



An
Coimisiún
Pleanála

Inspector's Report PL-501259-KY-26

Development	Construction of boat storage shed and associated site works.
Location	No.6 Coastguard Station, Fenit, Tralee
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2660091
Applicant(s)	Brian O'Sullivan
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Michael Hickey
Observer(s)	None
Date of Site Inspection	16 th July 2026
Inspector	Matthew McRedmond

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1.0 Site Location and Description

- 1.1. The subject site is located at No. 6 Coastguard Station, Fenit, Tralee, Co. Kerry. Coastguard Station is a terrace of 6 no. two-storey, red brick cottages in a north-south delineation. The site is accessed to the south of Main Road, Fenit and is located to the western side of the Tralee to Fenit Cycle and Walkway. The subject site is a private garden to the south of the end terrace unit at No. 6 Coastguard Station and is currently a grassed flat area which is an overall area of 0.264ha.

2.0 Proposed Development

- 2.1. The proposed development is for a 78sqm boat storage shed with stone front, plaster on side and rear walls, roller shutter door and slate roof.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission for the subject proposal on the 1st April 2026, subject to 5no. standard conditions.
- 3.1.2. Condition 2 requires the shed to be for boat storage only. Condition 3 requires the shed and dwelling to remain as one integral unit.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The Planning Authority report had regard to the policy context relating to rights of way as contained within the Kerry County Development Plan 2022-2028 (the CDP) and noted the proposal would not impact on a right of way (RoW) if it was in place. Circuit Court appeal with regard to inclusion of RoW in CDP is noted, but proposal is not considered to impact on the RoW if it is in existence or not. Residential and visual amenity are not considered to be impacted by the proposal, and a grant of permission was recommended, subject to conditions.
- 3.2.2. Other Technical Reports

- None on file.

3.3. Prescribed Bodies

- 3.3.1. No submissions from prescribed bodies.

3.4. Third Party Observations

- 3.4.1. A number of third-party observations were made in relation to the subject proposal, mainly noting concern in relation to impacts of proposal on RoW and health and safety of users of RoW. Submitted that application should be withdrawn until clarity of RoW 8a, as it relates to the subject site in the Kerry CDP, is confirmed.

4.0 Planning History

- 4.1.1. Kerry County Council planning references 16605, 16607 and 15275 relate to alterations of the existing structure at No. 6 Fenit, which is the dwelling at the subject site. No issues of particular relevance were raised in these files that relate to the subject appeal.

5.0 Policy Context

5.1 Kerry County Development Plan

- 5.1.1. The Kerry County Development Plan 2022-2028 is the relevant plan. Variation No. 1 relates to the Tralee Municipal District Settlements' Plan and includes Fenit as one of two District Towns. District Towns are defined in Volume 1 of the Plan as: '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.
- 5.1.2. The subject site is within the Settlement Boundary and is zoned 'R2 – Existing Residential'.
- 5.1.3. In relation to Public Rights of Way, it is an objective of the Council to:

- 5.1.4. **KCDP 14-69** Ensure the preservation of Public Rights of Way which give access to seashore, mountain, lakeshore, riverbank and other places of natural beauty or recreational utility
- 5.1.5. **KCDP 14-70** Protect all existing Public Rights of Way (including those not listed in this plan) and ensure that development does not impinge on these routes.
- 5.1.6. Section 4.8 of the Kerry CDP 2022-2028 notes that Public Rights of Way were listed and mapped as part of the Kerry County Development Plan 2015-2021, and these are appended to Volume 3 in the current 2022-2028 plan.
- 5.1.7. The plan provides that it is important to note that this is not an exhaustive list. The omission of a Right of Way from this list shall not be taken as an indication that such a right of way does not exist. In addition, the inclusion of a route in this plan does not create a public right of way.
- 5.1.8. Where no Public Rights of Way exist to important recreational areas, places of historic interest, architectural heritage, scientific sites and sites of cultural heritage, the Council will encourage the creation of such Rights of Way in co-operation with local landowners.

5.2. Tralee Municipal District Settlements' Plan

- 5.2.1. Section 3.3 of the plan refers to Fenit and includes a number of objectives for the development of the town. The following objectives are relevant:
- KCDP FT-1 Protect the natural environment of the settlement from developments of an inappropriate nature and scale given that these attributes contribute greatly to the distinctive character of Fenit.
 - KCDP FT-2 Protect buildings and streetscape which form part of its historic, cultural, and architectural heritage and encourage the appropriate reuse & sensitive restoration of unused/derelict vernacular properties.

5.4 Natural Heritage Designations

- 5.2.2. 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 (Site Code 002070) and Tralee Bay Complex SPA (Site Code 004188).

6.0 EIA Screening

- 6.1.1. I have had regard to the determination of the Planning Authority in relation to EIAR requirements. 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 this report.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. 1no. third party appeal was submitted by an adjoining landowner. The main grounds of the appeal are that the garden of the application site includes a Right of Way (RoW) from the L10572 to the old boat house/slip adjacent to the car park in Fenit. This is illustrated in yellow by the appellant on the site section drawing submitted as part of the application.
- 7.1.2. This is noted as being included in the Draft Kerry County Development Plan 2022-2028 as RoW 8a. This RoW has been in place as a public right of way for generations to provide access to the slip and beach, and forms part of the sale agreement with the OPW for all 6 Coastguard Cottages. Email correspondence with the Planning Authority, which was dated 9th February 2026 is provided to indicate there has been no decision available from the Circuit Court in relation to inclusion of this RoW in the CDP.
- 7.1.3. The proposed boat trailer exiting and entering via the right of way will lead to health and safety risks to members of the public. The shed should be moved to the rear of the property to mitigate this risk.

7.2. Applicant Response

- 7.2.1. The applicant has provided a response to the appeal that may be summarised as follows:

Health and Safety

- The area for turning is large and level of footfall is low in relation to risks to pedestrian traffic.
- Tralee-Fenit Greenway has provided an alternative route to beach, reducing footfall at Coastguard Station entrance.
- Applicant has a number of years of towing and marine industry experience. Precedent for boat storage is already established at No. 1 Coastguard Station.
- Boat will only be moved twice a year: out in May and return in October.

Rights of Way

- Existence of private right of way for residents of Numbers 1-6 Coastguard Station is acknowledged and not disputed.
- Matter of public right of way is before the courts. A letter is attached to the response, from the former Minister for Environment which confirms that no public right of way exists. Regardless of status of right of way, proposed shed is on lawn area, off the main turning area and will not impact pedestrians.

Other Considerations

- Proposed location of shed was chosen to reduce visual impacts and impacts on sea views. Relocation would require unnecessary removal of trees and greenery, while also making the shed more visible.

7.3. Planning Authority Response

- 7.3.1. None on file.

7.4. Observations

- 7.4.1. None.

8.0 Assessment

8.1. Having reviewed the details and appeal documentation on the file, the submissions made, having visited the site, and having regard to relevant local and national policy and guidance, I consider the main issues to be the following:

- Right of Way
- Health and Safety
- Other Considerations

8.2. Right of Way

- 8.2.1. The third party appeal notes the presence of a right of way at the subject site and refers to the Draft Kerry County Development Plan 2022-2028 that illustrates a Public Right of Way (RoW 8a) as confirmation of this right of way.
- 8.2.2. The First Party acknowledges the presence of a private RoW for the residents of numbers 1-6 Coastguard Station to access the slip/beach to the south. The first party notes this is not a public right of way and the matter of including such a public RoW is specifically before the courts.
- 8.2.3. While matters of land ownership and rights of way are not specifically planning matters that can be legally adjudicated by the Commission, I have had regard to the final adopted version of the Kerry County Development Plan 2022-2028. I note the appeal refers to RoW 8a in the Draft Plan, but this RoW has not been included in the final adopted plan. I conclude that this RoW has no designated planning status and therefore there is no planning encumbrance that merits consideration in the context of the subject proposal. Section 14.8 of the CDP refers to rights of way being included in Volume 3. There is no RoW associated with the subject site in that Volume.
- 8.2.4. I further find that the proposed shed is located outside the alleged right of way and given the limited level of use, which I will discuss in the following section, would not impinge on any right of way, if it did exist. The first party has submitted that the Fenit-Tralee Greenway has provided an alternative route to the beach area, however, on my visit to the site, I did not observe a direct access to the greenway in the vicinity of the Coastguard Station Cottages, other than via the identified RoW. The route from

Coastguard station was recently cut back with access to the greenway, so I am satisfied that the RoW has not been encumbered in whatever context it may exist outside of CDP status, and I do not find a reason to conclude that the proposal would impact on the RoW in any significant way.

- 8.2.5. I have had regard to the submitted site location plan that does not indicate a right of way, which is typically included on folio maps in yellow, and to the letter from the former Minister for the Environment as submitted by the First Party. All of these details lead me to conclude that there is no right of way issues associated with the subject site that would merit a reason for refusal in this instance.

8.3. Health and Safety

- 8.3.1. The Third-Party appeal submits that the subject proposal would impact on the health and safety of pedestrians using the right of way to access the Old Boat House/slip to the south.
- 8.3.2. The First Party provides that the boat shed will be used twice a year to take out and put back a boat into the shed. They also submit they have extensive towing and marine experience, and the shed is located outside the RoW and does not impact on it, whatever the status may be.
- 8.3.3. I have had regard to the location and nature of the proposed shed. I note the assessment of the Planning Authority, who did not indicate any issues from a health and safety perspective. I note the shed is located on private land, adjacent to a generous turning area to allow for manoeuvrability. I am satisfied the proposal is outside the alleged RoW and given the limited nature of the use of a private shed, there will be minimal trips associated with it. Given the limited number of trips and the nature of this private shed, I find no reason to refuse permission in this regard and find the proposal to be acceptable, and the proposal is in accordance with the proper planning and sustainable development of the area.

8.4. Other Considerations

- 8.4.1. The third-party appeal submits the proposed shed should be relocated to the rear of the garden and further from the RoW. I find no reason to relocate the proposed shed in this regard, given the limited number of turning movements per annum and the existing turning area available. Relocation may also result in additional visual

impacts and potentially lead to removal of existing planting and vegetation that has implications for biodiversity and screening. I conclude that these negatives would outweigh the benefits of relocating the proposal and in any case, a relocated shed is not the proposal before me, and I therefore find no requirement for alterations in this regard.

9.0 AA Screening

- 9.1.1. Having reviewed the details on file and having regard to the nature and scale of the proposed development, the location of the site within an established urban setting, the absence of ecological and/ or hydrological connections, and the physical separation distances to European Sites, I consider the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.
- 9.1.2. Please refer to the attached appendices for detailed Stage 1 Appropriate Assessment.

10.0 Water Framework Directive

- 10.1.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.
- 10.1.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.
- 10.1.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.
- 10.1.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

11.0 Recommendation

- 11.1. I recommend that permission be granted based on the following reasons and considerations.

12.0 Reasons and Considerations

Having regard to the location of the site within the development boundary of Fenit village, the modest scale and ancillary nature of the proposed 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.

13.0 Conditions

1. The development shall be carried out entirely in accordance with the plans and particulars received by the Planning Authority on 09/02/2026 except for any alterations or modifications specified in this decision.

Reason: To regulate and control the layout of the development.

2. The proposed shed shall be used for boat storage only and not for any repair or servicing of boats or other vehicles or any other commercial, habitation or agricultural uses.

Reason: To regulate the use of the site.

3. The dwelling house and proposed shed shall remain as one integral unit under one ownership and neither property shall be disposed of as a separate entity.

Reason: To regulate and control the density of development on this site in the interest of orderly development.

4. (a) The Developer shall institute appropriate measures to prevent material being drawn from the site onto the public road. No earth, soil or other material from this site shall be drawn or deposited onto the public road.

(b) Any damage to the adjoining public roadway as a result of the development shall be made good at the developer's expense to the satisfaction of the Area Engineer.

Reason: To avoid a traffic hazard and protect public property.

5. All construction works shall be carried out between the hours of 0800 and 1800 Monday to Friday inclusive, and between the hours of 0900 and 1400 on Saturdays only. No work shall be carried out on Sundays or Bank Holidays

Reason: In the interest of residential amenity.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Matthew McRedmond
Senior Planning Inspector

28th July 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501259-KY-26
Proposed Development Summary	Construction of a new boat shed and all ancillary site works.
Development Address	No. 6 Coastguard Station, Fenit, Tralee, Co. Kerry
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?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
(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)	

2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, 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?	
☒ 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.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
☐ Yes, the proposed development is of a Class but is sub-threshold.	State the Class and state the relevant 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 ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2: Standard AA Screening Determination

Test for likely significant effects

Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered case PL-501259-KY-26 in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development is located within a residential area and comprises the construction of a boat storage shed, and all associated site works. The closest European Site, part of the Natura 2000 Network, is the Tralee Bay and Magharees Peninsula, West to Cloghane SAC, located 210m southeast of the proposed development.

Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and domestic nature of the development
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats,
- absence of ecological pathways to any European Site.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.