



An
Coimisiún
Pleanála

Inspector's Report

PL-500284-KY-25

Development	The Retention of shed, roofed patio, pump sump and associated site works.
Location	Fenit Without, Fenit, Co. Kerry, V92 K285.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	25/60779
Applicant(s)	Anne Marie Horgan
Type of Application	Retention Permission
Planning Authority Decision	Grant Retention Permission
Type of Appeal	Third Party
Appellant(s)	Margaret Anne O' Sullivan
Observer(s)	None
Date of Site Inspection	05-03-2026
Inspector	Adam Kearney.

1.0 Site Location and Description

The application site is located at Fenit Without, Fenit, Co. Kerry, within the development boundary of Fenit village and fronting the R558 Regional Road. The site comprises an established detached cottage style dwelling within a linear plot with an elongated rear garden. The subject development, a black metal clad single storey structure with open patio is located to the rear of the existing house and an older existing garden shed. The surrounding area is predominantly residential in character, consisting of a mix of individual dwellings and small-scale residential development. The Fenit Greenway is located to the north. Vehicular access to the site is provided to the side of the cottage from the public road, and all services including mains wastewater are available.

2.0 Proposed Development

- 2.1. The development for which retention permission is sought comprises a single-storey domestic shed with an adjoining roofed patio and associated pump sump, constructed to the rear of the existing dwelling.

3.0 Planning Authority Decision

- 3.1. Kerry County Council granted Retention Permission on the 29th of October 2025 subject to 3 No. conditions.
- 3.2. The Planning Authority considered the proposal acceptable in principle, having regard to its location within the development boundary of Fenit village, where the County Development Plan supports appropriate residential development and ancillary structures. In assessing the nature, scale and use of the retained development, the Planning Authority concluded that, subject to the imposition of conditions restricting its use and ensuring it remains ancillary to the existing dwelling, the proposal would not be visually obtrusive, would not prejudice residential amenity, and would be in accordance with the proper planning and sustainable development of the area.

3.3. Planning Authority Report Summary

- The application site is situated within the development boundary of Fenit village, where the County Development Plan encourages suitable residential development and related structures.
- The proposed development consists of a modest-scale, single-storey domestic shed with an adjoining roofed patio and associated pump sump, positioned to the rear of an existing detached dwelling and accessed via an established site entrance.
- The planner reviewed the site's planning history, noting a prior refusal for use of the structure as a glamping pod. The current proposal differs as the structure is now intended for domestic storage and home office use ancillary to the dwelling.
- The proposal was evaluated against the Kerry County Development Plan 2022 - 2028, including standards for sheds, garages, and ancillary structures, and was deemed acceptable in terms of scale, layout, and use.
- Regarding traffic and access it was determined that the retained development would not result in increased traffic or pose any road safety concerns.
- For wastewater and surface water disposal, it was confirmed that the property is served by the public sewer, the domestic use would not increase effluent loading, and surface water would be managed via a soakpit.
- The planner assessed potential impacts on residential amenity and concluded the development would not seriously harm the area's amenities, subject to conditions limiting the structure's use.
- The visual impact of the development was found acceptable, with the planner stating it would not be visually obtrusive or significantly affect the area's character.
- Third-party submissions were acknowledged and considered, with the recommendation that use of the structure be strictly regulated by condition to ensure it remains ancillary to the dwelling and does not cause adverse impacts.
- Considering the nature, scale, and location of the development, and subject to conditions ensuring single ownership and restricting use, it was concluded the

proposal would not conflict with proper planning or sustainable development of the area and it was recommended to grant retention permission.

3.3.1. Other Technical Reports

Environmental Assessment Unit (Kerry County Council)

A notional screening was carried out which concluded that the development did not require an Appropriate Assessment (AA) or an Environmental Impact Assessment (EIA).

3.4. Prescribed Bodies

None

3.5. Third Party Observations

One submission which in substance advanced the same planning arguments as the appeal.

4.0 Planning History

03/716 – Permission granted for the retention and completion of an extension to the rear of the existing dwelling and a new porch to the front of the dwelling at Fenit Without, Fenit, Co. Kerry.

25/60507 – Retention permission refused for a glamping pod with adjoining roofed patio and pump sump to the rear of the dwelling. The refusal related to concerns regarding residential amenity, substandard design and layout for tourist accommodation, and the lack of sufficient information in relation to effluent treatment.

Enforcement Ref. 10200 – Enforcement file in relation to the construction of a modular structure and installation of a wastewater treatment system at the rear of the dwelling at V92 K285.

5.0 Policy Context

5.1. Kerry County Development Plan 2022 – 2028

Relevant Plan is the Kerry County Development Plan 2022-2028

Settlement Boundary / Village Development

Volume 1 – Core Strategy & Settlement Hierarchy

Kerry County Development Plan 2022-2028 categorises Fenit as a District Town which are: 'towns that serve a rural hinterland as service centres' where the Plan supports appropriate residential development and ancillary structures within the defined development boundary, subject to normal planning considerations.

Ancillary Structures

Volume 6 – Development Management Standards & Guidelines

Section 1.5.10.9 – Sheds / Garages / Ancillary Structures

Permits domestic sheds and ancillary structures where:

- They are for private domestic use and storage only.
- The cumulative floor area does not exceed 70 sqm.
- They remain ancillary to the main dwelling and do not form an independent unit.

Residential Amenity

Volume 6 – Development Management Standards

General objective to ensure that development:

- Is not visually obtrusive.
- Does not seriously injure the amenities of the area, including residential amenity.

Traffic and Access

Volume 6 – Development Management Standards

- Development shall not give rise to traffic hazards or road safety concerns, particularly where existing access arrangements are retained and no intensification of use occurs.

Wastewater and Environmental Protection

Volume 1 – Environmental Protection & Infrastructure

- Development shall not result in unsatisfactory effluent disposal or adverse impacts on public health or the environment.
- Connection to public sewerage infrastructure is supported where available.

Environmental Assessment

Volume 1 – Environmental Protection Objectives

Development not likely to have significant effects on European sites or the environment does not require Appropriate Assessment or Environmental Impact Assessment, subject to screening.

Control of Use and Density

Volume 6 – Development Management Standards

Ancillary structures shall:

- Remain under single ownership with the principal dwelling.
- Not be used for commercial, habitation, or agricultural purposes.
- Not result in the creation of a separate planning unit or intensification of residential density.

6.0 Natural Heritage Designations

- 6.1. The subject site is not located within or immediately adjacent to a European site. The subject site is within approximately 0.2km of the designated Tralee Bay and Magharees Peninsula, West to Cloghane SAC, Proposed Natural Heritage Area Site Code 002070 and Tralee Bay Complex SPA Site Code 004188

7.0 EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

8.0 The Appeal

Third Party Grounds of Appeal, Summary:

Misclassification of Development,

- the retained structure contains habitable features including a toilet, kitchen, seating area, and independent drainage and are inconsistent with the definition of a domestic shed under Planning and Development Regulations.
- The structure is functionally independent and capable of habitation, rather than ancillary to the main dwelling.
- Inconsistency with Previous Refusal (Ref. 25/60507)

The same structure was previously refused retention as a glamping pod due to:

- Adverse impact on residential amenity.
- Substandard design and layout.
- Unsatisfactory effluent disposal arrangements.
- No material change has occurred to the structure, its layout, or its servicing.
- Re-labelling the building as a domestic shed does not address the original refusal reasons.

Impact on Residential Amenity

- The structure is located to the rear of an existing dwelling within an established residential area.
- Its scale, bulk, and layout adversely affect the privacy and amenity of adjoining properties.
- The development constitutes backland development contrary to Section 10.3.5.1 of the Kerry County Development Plan 2022–2028.

Independent Wastewater Infrastructure

- An independent sump pump has been installed despite the main dwelling being connected to the public sewer.
- This indicates functional independence and potential for habitation.
- The sump pump is unnecessary for a domestic shed and conflicts with Development Plan policy and EPA guidance.

Public Health and Environmental Concerns

- Retention of unnecessary wastewater infrastructure presents a risk of malfunction or pollution.
- The development fails to comply with Section 34(4) of the Planning and Development Act 2000 regarding adequacy of services.

Substandard Design and Precedent

- The structure remains unchanged from the previously refused glamping pod.
- Granting retention sets an unwelcome precedent whereby refused habitable structures may be reclassified as sheds to circumvent planning control.

Failure to Properly Consider Submissions

- Detailed third-party submissions were acknowledged but not substantively addressed.
- This constitutes a failure to comply with Section 34(3)(b) of the Planning and Development Act 2000 and undermines procedural fairness.

8.1. **First Party Appeal Response**

- The retained structure is proposed for use as a home office and gym, ancillary to the existing dwelling, and there is no intention to use it for habitable purposes.
- The concerns raised in relation to the previous refusal for tourist accommodation no longer apply, as the structure is now restricted to domestic ancillary use only.

- Contends that the structure is not readily visible from the appellant's property without approaching the rear boundary.
- It is asserted that the retained development does not injure residential amenity, and that its design and scale are appropriate for use as a domestic shed and home office.
- The site is connected to the Fenit public sewer, and no wastewater is treated or disposed of onsite. Wastewater from the structure is pumped to the domestic house manhole due to insufficient gravity fall.
- The pump sump is required for technical reasons only and does not indicate functional independence. The pump controls can be adjusted to ensure frequent emptying, and it is stated that the system does not pose a health risk.
- It is contended that a domestic shed does not set a precedent for improper development, and that only tourist accommodation would raise such concerns, which is not proposed.
- The structure remains unchanged from the previously refused application but is considered suitable for domestic ancillary use, notwithstanding its unsuitability for tourist accommodation.
- The planner accessed the site and the structure during the assessment process using the provided access code.
- The appellant is the sole objector, and it is stated that all submissions were received, considered, and addressed by the planning authority.
- It is asserted that there was no attempt to circumvent planning control, and that the application represents a change in use to a domestic shed ancillary to the dwelling.

8.2. Planning Authority Response

No further response was received from the Planning Authority

9.0 AA Screening

I have considered the proposed retention of a Domestic Shed and the adjoining Roofed Patio and the Pump Sump constructed at the rear of the House in light of the requirements of S177U of the Planning and Development Act as amended. The subject site is not located within or immediately adjacent to a European site. The subject site is within approximately 0.2km of the designated Tralee Bay and Magharees Peninsula, West to Cloghane SAC, Proposed Natural Heritage Area Site Code 002070 and Tralee Bay Complex SPA Site Code 004188

Having considered the nature, small scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have an appreciable effect on a European site. The reason for this conclusion is as follows:

- The small scale of the development involving a single detached shed.
- The location of the development in a designated settlement ancillary to a primary dwelling

I consider that 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 and appropriate assessment is therefore not required.

10.0 Water Framework Directive

- 10.1. The subject site is located 0.2km north of the designated Tralee Bay and Magharees Peninsula, West to Cloghane SAC, Proposed Natural Heritage Area Site Code 002070 and Tralee Bay Complex SPA Site Code 004188.
- 10.2. The proposed development comprises the Retention of a Domestic Shed and the adjoining Roofed Patio and the Pump Sump constructed at the rear of the House.
- 10.3. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no

conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

10.4. No specific water deterioration concerns were raised by the PA

10.5. The reason for this conclusion is as follows:

- small scale and nature of the development
- connection to mains drainage
- lack of hydrological connections

10.6. Conclusion

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 **Assessment**

11.1. **Overview**

11.2. Having visited the site and reviewed the application and the appeal I consider the main issues in this appeal are:

- The principle of development
- The nature and use of the retained structure
- Impact on residential amenity
- Wastewater and environmental considerations
- Planning history and precedent
- Compliance with the Kerry County Development Plan 2022–2028

11.3. **Principle of Development**

11.3.1. The appeal site is located within the defined development boundary of Fenit village, which is designated as a District Town (Tier 4) under the Kerry County Development

Plan 2022 - 2028. The Development Plan supports appropriate residential development and ancillary structures within settlement boundaries, subject to normal planning considerations.

11.3.2. The retained development comprises a modest-scale, single-storey domestic shed with an adjoining roofed patio and associated pump sump, located within the curtilage of an existing dwelling. Having regard to its location, scale, and relationship to the principal dwelling, I consider that the principle of retaining an ancillary domestic structure at this location is acceptable.

11.4. Nature and Use of the Retained Structure

11.4.1. The appellant contends that the retained structure is functionally independent and capable of habitation. However, the planning authority has imposed conditions restricting the use of the structure to home office and domestic storage purpose ancillary to the dwelling, and expressly precludes human habitation, commercial use, or subdivision.

11.4.2. I note that the presence of sanitary facilities does not, of itself, render a structure habitable or independent where its use is clearly restricted by condition and where it remains physically and functionally linked to the principal dwelling in terms of services. I am satisfied that, subject to conditions, the retained structure remains ancillary in nature and does not constitute a separate residential unit.

11.5. Impact on Residential Amenity

11.5.1. The retained development is located to the rear of the existing dwelling within an established residential area. Having regard to its single-storey form, modest scale, separation distances, and orientation, I consider that the structure would not result in an unacceptable loss of privacy, overbearing impact, or visual intrusion for adjoining properties.

11.5.2. While the appellant raises concerns regarding 'backland development'. I note that the structure is clearly ancillary to the existing dwelling, accessed via the established entrance, and does not represent an intensification of residential density or the creation of an additional dwelling unit.

11.5.3. The appellant's dwelling is located at the Fenit Atlantic Homes development, adjacent to the site of the structure to be retained. On the day of inspection, I noted that the retained unit is set back from the shared boundary by approximately 3 metres. I further observed that the boundary treatment comprises a mature and established hedgerow, which provides effective screening between the retained structure and the adjoining property.

11.5.4. Having regard to the separation distance, the intervening boundary treatment, and the single-storey scale of the structure with no invasive fenestration, I am satisfied that the development would not result in an unacceptable loss of privacy, overbearing impact, or visual intrusion for the adjoining dwelling.

11.6. Wastewater and Environmental Considerations

11.6.1. The site is served by the public sewer, and wastewater from the structure to be retained is pumped to the domestic house manhole prior to discharge to the public sewer. No independent wastewater treatment or disposal system is proposed or in place.

11.6.2. The pump sump is required due to insufficient gravity. I have had regard to the report of the Environmental Assessment Unit of Kerry County Council which concluded that the development does not require Appropriate Assessment or Environmental Impact Assessment. I am satisfied that the wastewater arrangements are acceptable and that the development would not give rise to adverse impacts on public health or the environment.

11.7. Planning History and Precedent

11.7.1. The appellant places reliance on the previous refusal under Ref. 25/60507, which related to the proposed use of the structure as a glamping pod for tourist accommodation. I consider that the current proposal differs materially, as the use is now restricted to ancillary domestic purposes only.

11.7.2. The reasons for refusal of the earlier application related specifically to the proposed use of the structure for tourist accommodation, associated residential amenity impacts, and wastewater considerations arising in that context. In this regard, I note

that the wastewater servicing arrangement has not changed and that effluent from the structure always was intended to discharge to the public sewer via the existing domestic connection. The wastewater concern cited in the earlier refusal arose from an assumption that onsite treatment or disposal was proposed, which was not the case.

11.7.3. Having regard to the restricted ancillary domestic use now proposed, these considerations do not arise to the same extent in the current application. I do not consider that the grant of retention permission in this instance would set an undesirable precedent or undermine the integrity of the planning process.

12.0 Recommendation

12.1. I recommend that permission be Granted for the proposed development

13.0 Reason and Considerations

13.1. Having regard to the location of the site within the development boundary of Fenit village, the modest scale and ancillary nature of the retained development, the conditions imposed restricting its use, and the absence of significant impacts on residential amenity, traffic, or the environment, I conclude that the proposed development would not be contrary to the proper planning and sustainable development of the area.

14.0 Conditions

1.	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
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	<p>agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The detached garage/home office shall be used solely for purposes incidental to the enjoyment of the dwellinghouse. They shall not be used for human habitation, nor sold, rented, or leased independently, nor used for any trade or business other than a 'Home Office'.</p> <p>Reason: In the interest of orderly development.</p>
3.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</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.

Adam Kearney

Planning Inspector

09th of March 2026

Appendix A: Form 1 EIA Pre-Screening

Case Reference	PL-500284-KY-25
Proposed Development Summary	The Retention of shed, roofed patio, pump sump and associated site works
Development Address	Fenit Without, Fenit, Co. Kerry, V92 K285
IN ALL CASES CHECK BOX /OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q	
3..Is the proposed development of a CLASS specified in <u>Part 2</u>, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed	

road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	
4 Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____