



An  
Bord  
Pleanála

## Inspector's Report ABP-302227-18

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<b>Development</b>	To construct a guesthouse, 3 no. individual holiday cottages and proprietary waste water treatment system along with associated site works
<b>Location</b>	Dough, Spanish Point, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	18203
<b>Applicant(s)</b>	Donie McNamara.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Donie McNamara.
<b>Observer(s)</b>	An Taisce.
<b>Date of Site Inspection</b>	1 <sup>st</sup> October 2018.
<b>Inspector</b>	Brid Maxwell

### Contents

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of the R482 opposite the car park for Spanish Point blue flag beach in West Co Clare. Spanish Point is a dispersed settlement located on the Wild Atlantic Way on Mal Bay. With its picturesque coastal setting, tourism related activity is predominant with hotels, a number of guesthouses, holiday homes and caravan parks.
- 1.2. The appeal site has a stated area of 0.2897 hectares and is located to the north of The Coast Lodge Hotel and restaurant. The site falls northwards and comprises a mosaic of degraded sand dune and marsh habitat. A stream flowing to the shore is located within 15m of the northern boundary of the site. Part of the western portion of the site is laid out as lawn while the eastern part of the site is densely overgrown with remains of foundations from previous construction works. There is an established vehicular entrance to the site and roadside boundary is defined by a low stone wall. To the south-east of the site is Spanish Point Golf Course. The Atlantic View holiday homes are located approximately 200m to the south of the site.
- 1.3. There are two protected structures in the Vicinity. The Stella Maris, a dwellinghouse RPS 26 is located approximately 70m to the north and RPS 27 The Retreat, a derelict former dwelling, is located approximately 45m to the north east.
- 1.4. The Stella Maris RPS 26 is described within the NIAH (Reg no 20403019) as a detached three-bay single storey house, built c 1879 with recessed central bay. Three-bay two-storey recessed wing added to right and three-bay single storey flat-roofed return added, c 1920. Hipped artificial slate with rendered chimneystacks, rendered walls, replacement windows. Timber panelled door with sidelights and overlight. Retaining interior shutters. Rubble stone boundary walls with carved monolithic gate piers to site.
- 1.5. RPS 27 The Retreat is described as detached four-bay single-storey house, built c 1825, with gabled projecting porch and three-bay return having single-bay single-storey over part-raised basement battlemented tower with base batter and corner turret. Arranged on an L Shaped plan about a courtyard. Originally thatched, re-roofed c 1920, now derelict. Pitched slate roof with concrete ridge tiles. Pyramidal slate roof set behind rendered battlemented parapet to tower. Crenellated parapet to turret. Roughcast rendered walls. Square headed openings. Blocked openings to

base of tower, with lancet openings to turret. Gateway to site comprising four circular profile piers with battlemented cappings, battlemented boundary walls and wrought-iron gate.

## **2.0 Proposed Development**

- 2.1. The application as initially submitted involves permission to construct a guesthouse, 3 no individual holiday cottages and a proprietary waste water treatment system along with associated site works.
- 2.2. I note that within the grounds of appeal the extent of development proposed has been amended by way of omission of the 3 holiday homes. The proposed guesthouse is a dormer type structure 246sq.m with mixed stone and plaster finish and pitched slate roof. The proposed structure is to be set at a finished floor level approximately 3m below the finished floor level of the Coast Lodge Hotel to the south. The proposed guesthouse is to be served by a wastewater treatment system discharging to a 35m<sup>2</sup> sand polishing filter to the located towards the south eastern rear boundary of the site.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 09/07/2018 Clare County Council issued notification of its decision to refuse permission for the following reasons:

“ Having regard to the ground conditions on site including the sandy nature of the soil and the fast percolation properties achieved, together with the proximity of the proposed wastewater treatment unit to the watercourse to the north of the site which outflows to the Mid-Clare Coast Special Protection Area and to the Carowmore Point to Spanish Point and Islands Special Area of Conservation, at Spanish Pont beach, the Planning Authority is not satisfied that wastewater generated by the proposed development can be adequately treated or dispersed on this site, nor is the Planning Authority satisfied that the proposed development would not give rise to a risk of water pollution affecting the quality of surface waters and bathing waters, including by way of increased nutrient loading. Furthermore, it is considered that in the

absence of appropriate management measures, the proposed shared wastewater treatment system would set an undesirable precedent for other such proposals in the area. The proposed development would therefore be prejudicial to public health and would be contrary to the proper planning and development of the area.

The subject site is located within a coastal area where there are a number of protected structures in the vicinity of the site including RPS no 26, Stella Maris, to the north of the site, and RPS no 27 the Retreat, to the northeast of the site. The Planning Authority considers that the proposed guesthouse and holiday cottages by reason of their form and material finishes, would not provide for a high standard of architectural design for this site and would interfere with views of the protected structures. Furthermore, it is considered that the proposed development by reason of its layout and number of units proposed on a site area of 0.289ha would result in overdevelopment of the site. The proposed development would therefore seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.”

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

3.2.1.1 Planner's report asserts that the overall context of the site is of a high quality. The design does not reflect the traditional vernacular coastal built forms that predominate at this location. Site is not suitable for disposal of effluent based on poor percolation test results and proximity of polishing filter to the stream. Refusal recommended.

Senior Executive Planner countersigned the report and recommended refusal.

#### **3.2.2. Other Technical Reports**

Report of Environment Section notes high water table 900mm bgl in June would be expected to be higher in winter. Proximity of wastewater treatment system to watercourse of concern. Bacterial count in this stream has been a concern on occasion and an increased loading would exacerbate the situation. Proposal for a shared treatment problematic from operation and management viewpoint. Further development along this shoreline must be connected to a municipal sewer and in the absence of such any such development is premature. Refusal recommended.

### 3.3. **Prescribed Bodies**

Irish Water report indicates no objection subject to connection agreement.

### 3.4. **Third Party Observations**

Cllr Christy Curtin made representations on the application.

## 4.0 **Planning History**

**10/879** Application withdrawn 21/01/2011. Permission sought to erect dwelling, septic tank treatment system and percolation area.

**09/530** Application to demolish existing building / sheds and construct 5 self-contained units and to install a sewerage treatment system and percolation area along with associated site works, Withdrawn 3/2/2010.

**08/1633** Application for permission to construction a dwelling house and install sewerage treatment system and percolation area along with associated site works. Withdrawn 6/2/2009.

**08/75** Permission refused to construct 2 dwellinghouses sewerage treatment systems and percolation areas along with associated site works.

**07/2270** Larger site incorporating the hotel to the south sought permission to construct a courtyard development comprising 8 no self-contained units and ancillary accommodation together with associated site works and sewage treatment system as well as the renovation and extension of 4 no existing staff units. A split decision issued on 05/12/2007. Permission granted for renovation of existing accommodation. Refusal of permission for 8 additional units.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1 The Clare County Development Plan 2017-2023 refers.

- Within the West Clare Municipal District – written statement and settlement plans. Spanish Point is classified as a ‘small village’. It is a general objective of this plan for

Spanish Point “to preserve the outstanding coastal setting and landscape whilst encouraging development that will contribute to the strengthening of the settlement structure”.

- The appeal site is part of a block including the established hotel to the south zoned Tourism TOU 7. No specific objectives are set out in respect of the site.
- The plan notes that Spanish Point is supplied with water from the West Clare Regional Water Supply (Old) and Miltown Malbay Water Supply Scheme with water treatment plants at Old Doolough and Rockmount. There is sufficient capacity at the treatment plant to cater for the target population.

*“There is currently no public wastewater treatment plant serving Spanish Point. Irish water will investigate the feasibility of connecting a number of existing private wastewater treatment plants which are in poor condition to the wastewater treatment plant at Miltown Malbay depending on the capacity of that plant to comply with its license conditions. In the interim, the EPA code of Practice for Wastewater Treatment Systems must be strictly adhered to in order to ensure that there are no significant long term effects on the Annagh River which flows along the southern boundary of the settlement and is currently at poor status.”*

- General objectives are to promote Spanish Point as a complementary linked settlement with Miltown Malbay.
- To provide for the growth of Spanish Point as a tourist centre and to strengthen its role by encouraging the expansion of commercial and retail activity.”

## 5.2. Natural Heritage Designations

There are a number of Natura 2000 sites in close proximity and within 15km of the site including:

The Carrownmore Point to Spanish Point Islands SAC (Site Code 001021) within 40m to the west of the site.

Mid Clare Coast SPA (Site Code 004182) within 86m to the west.

Carrownmore Dunes SAC (Site Code 002250) 9km to the Northeast.

Cliffs of Moher SPA (Site Code 004005) 10km to the north

Inagh River Estuary SAC (Site Code 00036) 11km to the NE.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 The appeal is submitted by McCarthy Keville O Sullivan on behalf of the first party. Grounds of appeal are summarised as follows:

- Extent of development now limited to a proposed guesthouse and all associated site works including a wastewater treatment plant in accordance with updated site layout drawing 16127/P/001/P41.
- Revised site location provides for wastewater treatment system and sand polishing filter located approximately 30m from the northern boundary of the application site. The hydraulic loading on the proposed system is reduced from 4,370 litres per day to 2,000 litres per day. Application site can adequately treat and disperse wastewater with no impact on water quality.
- Attached AA screening report concludes that the proposed development, in view of best scientific knowledge on the basis of objective information and in light of the conservation objectives of the relevant European sites will not have significant effect on European Sites.
- Architectural design of the proposed guesthouse is traditional in character. Siting and orientation in keeping with other houses in the. Render and natural stone finish in keeping with the local aesthetic.
- Cultural Heritage Visual Impact Assessment prepared by Tobar Archaeology demonstrates that the proposal will not have an adverse impact on protected structures RPS no 205 Stella Maris or RPS No 27 The Retreat.
- Site is on a relatively low-lying point along this stretch of the R482 and the proposed guesthouse would have a finished floor level of 10m OD in contrast to dwelling to the south which has a ffl of 12.72m OD. No adverse impact on the visual amenity of the surrounding area.

- The proposed development will result in a beneficial development of tourism use in Spanish Point on lands zoned for tourism development. The proposed development will enhance and complement the existing tourism infrastructure in the locality and contribute to the ongoing success of tourism in west Clare.

## 6.2. **Planning Authority Response**

6.2.1 The Planning authority response to the grounds of appeal was received outside of the appropriate period and was therefore returned.

## 6.3. **Observations**

6.3.1 Submission by An Taisce - Proximity to a waterbody flowing into the Carrowmore Point to Spanish Point and islands SAC and Mid Clare Coast SPA is of concern. Notably the EPA considers with the existing water quality of the nearby river to be of moderate ecological status. Under the requirements of the Water Framework Directive this is unsatisfactory and the water body remains at risk of not achieving good status within the required time 2021. The proposed wastewater treatment system has the potential to further deteriorate the quality of the adjoining waterbody which would undermine the achievement of the water framework directive targets. Reasons for refusal should be upheld by An Bord Pleanála.

## 7.0 **Assessment**

7.1. From my assessment of the file and inspection of the site. It is my view that the key planning issues for this appeal area as follows:

- Principle of development
- Design, layout and visual impact including impact on architectural heritage
- Wastewater treatment.
- Appropriate Assessment Screening
- Environmental Impact Assessment Screening.



## **7.2 Principle of Development**

7.2.1 Having regard to the zoning of the site for tourism development I consider that the principle of development is acceptable subject to other detailed matters. I have noted that within the grounds of appeal the applicant has proposed to omit the holiday cottages and therefore the assessment is based on the revised proposal to provide a guesthouse and wastewater a proprietary wastewater treatment system together with ancillary works.

## **7.3 Design, layout and visual impact including impact on architectural heritage.**

7.3.1 I note that the proposed structure, in essence a dormer type dwelling, is to be set at a finished floor level approximately 3m below that of the adjacent structure to the south and in this context, will not be highly prominent. However, I note the open character of the site and context in relation to the two established protected structures Stella Maris RPS 26 and The Retreat RPS 27. I refer to the Cultural Heritage Visual Impact Assessment by Annette Quinn, Tobar Archaeological Services submitted with the grounds of appeal which assesses the potential impact on cultural heritage. The report asserts that based on a review of the setting of the adjacent protected structures, the landscape has the capacity to absorb the proposed development resulting in a slight impact on the setting of the Retreat, only from the western side. It is noted that the more important vista to the north from the gated entrance will not be impacted. The view of the Stella Maris will remain unchanged. The report concludes that the proposed development will not result in any significant negative impact on the archaeological heritage landscape of the area.

7.3.2 Whilst I consider that the report provides a reasonable approach and the derivation of conclusions are set out I consider that the proposed design fails to innovate or provide an appropriate design response to the unique characteristics and setting of the site. The design does not relate to the site context nor does it contribute to a sense of place. I note the general objective for Spanish Point “*to preserve the outstanding coastal setting and landscape whilst encouraging development that will contribute to the strengthening of the settlement structure*”. In this regard I consider that the proposal represents a missed opportunity to innovate in terms of design and

thus the proposal is contrary to the provisions of the development plan and contrary to the proper planning and sustainable development of the area.

#### **7.4 Wastewater Treatment.**

7.4.1 The application is accompanied by a Site Suitability Assessment compiled by EPC Environmental Planning Consultants. I note that the site of the proposed development is particularly sensitive having regard to its character as degraded sand dune / marsh habitat, the proximity (15m) to stream discharging to the blue flag beach and designated Carrowmore Point to Spanish Point and Islands SAC. I also note that ordnance survey maps detail a number of wells in the vicinity, one on the site and two on the northern side of the stream. These wells are not acknowledged within the site suitability assessment and clearly should be factored in as sensitive targets at risk. Further concerns arise with respect to the level of detail within the assessment notably the failure to identify the location of the treatment system serving the adjacent hotel and self-contained accommodation on the adjoining site to the south.

7.4.2 The assessment was carried out in June 2016 and the trial hole excavated to 2.2m identified the watertable at a depth of 0.9m. The trial hole revealed a layer of top soil over sand 0.3m. A T value of 7 and P value of 14 were recorded. The proposed treatment system for the site comprises an aerated wastewater treatment system which will be intermittently pumped to a sand polishing filter of 35 sq.m placed over a distribution area. I have outlined concerns above in respect of the level of detail within the assessment with regard to existing wells and established wastewater treatment systems. Other concerns arise with regard to the fast percolation rate, proximity to the stream, the high water table level which would be expected to be higher in winter months. I note also the risk of seasonal flooding which should also be considered. In my view the applicant has not clearly demonstrated that the proposed development would not be prejudicial to public health clearly in light of these concerns the precautionary approach should be adopted.

#### **7.5 Appropriate Assessment Screening Report**

7.5.1 The application is accompanied by an appropriate assessment screening report compiled by McCarthy Keville O Sullivan Ltd. It notes the following Natura 2000 sites within 15km of the appeal site:

- The Carrowmore Point to Spanish Point Islands SAC (Site Code 001021) 40m to the west.
- Mid Clare Coast SPA (Site Code 004182) 86m to the west.
- Carrowmore Dunes SAC (Site Code 002250) 9km to the Northeast.
- Cliffs of Moher SPA (Site Code 004005) 10km to the north
- Inagh River Estuary SAC (Site Code 00036) 11km to the NE.

7.5.2 The Carrowmore Dunes SAC, Cliffs of Moher SPA and Inagh River Estuary SAC are screened out on the basis of distance and nature and scale of the proposal. As regards the Mid Clare Coast SPA it is asserted that having regard to the separation distance and character of area with existing holiday homes and dwellings, the proposal is not likely to contribute in a significant increase in anthropogenic disturbance to special conservation interest species. As regards the Carrowmore Point to Spanish Point and Islands SAC the watercourse within 15m of the site provides a pathway for potential deterioration in water quality of the SAC. It is asserted that the provision of wastewater treatment in line with EPA best practice measures will ensure no potential for significant effect on the aquatic QIs for which the SAC has been designated. On the basis of concerns outlined above with regard to wastewater treatment I note the potential water quality effects on the Carrowmore Point to Spanish Point and Islands SAC 001021.

## **7.6 Environmental Impact Assessment Screening.**

7.6.1 On the issue of Environmental Impact Assessment screening having regard to the limited nature and scale of the development, nature of the receiving environment no likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded.

## 8.0 Recommendation

- 8.1. Having considered the file and all submissions and having visited the site, I recommend that the Board uphold the decision of Clare County Council to refuse permission for the following reasons and considerations.

### Reasons and Considerations

1. Having regard to its design, it is considered that the proposed development would fail to respond to the unique characteristics of the site would not contribute to a sense of place making and would create a poor quality streetscape at this location. The proposed development would, therefore be contrary to the provisions of the current Development Plan for the area, would injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the characteristics of the site, to the location of the proposed wastewater treatment system and its discharge relative to the location of the watercourse to the north of the site which outflows to the Carrowmore Point to Spanish Point and Islands SAC (Site Code 001020) at Spanish Point beach the Board is not satisfied on the basis of the submissions made in connection with the application and the appeal, that a satisfactory effluent treatment and disposal system can be provided and sustained on the site. It is therefore considered that the proposal would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell

Planning Inspector  
26<sup>th</sup> October 2018