



An  
Bord  
Pleanála

## Inspector's Report PL15.248842.

---

<b>Development</b>	Demolition of chalet and construction of new chalet with basement.
<b>Location</b>	18 Cloghercove, Glaspistol, Clogherhead, Co. Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	17/357.
<b>Applicant(s)</b>	Hathin & Clare Tamimi.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party.
<b>Observer(s)</b>	John Campbell.
<b>Date of Site Inspection</b>	3 <sup>rd</sup> October.
<b>Inspector</b>	Karen Kenny.

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	4
3.4. Third Party Observations .....	4
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations .....	7
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Planning Authority Response .....	9
6.3. Observations.....	9
7.0 Assessment.....	10
8.0 Recommendation.....	13
9.0 Conditions.....	13

## 1.0 Site Location and Description

- 1.1.1. The site is located to the south of the coastal village of Clogherhead in County Louth. It is situated in a complex of holiday chalets that is located between the R166 (Termonfeckin) Regional Road to the west and Clogherhead Beach to the east.
- 1.1.2. The complex is rectangular in configuration and runs parallel to the beach. There are two rows of holiday chalets located on either side of a central linear area of open space and an access road. The existing chalets are mainly low-rise wooden structures, which have either flat roofs or very gently sloping pitched roofs. The finished level of the chalets follows the undulations of the dune system at this location. There is no uniformity in the design of chalets or in the separation between chalets and the individual plots are small and open with no demarcation of boundaries.
- 1.2. The appeal site no. 18 has a stated site area of 0.0248 hectares and comprises a single storey chalet with a raised deck area to the east and north. The chalet overlooks the seashore. Although in need of some repairs, the exterior of the existing wooden chalet at no.18 appears to be in reasonably sound structural condition.

## 2.0 Proposed Development

- 2.1. Permission is sought to demolish an existing chalet and to construct a replacement chalet with basement as follows:
  - The chalet comprises ground and basement levels and has a stated floor area of 240 square metres.
  - The structure has a square footprint of 127 square metres, with a low rise mono-pitched roof over and a maximum height of 3.6 metres.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse Permission for one reason. The reason for refusal can be summarised as follows:

- The development by reason of its scale will be out of character with the existing pattern of development in the wider development and would be contrary to policy SS43 and SS44 of the Development Plan.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer's Report reflects the decision to refuse permission and can be summarised as follows:

- Site is located in Development Zone 3.
- The existing chalet is in a habitable condition and the principle of a replacement dwelling is acceptable.
- It is considered that the proposed design of the replacement chalet would be excessive and that the proposed design, scale and form would be contrary to policy SS43 and SS44 of the Development Plan.

#### 3.2.2. Other Technical Reports

Infrastructure Section: No objection.

Environmental Compliance: No objection.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

One submission was received and considered by the Planning Authority. Issues raised are similar to those raised in the third party observation, as set out below.

## 4.0 Planning History

4.1.1. Permission was granted in 1968 (PA Ref. 68/93) for the retention of existing chalets and erection of new chalets at Cloghercove. There have been a number of planning applications for the replacement or alteration of chalets including the following:

- Ref. 13/514:** Replacement of chalet no. 22 Cloghercove. Permission Granted.
- Ref. 09/271:** Retention of first floor extension to chalet no. 16. Permission granted. The decision was upheld on appeal to An Bord Pleanála (PL15.234183).
- Ref. 08/581:** Replacement of fire damaged chalet no. 3 Cloghercove. Permission granted.
- Ref. 05/1561:** Change of chalet type from that approved under PA Ref. 00/706 / PL15.122269 at no. 27 Cloghercove to include two storey chalet with basement. Permission Granted.
- Ref. 05/1504:** Replacement of chalet no. 14 Cloghercove. Permission granted.
- Ref. 05/248:** Replacement of chalet no. 35 Cloghercove. Permission granted.
- Ref. 05/76:** Retention of alterations to replacement chalet (approved under Ref. 99/1404 / PL15.122270) no. 26 Cloghercove. Permission granted. The decision was upheld on appeal to An Bord Pleanála (PL15.211647).
- Ref. 04/411:** Replacement of chalet no. 3 Cloghercove. Permission granted.
- Ref. 04/394:** Replacement of chalet no. 13 Cloghercove. Permission granted.
- Ref. 04/203:** Replacement of chalet no. 12 Cloghercove. Permission granted.
- Ref. 03/763:** Extension of chalet no. 36 Cloghercove. Permission granted.
- Ref. 00/1466:** Replacement of chalet no. 5 Cloghercove. Permission granted.

- Ref. 00/706:** Replacement of chalet no. 27 Cloghercove. Permission granted. The decision was upheld on appeal to An Bord Pleanála (PL15.122269).
- Ref. 99/1404:** Replacement of chalet no. 26 Cloghercove. Permission granted. The decision was upheld on appeal to An Bord Pleanála (PL15.122270).
- Ref. 98/344:** Extension of chalet no. 57 Cloghercove. Permission granted.
- Ref. 98/52:** Extension of chalet at Cloghercove. Permission granted.
- Ref. 98/34:** Retention / completion of extension to chalet. Permission granted.
- Ref. 97/278:** Retention / completion of extension to chalet no. 12 Cloghercove. Permission granted.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Louth County Development Plan 2015-2021 is the relevant statutory plan. The following sections are considered relevant.

- The site is in rural Development Zone 3 with an objective “*To protect the recreational and amenity value of the coast*”.
- **RD 35:** To only permit development that would not be detrimental to the visual and recreational amenities of the coast. Such development would include limited one-off housing, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects, tourism related projects (excluding holiday homes), active recreational amenities such as pedestrian and cycle paths, equestrian trails, ecological corridors, small scale ancillary recreational facilities, leisure and recreation related projects, and renewable energy schemes.
- **RD21:** To require all proposed developments within 100m of the coastline of Louth, outside the settlements and in Zone 3, to submit supporting documentation on coastal erosion. New development will be prohibited unless it can be objectively established based on the best scientific information at the

time of the application, that the likelihood of erosion at a specific location is minimal taking into account, inter alia, any impacts of the proposed development on erosion or deposition.

- **SS 42:** To permit the replacement of a non-vernacular dwelling only where the roof, all external structural walls and internal walls are substantially intact and where the building was last used as an authorised habitable dwelling.
- **SS 43:** To restrict the floor area of the replacement dwelling within all Development Zones to the maximum permitted floor area of the Development Zone in which it is located, or an additional 25% of the footprint of the existing house, whichever is the greater. Where the floor area of an existing dwelling is already in excess of the Development Zone limit, the replacement dwelling shall not exceed the original floor area (as per Table 2.9).
- **SS 44:** To require that the overall size of the replacement dwelling does not have a visual impact significantly greater than the existing dwelling and that the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.
- **SS 45:** To require the replacement dwelling to incorporate the footprint of the replaced house.
- **HER 62:** To prohibit development that would interfere with or adversely affect the scenic routes as identified in Table 5.15. The R166 to the west of the site is designated as a Scenic Route.

## 5.2. Natural Heritage Designations

Clogherhead located c. 500 metres to the north of the site is designated a Special Area of Conservation and a proposed Natural Heritage Area. Clogherhead is also designated an Area of Outstanding Natural Beauty in the Development Plan.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been received. The principal grounds of appeal are summarised as follows:

- Cloghercove is a planned estate of chalet type houses developed in the early 1970's.
- The sites of the chalets are relatively small, designed just to accommodate the building and the estate is characterised by large open spaces that are held in common by the owners of the chalets.
- The sites are fully serviced with mains drainage, water and power.
- Deep foundations are required due to ground conditions creating an opportunity for the provision of a basement storage area under the chalet.
- The overall height of the chalet is similar to the overall height of the existing and the design is similar to a number of other chalets at Cloghercove.
- The Planning Authority incorrectly assessed the development under Section 2.19 One Off Rural Housing Policy. The chalets at Cloghercove are not individually designed detached houses on un-serviced sites.
- The original Property Registration Folio and Maps are enclosed detailing the boundaries of the site. The development is contained wholly in that boundary.
- Precedent for the type and size of development proposed.
- Basement can be omitted if necessary.



## 6.2. Planning Authority Response

- The site is located in Zone 3 and Policies SS42 to SS44 apply.
- The footprint of dwellings in the vicinity were measured using GIS software.
- A comparison of the footprint and dimensions of the existing structure on site relative to the proposed structure is set out.
- The proposed development by virtue of its scale within the plot size is considered excessive, bulky and out of scale and out of character with the existing pattern of development.

## 6.3. Observations

One observation has been received from the owner of an adjacent chalet (no. 17). The principal issues raised that are relevant to this appeal are summarised as follows:

- Location of chalets did not relate to outline plots drawn up in the 1960's. In 2010, Cloghercove Residents Committee published a Deed of Rectification to realign plots to reflect the location of constructed chalets and to allow each resident to purchase appropriated freehold. The proposed chalet would be built within 2 metres of the boundary with no. 17.
- The proposed chalet will be 0.7 metres higher than the current chalet and the width will be greatly expanded. Including basement, the potential habitable area could be over 200 square metres. No other chalet has this magnitude.
- Question need for basement of 2.45 metres in height with windows and external access, if only to be used for storage.
- Entrance to the chalet and basement appears to be outside the existing plot. The proposed deck would be outside of the applicants own plot and significantly encroaching on the communal area.

## 7.0 Assessment

7.1.1. I consider that the main issues in this case are as follows:

- Principle of Development
- Impact on the Character of the Area
- Residential Amenity
- Other Issues
- Appropriate Assessment

### 7.2. Principle of Development

7.2.1. The Louth County Development Plan 2015-2021 is the relevant statutory plan. The site is in rural Development Zone 3 with an objective “To protect the recreational and amenity value of the coast”.

7.2.2. Permission is sought for a replacement chalet. Policy SS 42 of the Development Plan supports the replacement of non-vernacular dwellings in rural areas, where the roof, external structural walls and internal walls are substantially intact and where the building was last used as an authorised habitable dwelling. The existing wooden chalet is in reasonably sound structural condition with roof and walls intact. I am satisfied, therefore, that the development is acceptable in principle, subject to the assessment of the relevant planning issues identified below.

### 7.3. Impact on the Character of the Area

7.3.1. Permission is sought for a replacement chalet with basement. The proposed chalet would comprise ground floor living accommodation (127 square metres) and a basement storage area (102 square metres). The structure measures 11.6 metres by 11.0 metres and the roof extends to 3.6 metres above ground level at its highest point. The chalet would sit over a basement parapet that is set at 0.55 metres above existing ground level.

7.3.2. The reason for refusal states that the proposed development will be out of character with the existing pattern of development in the wider development of Cloghercove and that it would be contrary to Policy SS43 and Policy SS44 of the Development

Plan. The grounds of appeal argue that Section 2.19 of the Development Plan does not apply as the development is not an individually designed dwelling on an unserviced site.

7.3.3. Section 2.19 of the Development Plan relates to one off rural housing, including replacement dwellings and describes one off housing as “individually designed, detached houses that are primarily located on large unserviced sites in the open countryside”. Policy SS43 seeks to restrict the floor area of replacement dwellings in the open countryside, while Policy SS44 seeks to limit the visual impact. It is clear that these policies relate to replacement dwellings in the open countryside. While visual impact is an important consideration, I agree with the argument set out in the grounds of appeal. The proposed development is for a replacement chalet in an existing and long established complex of detached holiday chalets. The chalets are contained on small plots and surrounded by extensive communal areas. I consider that the minimum site size and maximum floor areas set out in Policy SS43 are not applicable in this instance.

7.3.4. In terms of visual impact, Cloghercove is characterised by a variety of chalet types, scales and sizes with no consistent or uniform type. Most of the chalets are timber structures with gently sloping roofs. Many of the original chalets have been replaced with larger structures and a number of chalets incorporate floorspace at first floor or basement level. The proposed chalet is a low rise, single storey structure that would sit over a basement plinth. It has a footprint of approximately 127 square metres. I consider that the scale of the proposed chalet is in keeping with the existing pattern of development in the vicinity and that the development would not have a significant visual impact on the sensitive coastal landscape at this location or be unduly obtrusive when viewed from the surrounding area.

#### **7.4. Residential Amenity**

7.4.1. It is considered that the proposed development would be in keeping with the nature of development in the area and that it would not give rise to undue overlooking of dwellings in the vicinity. The development would not meet the private open space and car parking standards for residential development set out in the Development Plan. However, the Cloghercove development is designed as a holiday complex and is not designed to support permanent occupancy. On this basis I am satisfied that

the development is acceptable and would recommend that the use of the chalet as holiday accommodation, be reinforced by way of a planning condition.

## 7.5. Other Issues

### Site Boundaries and Ground Levels – New Issues

- 7.5.1. The development appears to extend beyond the red line boundary of the site. The proposed access ramp to basement level is detailed on the floorplans but is not detailed on the site layout plan. The access ramp extends 3.0 metres forward of the western building line, while the site layout plan shows a setback of only 1.8 metres to 2.7 metres off the western boundary. The proposed deck on the eastern elevation would also appear to extend beyond the red line boundary of the site. The deck extends by 3.6 metres beyond the eastern building line of the chalet, while the site layout plan shows a maximum setback of 3.0 metres off the boundary.
- 7.5.2. I also consider that there is insufficient detail in on the file in relation to proposed ground levels around the basement, and in particular the treatment of ground levels in the vicinity of basement window and door openings. While I have no objection in principle to the provision of external access to the basement, the extent of the basement to be exposed and the treatment of ground levels around the basement is unclear.
- 7.5.3. As the development is considered to be otherwise acceptable, I consider that the issues raised in Section 7.5.1 and 7.5.2 can be addressed by condition. I recommend that the proposed development be amended to omit window and door openings at basement level (internal access only) and that existing ground levels be maintained. I also recommend that the proposed deck on the eastern elevation is restricted to a depth of 2 metres to ensure that it is contained within the site boundary. I draw the Board's attention to the fact that these are new issues that were not raised during circulation of the appeal. If the Board is considering granting the proposal, it may wish to seek input on this matter from the parties concerned.

### Legal Interest

- 7.5.4. A third party observation has raised concerns that the proposed development falls outside of the plot associated with no. 18. While the issue of development outside of the site boundary is discussed in Section 7.5.1 above, the issue of ownership does

not come within the scope of the Planning Acts and is not a matter for the Board to adjudicate on.

### **Waste Services and Flooding**

- 7.5.5. It is proposed to connect to the public water supply and waste water networks and there is no identified flood risk in the vicinity of the site.

### **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular the proposal to replace an existing structure within an established and serviced development, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

Having regard to the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not conflict with the objectives of the Development Plan for the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **9.0 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 agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) The ramp, door and window openings at basement level shall be omitted in full.
  - (b) The existing ground levels around the basement shall be maintained.
  - (c) The deck area to the east of the chalet shall extend by a maximum of 2 metres beyond the eastern building line of the chalet.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of orderly development and in order to safeguard the amenities of property in the vicinity.

3. The proposed dwelling shall be used for short-term tourist accommodation only, and shall not be used as a place of permanent residence.

**Reason:** The occupation of the proposed dwelling on a permanent basis is unsustainable having regard to the nature of the development and its location.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. The construction of the development shall be managed in accordance with

a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

8. 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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

---

Karen Kenny  
Planning Inspector

13<sup>th</sup> October 2017