



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Armada Hotel
c/o R Fitzgerald Electrical Services Ltd
20 Tracklands Business Park
Ennis
Co Clare V95 DD73**

14th November 2023

Section 5 referral Reference R23-79 – Armada Hotel

Is the installation of a 156kw solar panel on the roof of the Armada Hotel development and, if so, is it exempted development?

A Chairde

I refer to your application received on 18th October 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise le meas


Anne O'Gorman
Staff Officer

**An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department
Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



**DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

Reference No.: R23-79



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-79

Is the installation of a 156kw solar panel on the roof of the Armada Hotel development and, if so, is it exempted development?

AND WHEREAS, Armada Hotel has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –


- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended.
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended.
- (c) Class 56 (e) of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended.
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The installation of solar panels constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development, consisting of the installation of solar panels, is development which is exempted development having regard to the extent of works involved and the provisions of Class 56(e) Schedule 2 of Part 1, Planning and Development Regulations 2001 as amended.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of that the installation of a 156kw solar panel on the roof of the Armada Hotel development at Spanish Point, Co Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.


Anne O'Gorman
Staff Officer
Planning Department

14th November 2023

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

82697

Reference Number:

R23-79

Date Referral Received:

18th October 2023

Name of Applicant:

Armada Hotel

Location of works in question:

Spanish Point, Co Clare

Section 5 referral Reference R23-79 – Armada Hotel

Is the installation of a 156kw solar panel on the roof of the Armada Hotel development and, if so, is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended.
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended.
- (c) Class 56 (e) of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended.
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The installation of solar panels constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development, consisting of the installation of solar panels, is development which is exempted development having regard to the extent of works involved and the provisions of Class 56(e) Schedule 2 of Part 1, Planning and Development Regulations 2001 as amended.

Therefore, Clare County Council (Planning Authority), hereby decides that development consisting of the installation of 156kw solar panels on the roof of the Armada Hotel, Spanish Point, Co Clare is development and is exempted development.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions, and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the installation of a 156kw solar panel on the roof of the Armada Hotel development at Spanish Point, Co Clare is **considered development** which is **exempted development**.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

14th November 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R23-79
APPLICANT(S):	Armada Hotel
REFERENCE:	Whether the installation of 156 kw solar panel on the roof of the Armada Hotel is development and, if so, is it exempted development.
LOCATION:	Spanish Point , County Clare
DUE DATE:	13 th November 23

Recent Planning History on Site

23/ 60374 to RETAIN development at the Armada Hotel, Spanish Point, Miltown Malbay, Co. Clare. The development consists of a replacement treatment plant and associated works for use by the Armada. Due date 09/ 11/ 23

See 23/ 60374 for all planning history on site.

Background to Referral

The applicant is seeking a Section 5 Declaration as to whether the installation of 156 kw solar panel on the roof of the Armada Hotel is or is not development and is or is not exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

S.3.(1) In this Act, "development" means, except where the context otherwise requires, **the carrying out of any works on, in, over or under land** or the making of any material change in the use of any structures or other land.

'Works' are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Planning & Development Regulations 2001- 2023 , as amended

Schedule 2 Article 6 Part 1 – Exempted Development General

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Class 56 (e) The placing or erection on a roof of a business premises or light industrial building, or within the curtilage of a business premises or light industrial building, or on a roof of any ancillary buildings within the curtilage of a business premises or light industrial building of a solar photo-voltaic and/or solar thermal collector installation

Conditions and limitations

1. Where such development is located within a solar safeguarding zone, the total aperture area of any solar photovoltaic and/or solar thermal collector panels, taken together with any other such panels previously placed on a roof, shall not exceed 300 square metres.

2. Where such development is located within a solar safeguarding zone, the Commented [i753]: Class 56(e) is substituted (with 16 conditions) by article 5(2)(a) of S.I. No. 493/2022 Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2022 440 planning authority for the area shall be notified in writing no later than 4 weeks after the commencement of such development and such notification shall include details regarding the location and scale of the development.

3. The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed: a. for a business premises, 1.2 metres in the case of a flat roof or 15cm in any other case. b. for a light industrial building, 2 metres in the case of a flat roof or 50cm in any other case.

4. The solar photo-voltaic or solar thermal collector panels shall be a minimum of 2 metres in the case of a flat roof or 50cm in any other case from the edge of the roof on which it is mounted.

5. Development shall not be exempted development where the highest part of the solar photo-voltaic or solar thermal collector installation exceeds the highest part of any roof that is not a flat roof (excluding any chimney).

6. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels shall not be placed or erected on a wall or any roof that is not a flat roof.

7. The height of any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall not exceed 1.6 metres above roof level.

8. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall be a minimum of 2 metres from the edge of the roof on which it is mounted.

9. Any free-standing solar photo-voltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the business premises or light industrial building.

10. The total aperture area of any freestanding solar photo-voltaic and solar thermal collector panels taken together with any other such existing freestanding panels shall not exceed 75 square metres.

11. The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level.

12. The placing or erection of a solar photovoltaic or solar thermal collector installation on any wall shall not be exempted development.

13. The placing or erection of any freestanding solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area.

14. No sign, advertisement or object not required for the functioning or safety of the solar photo-voltaic or solar thermal collector installation shall be attached to or exhibited on such installation.

15. Development under this Class shall only be exempted development where the solar photo-voltaic or solar thermal collector installation is primarily used for the provision of electricity or heating for use within the curtilage of the business premises or light industrial building, and shall not be considered a change of use for the purposes of the Act.

16. Development under this Class which causes hazardous glint and/or glare shall not be exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

(a) if the carrying out of such development would –

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*
- (vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*
- (xi) obstruct any public right of way,*
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the installation of 156 kw solar panel on the roof of the Armada Hotel is or is not development and is or is not exempted development.

Particulars of Proposal

The particulars of the proposal and site are set out below:

- it is intended to install 362 solar photovoltaic panels on the slate roof of the hotel
- Aerial view of roof is shown with proposed extent of panels shown in blue.

Planning and Development Regulations 2001 (as amended)

Schedule 2 Article 6 Part 1 – Exempted Development General

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Class 56 (e) states that the placing or erection on a roof of a business premises or light industrial building, or within the curtilage of a business premises or light industrial building, or on a roof of any ancillary buildings within the curtilage of a business premises or light industrial building of a solar photo-voltaic and/or solar thermal collector installation is exempt development provided the following conditions and limitations apply

Conditions and limitations

1. Where such development is located within a solar safeguarding zone, the total aperture area of any solar photovoltaic and/or solar thermal collector panels, taken together with any other such panels previously placed on a roof, shall not exceed 300 square metres.

N/A. The hotel is not located in a solar safeguard zone. The total area of the panels is not stated in the details received. The total number of panels is 362 and the total power output is 156kw.

2. Where such development is located within a solar safeguarding zone, the Commented [i753]: Class 56(e) is substituted (with 16 conditions) by article 5(2)(a) of S.I. No. 493/2022 Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2022 440 planning authority for the area shall be notified in writing no later than 4 weeks after the commencement of such development and such notification shall include details regarding the location and scale of the development.

N/A. The hotel is not in a solar safeguard zone.

3. The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed: a. for a business premises, 1.2 metres in the case of a flat roof or 15cm in any other case. b. for a light industrial building, 2 metres in the case of a flat roof or 50cm in any other case.

The Photovoltaic panels sits 10cm from plain of the roof to underside of the Panel. The installation does not exceed the 15cm permitted.

4. The solar photo-voltaic or solar thermal collector panels shall be a minimum of 2 metres in the case of a flat roof or 50cm in any other case from the edge of the roof on which it is mounted.

As per SEAI installation guidelines and regulations it is not permitted to install Photovoltaic panels within 50cm of roof edge.

5. Development shall not be exempted development where the highest part of the solar photo-voltaic or solar thermal collector installation exceeds the highest part of any roof that is not a flat roof (excluding any chimney).

As per SEAI installation guidelines and regulations it is not permitted to install Photovoltaic panels within 20cm of the ridge cap of the roof so there is no potential to overhang the roof.

6. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels shall not be placed or erected on a wall or any roof that is not a flat roof.

All equipment will be within the building.

7. The height of any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall not exceed 1.6 metres above roof level.

It is not intended to use any flat roof for installation but regardless the ancillary equipment would not exceed 1.6metres.

8. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall be a minimum of 2 metres from the edge of the roof on which it is mounted.

It is not intended to use any flat roof for installation.

9. Any free-standing solar photo-voltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the business premises or light industrial building.

N/A No free standing panels are proposed.

10. The total aperture area of any freestanding solar photo-voltaic and solar thermal collector panels taken together with any other such existing freestanding panels shall not exceed 75 square metres.

N/A

11. The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level.

N/A

12. The placing or erection of a solar photovoltaic or solar thermal collector installation on any wall shall not be exempted development.

N/A

13. The placing or erection of any freestanding solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area.

N/A

14. No sign, advertisement or object not required for the functioning or safety of the solar photo-voltaic or solar thermal collector installation shall be attached to or exhibited on such installation.

N/A

15. Development under this Class shall only be exempted development where the solar photo-voltaic or solar thermal collector installation is primarily used for the provision of electricity or heating for use within the curtilage of the business premises or light industrial building, and shall not be considered a change of use for the purposes of the Act.

The purpose for the energy generated by the Photovoltaic panels installed is to be consumed within the premises.

16. Development under this Class which causes hazardous glint and/or glare shall not be exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

(b) if the carrying out of such development would –

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.*

The proposal does not contravene a condition of permission .

- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

N/A

- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

N/A

(iiiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

N/A

- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

N/A

- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

N/A

- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

N/A. *The road fronting the hotel is not a designated scenic route.*

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan, (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section

14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

N/A

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

N/A

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

N/A

(vii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

N/A *The hotel is an authorized structure .*

(viii) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

N/A.

(ix) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

N/A

(x) obstruct any public right of way,

N/A

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an

architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

N/A

Conclusion

Having regard to the provisions of Class 56 and the information received to date, it is considered that the proposed development falls with the scope of Class 56 (e) is development and is exempted development .

Recommendation

I recommend that the following is issued to the applicant by the Planning Authority in this instance:

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended ,
- (c) Class 56 (e) of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) the installation of solar panels constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) the said development consisting of the installation of solar panels is development which is exempted development having regard to the extent of works involved, and the provisions of Class 56 (e) Schedule 2 of Part 1 , Planning and Development Regulations 2001 as amended,

Now therefore Clare County Council (Planning Authority), hereby decides that development consisting of the installation of 156kw solar panels on the roof of the Armada Hotel, Spanish Point is development and is exempted development.

Ellen Corey

Executive Planner

Date: 14/11/23

gln

Senior Executive Planner

Date: 14/11/23.

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	R23/ 79
(b) Brief description of the project or plan:	Installation of photovoltaic roof panels
(c) Brief description of site characteristics:	Hotel roof
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Mid Clare coast SPA	Cormorant (Phalacrocorax carbo) [A017] <input checked="" type="checkbox"/> Barnacle Goose (Branta leucopsis) [A045] <input checked="" type="checkbox"/> Ringed Plover (Charadrius hiaticula) [A137] <input checked="" type="checkbox"/> Sanderling (Calidris alba) [A144] <input checked="" type="checkbox"/> Purple Sandpiper (Calidris maritima) [A148]	Adjacent		No

	7 Dunlin (<i>Calidris alpina</i>) [A149] 7 Turnstone (<i>Arenaria interpres</i>) [A169] 7 Wetland and Waterbirds [A999]			
Carrowmore point to Spanish point and the islands SAC	Annex I habitats: <ul style="list-style-type: none"> • *Coastal lagoons [1150] • Perennial vegetation of stony banks [1220] • *Petrifying springs with tufa formation (Cratoneurion) [7220] • Reefs [1170] 	Adjacent		No

¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) 	None

<ul style="list-style-type: none"> • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	
Operational phase e.g. <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	None
In-combination/Other	None

(b) Describe any likely changes to the European site:

Examples of the type of changes to give consideration to include: <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site 	None
--	------

(c) Are '*mitigation*' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

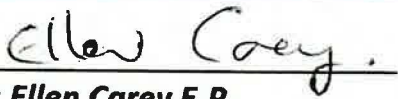
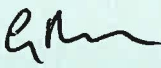
☐ Yes ☒ No

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

Nature of works are limited to roof of existing hotel buildings. No direct or indirect or in-combination effects with 23/ 60374 are envisaged as works have no bearing on waste water treatment .

Conclusion: The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	14/ 11/ 23	<div> Name: Ellen Carey E.P.</div>
Signature and Date of the Decision Maker:	 14/11/23.	

Ellen Carey

From: Richard Fitzgerald <info@fitzgerald-electrical.com>
Sent: Tuesday 14 November 2023 10:19
To: Ellen Carey
Subject: RE: Section 5R23/ 79 Armada Solar panels

Hi Ellen

Thanks for this, I have responded in red below to all queries. Just to note, the method PV Panels are all to be mounted onto the slate roof and no flat roof equipment will be used in this installation.

Regards

Richard Fitzgerald

Managing Director



FITZGERALD
ELECTRICALS

M. +353 (085) 8442526

E. info@fitzgerald-electrical.com

A. [Unit 20, Tracklands Business Park, Clonroadmore, Ennis, Co.Clare V95 DD73](#)

From: Ellen Carey <ecarey@clarecoco.ie>
Sent: Monday, November 13, 2023 5:19 PM
To: Richard Fitzgerald <info@fitzgerald-electrical.com>
Subject: Section 5R23/ 79 Armada Solar panels

Hi Richard,

Thanks for taking my call.

Please see below the list of conditions/ limitation required to be complied with before the Planning Authority can issue a declaration of exemption .

Class 56 (e) The placing or erection on a roof of a business premises or light industrial building, or within the **curtilage of a business premises** or light industrial building, or on a roof of any ancillary buildings within the curtilage of a business premises or light industrial building of a solar photo-voltaic and/or solar thermal collector installation

Conditions and limitations

1. Where such development is located within a solar safeguarding zone, the total aperture area of any solar photovoltaic and/or solar thermal collector panels, taken together with any other such panels previously placed on a roof, shall not exceed 300 square metres. **N/A**

2. Where such development is located within a solar safeguarding zone, the Commented [i753]: Class 56(e) is substituted (with 16 conditions) by article 5(2)(a) of S.I. No. 493/2022 Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2022 440 planning authority for the area shall be notified in writing no later than 4 weeks after the commencement of such development and such notification shall include details regarding the location and scale of the development. **N/A**

3. The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed: a. for a business premises, 1.2 metres in the case of a flat roof or 15cm in any other case. b. for a light industrial building, 2 metres in the case of a flat roof or 50cm in any other case. **Our Photovoltaic panels sit 10cm from plain of the roof to underside of the Panel. We do not exceed the 15cm permitted**

4. The solar photo-voltaic or solar thermal collector panels shall be a minimum of 2 metres in the case of a flat roof or 50cm in any other case from the edge of the roof on which it is mounted. **As per SEAI installation guidelines and regulations we are not permitted to install Photovoltaic panels within 50cm of roof edge.**

5. Development shall not be exempted development where the highest part of the solar photo-voltaic or solar thermal collector installation exceeds the highest part of any roof that is not a flat roof (excluding any chimney). **As per SEAI installation guidelines and regulations**

we are not permitted to install Photovoltaic panels within 20cm of the ridge cap of the roof so there is no potential to overhang the roof.

6. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels shall not be placed or erected on a wall or any roof that is not a flat roof. All equipment will be mounted within the building

7. The height of any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall not exceed 1.6 metres above roof level. We won't be using any flat roof for installation but regardless our ancillary equipment would not exceed 1.6 metres

8. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall be a minimum of 2 metres from the edge of the roof on which it is mounted. We won't be using any flat roof for installation but regardless our ancillary equipment would not exceed these requirements

9. Any free-standing solar photo-voltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the business premises or light industrial building. N/A

10. The total aperture area of any freestanding solar photo-voltaic and solar thermal collector panels taken together with any other such existing freestanding panels shall not exceed 75 square metres. N/A

11. The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level. N/A

12. The placing or erection of a solar photovoltaic or solar thermal collector installation on any wall shall not be exempted development. N/A

13. The placing or erection of any freestanding solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area. N/A

14. No sign, advertisement or object not required for the functioning or safety of the solar photo-voltaic or solar thermal collector installation shall be attached to or exhibited on such installation. Noted

15. Development under this Class shall only be exempted development where the solar photo-voltaic or solar thermal collector installation is primarily used for the provision of electricity or heating for use within the curtilage of the business premises or light industrial building, and shall not be considered a change of use for the purposes of the Act. The purpose

for the energy generated by the Photovoltaic panels installed is to be consumed within the premises

16. Development under this Class which causes hazardous glint and/or glare shall not be exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.

Can you please confirm that the proposed installation complies with items 3 4,5,6,7, 8 and 15.

Regards and thanks
Ellen Carey

Ellen Carey

Executive Planner

Planning and Economic Development

Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2

T: 065 6846380 | E: ecarey@clarecoco.ie | W: www.clarecoco.ie



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Armada Hotel
c/o R. Fitzgerald Electrical Services Ltd
20 Tracklands Business Park
Ennis
Co. Clare
V95 DD73

19/10/2023

Section 5 referral Reference R23-79 – Armada Hotel

Is the installation of a 156kw solar panel on the roof of the Armada Hotel development and if so is it exempted development?

A Chara,

I refer to your application received on 18th October 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúirthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





Clare County Council
Aras Contae an Chláir
New Road
Ennis
Co Clare

18/10/2023 11:29:23

Receipt No. : L1CASH/0/355878
***** REPRINT *****

ARMADA HOTEL
C/O R FITZGERALD ELECTRICAL
SERVICE LTD
20 Trackland Business Park, Ennis,
Co Clare

SECTION 5 REFERENCES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00

Issued By : L1CASH - Colm Murphy
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No. 0033043E

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie

R23-79



REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration	ARMADA HOTEL SPANISH POINT, HINTOWN MACBAY CO CLARE. Eircode: V95R883
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	R. FITZGERALD ELECTRICAL SERVICES LTD, 20 TRACKLANDS BS PARK, ENNIS CO CLARE EIRCODE: V95DD73.

2. DETAILS REGARDING DECLARATION BEING SOUGHT

- (a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

INSTALLATION OF A 156kW SOLAR PV ON THE ROOF
 OF THE ARMADA HOTEL

- (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

WE INTEND ON INSTALLING 362 SOLAR PV PANELS
 ON THE SLATE ROOF OF THE HOTEL. I HAVE
 ATTACHED OUR SOLAR DESIGN LAYOUT ALONG WITH
 THIS DOCUMENT.

- (c) List of plans, drawings etc. submitted with this request for a declaration:
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

(a) Postal Address of the Property/Site/Building for which the declaration sought:	SPANISH POINT MILTOWN MALBAY CO CLARE J95 R883
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No.
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	NONE.
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	ARMADA HOTEL, SPANISH POINT. MILTOWN MALBAY, CO CLARE,
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	No.
(g) Were there previous planning application/s on this site? If so please supply details:	YES - NOT AWARE OF PLANNING REFERENCES NO. AND NOT RELEVANT TO THIS QUERY
(h) Date on which 'works' in question were completed/are likely to take place:	NOVEMBER 2023 - JANUARY 2024

SIGNED: _____



DATE: 18-10-23


FITZGERALD
 ELECTRICAL SERVICES LTD

 FITZGERALD ELECTRICAL SERVICES LTD
 Unit 25, The Malbays, Malbays Park, Ennis, Co. Clare V95 D073
 087 961 1111

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:	Fee Paid:
Date Acknowledged:	Reference No.:
Date Declaration made:	CEO No.:
Decision:.....			

Detailed Layout



The Armada Hotel

Untitled layer



The Armada Hotel

The Armada Hotel is a stylish contemporary hotel, which is located in Spanish Point, County Clare, one of the most inspiring locations in Ireland. All of the superior guestrooms in addition to the signature and tranquility suites have stunning, sweeping views across the Atlantic ocean.





Imagery ©2023 TerraMetrics, Map data ©2023 10 km

- via R474

Best route now due to traffic conditions

This route has restricted usage or private roads.

44 min

37.1 km
- via N85 and R460

43 min

37.2 km
- via R474 and N67

50 min

38.8 km

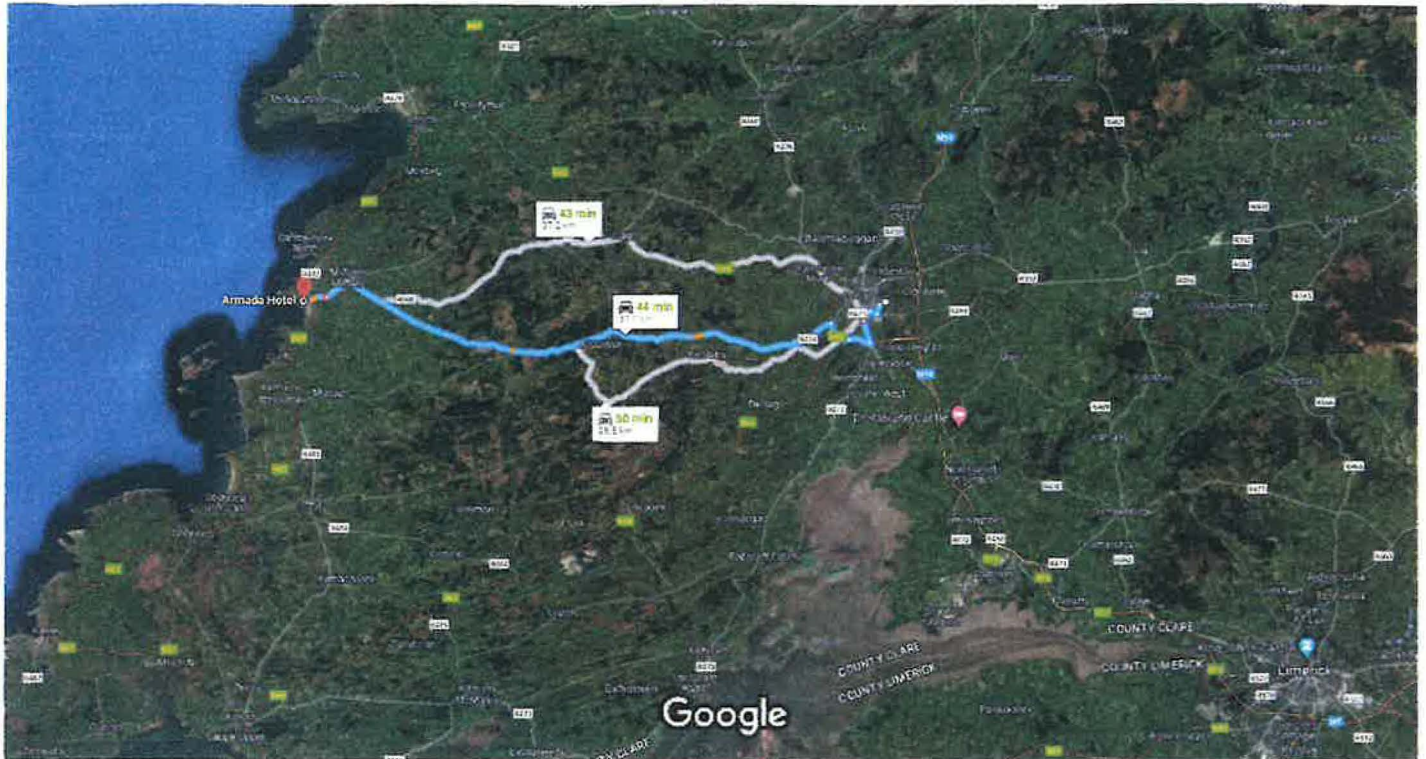
Explore nearby Armada Hotel

Restaurants Hotels Gas stations Parking Lots More



Your location to Armada Hotel, Leagard South, Co.
Clare, V95 R883

Drive 37.1 km, 44 min



Imagery ©2023 TerraMetrics, Map data ©2023 5 km