Section. The proposed development is not proposing any changes to the existing vehicular access onto the public road, nor any new vehicular access onto the public road.'*

I am satisfied that the proposed development would not endanger public safety by reason of traffic hazard.

Other issues

Repeated submissions under the appeals state that the Board should determine the application to be invalid. I note that the planning authority is the appropriate validation authority. I find no reason on the file to question or doubt the planning authority's validation process.

Appeal submissions refer to alleged historic infringements of the Planning Code, on behalf of the applicant. I note that a previous application many years ago, for retention of walls on the north boundary of the site was granted and it is also noted that this application followed an application for planning permission for walls on the north boundary, which was granted planning permission. It is apparent that the applicant had one previous planning situation, which required a retention application, which was made and granted planning permission.

An appeal submission refers to flooding around the entrance of the laneway and associated concern about access to the sewer network. I consider that the applicant has given an undertaking to allow access to said sewer network. It is my opinion that the retention of the boatshed will not directly impact this issue. Other legalities are not within the boards remit.

7.27. Appropriate Assessment

Having regard to the limited nature of the proposed development and the developed nature of the receiving environment and the 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 either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. It is recommended that planning permission for retention be granted.

9.0 Reasons and Considerations

Having regard to the scale, form and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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. 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>All development shall be carried out in compliance with Uisce Éireann's standards, codes and practices. The developer shall enter into water and wastewater agreements with Uisce Éireann.</p> <p>Reason: In the interest of public health.</p>

'I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.'

Aisling Dineen
Planning Inspector
24th November 2023