



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

REGISTERED POST

The Secretary
An Bord Pleanála
64 Marlborough Street,
Dublin 1,
D01 V902

22nd May 2024

AN BORD PLEANÁLA
LDG- 072152-24
ABP- _____
23 MAY 2024
Fee: € 110.00 Type: pme
Time: 4:55 By: POST

Section 5 referral Reference R24-42 – Robert Spratt

Whether works undertaken to replace the wastewater treatment system at Armada Hotel without prior consent / authorisation is considered exempt when failures to address numerous Further Information requests from the Local Authority have previously transpired or where there have been unassessed/unsubstantiated /unauthorised increases in WWTS loading on a site that abounds/ is contiguous with an SAC, SPA and pNHA.

A Chara,

The Planning Authority has received a Section 5 declaration with respect to the above works.

I wish to advise that the Planning Authority has not made a declaration in this instance and is now referring the matter to An Bord Pleanála for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended.

I attach relevant details in relation to same along with fee of €110.00 for the referral.

Mise, le meas

Kieran O'Donnell
Administrative Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúarthóireacht 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



COUNTY COUNCIL

SECTION 5 REFERRAL

Reference No: R24-42

Applicant: Robert Spratt

Location: Armada Hotel, Spanish Point

Proposal: Whether works undertaken to replace the waste water treatment system at Armada Hotel without prior consent/ authorisation is considered exempted when failures to address numerous further information requested from the Local Authority have previously transpired or where there has been unassessed/ unsubstantiated / unauthorised increases in the WWTS loading on site that abounds / is contiguous with and SAC, SPA and pNHA.

Due Date: 23rd May 24

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 as amended to determine whether or not the following constitutes exempted development.

‘Whether works undertaken to replace the waste water treatment system at Armada Hotel without prior consent / authorised is considered exempt when failures to address numerous further information requests from the Local Authority have previously transpired or where there has been unassessed/unsubstantiated /unauthorised increases in WWTS loading on a site that abounds/ is contiguous with an SAC, SPA and pNHA’.

Previous planning decisions affecting the site

23/ 60374 Armada Hotel Holdings Ltd . Retention of the wastewater treatment plant serving the existing Armada Hotel Complex along with associated site works. WITHDRAWN

22/ 677 Armada Hotel Holdings Ltd RETENTION of the wastewater treatment plant serving the existing Armada Hotel Complex along with associated site works. Deemed WITHDRAWN

21/ 999 Armada Hotel Holdings Ltd. Application for permission to install a new wastewater treatment plant and polishing filter to serve the existing Armada Hotel Complex along with associated site works. The application will be accompanied by a Natura Impact Statement. Deemed WITHDRAWN

20/ 84 Armada Hotel Holdings Ltd. Permission granted to construct/install a cabin to be used as short-term tourist accommodation ancillary to the existing Armada Hotel Complex and to install a waste water storage tank along with associated site works.

19-849: Permission granted for a) to construct an extension and outside winter garden area to the bar/dining room area on the south elevation b) to construct an extension and outside terrace area to the pre-wedding reception area on the south elevation along with associated site works.

18/89 –Granted - to retain indefinitely the existing Snug and Covered Smoking Area to the front of the building. To retain indefinitely the existing Store on the West side of the building and for permission to alter to incorporate an external door. For permission to construct two new Stores, one on the West side and one on the East side and to extend the existing ground storey offices.

13-386 – GRANTED - to alter the existing building to incorporate 2 no. shops, in place of 2 no. bedrooms, including all associated works including new shop fronts and entrances, and to provide signage and lighting externally at the Armada Hotel.

08-293 – GRANTED - To reposition some of the car parking proposed under Permission No.P04/2697 from the area south of the hotel to a location to the east of the hotel including all works associated with construction of the new car park and to alter the layout to integrate the new car park with the existing.

08-15 – GRANTED - permission to change the proposed Sewage Treatment System from that approved under existing Permission No. P04/2697. It is now proposed to retain the existing Sewage Treatment Plant and to construct an additional Treatment Plant to serve the additional proposed bedrooms and part of the existing Hotel and to construct a new Sand Polisher Filter and Percolation System in a new location to serve the additional Treatment Plant.

07-2809 – Incomplete application.

04-2697 – GRANTED - construct an extension to Burke's Armada Hotel. The works will include construction of a 3 storey extension to provide 28 no. additional bedrooms with ancillary accommodation including a laundry, linen store, cleaners store and boiler house together with alterations to the existing building to connect to the extension. The acc. on the top storey will be partly contained in the roof space. Works will also inc. altering & ext. car parking areas & the storage yard & ext. the sewerage treatment & percolation systems.

95-991 – GRANTED - Permission to alter and extend the Armada to change it to a Hotel.

Section 5 History on site.

Section 5R24-06 _ 'Whether works undertaken to maintain / improve the existing waste water treatment system at the Armada Hotel are considered development and if so is it exempted development. The maintenance improvement works comprised the replacement of the waste water treatment plant'.

The Planning Authority determined that having regard to the nature of the Section 5 request and noting that there were unauthorised development files open on this property, it was considered appropriate that this Section 5 referral be referred to An Bord Pleanála for determination in accordance with Section 5 (4) of the Planning and Development Act 2000, as amended.

No decision has issued in respect of this referral to date.

Section 5 R 23- 79 A question has arisen 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.

The Planning Authority determined that:

- (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,

Clare County Council decided 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.

Section 5 R21/ 38

A question had arisen as to whether full upgrade / replacement of an existing waste water treatment plant at the Armada Hotel Spanish Point is or is not development and is / is not exempted development

The Planning Authority determined that:

- (a) The proposed full upgrade/ replacement of an existing waste water treatment plant constitutes both works and development.
- (b) Section 4 (g) of Planning and Development Act allow for renewal of apparatus. However this exemption only refer to statutory under takers and does not refer to a private developer carrying out such works within a business premises.
- (c) Section 4 (g) of the Act does not expressly refer to 'replacement' of apparatus, like for like as being exempted development.
- (d) The Planning and Development Regulations 2001 as amended relating to works with the curtilage of a business premises (Class 56) relates only to renewable energy technologies and not to waste water treatment units.
- (e) there are no other exemptions that can be availed of under the Planning Act or the Planning Regulations which would render the development to be exempted development,

Clare County Council, decided that full upgrade / replacement of an existing waste water treatment plant at the Armada Hotel Spanish Point constitutes development which is not exempted development.

UD History

Nearby

Site opposite at Spanish Point House (Formerly Mother Mc Auley house)

UD WL 23/ 065

- Carrying out works to RPS -25 Spanish point house (Formerly Mother McAuley house)
- Operating a guest house
- Operating a cage and bar
- Creating and extending parking / hardstanding.

ON subject site

UD22-031 – File open, Warning Letter sent as below on the 10th of August 2023. Relates to Armada Hotel

1. The installation of a Wastewater Treatment /Plant without the benefit of Planning Permission
2. The provision of an outdoor dining area including canopy structure, food truck and coffee bar together with all associated seating, tables, signage, and ancillary structures.

On lands at Spanish Point, Miltown Malbay, Co. Clare

- UD23-065 – File Open, Warning Letter issued 10th August 2023. Relates to Spanish Point House, owned by Armada.
 1. Carrying out works to RPS-025, Spanish Point House (Formerly Mother McAuley House)
 2. Operating a guesthouse
 3. Operating a café and bar
 4. Creating and extending parking/hardstanding

All with or within the curtilage of a Recorded Protected Structure without the benefit of Planning Permission.

On lands at Spanish Point, Miltown Malbay, Co. Clare

Recommendation

- (1) Having regard to the nature of the Section 5 request and noting that there are unauthorised development files open on this property, and that a previous referral has been made to the Board (Section 5R24-06) it is considered appropriate that this Section 5 referral be referred to An Bord Pleanala for determination in accordance with Section 5 (4) of the Planning and Development Act 2000, as amended.
- (2) It is recommended that the referrer/ applicant of the subject property be advised in writing that the Planning Authority has referred this Section 5 referral to An Bord Pleanala for determination once this has been done.

Ellen Carey.
Name: Ellen Carey E.P.

Date 17/05/24

Signed Ellen

S. E.P.

Date 21/05/24



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

29/04/2024

To: Ellen Carey, Area Planner

Section 5 referral Reference R24-42 – Robert Spratt

Whether works undertaken to replace the wastewater treatment system at Armada Hotel without prior consent / authorisation is considered exempt when failures to address numerous Further Information requests from the Local Authority have previously transpired or where there have been unassessed/unsubstantiated /unauthorised increases in WWTS loading on a site that abounds/ is contiguous with an SAC, SPA and pNHA.

Referral received on 26th April 2024

Final Postage Due Date: Thursday 23rd May 2024

(Please note the applicant should have a response by this date)

Regards
Brian Fahy

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





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Robert Spratt
Stranagress
Glenfarne
Co. Leitrim

29/04/2024

Section 5 referral Reference R24-42 – Robert Spratt

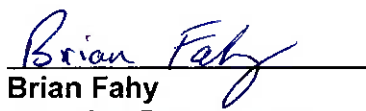
Whether works undertaken to replace the wastewater treatment system at Armada Hotel without prior consent / authorisation is considered exempt when failures to address numerous Further Information requests from the Local Authority have previously transpired or where there have been unassessed/unsubstantiated /unauthorised increases in WWTS loading on a site that abounds/ is contiguous with an SAC, SPA and pNHA.

A Chara,

I refer to your application received on 26th April 2024 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 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



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

26/04/2024 15:34:03

Receipt No: L1CASH/0/363592
***** REPRINT *****

ROBERT SP RATT
STRANAGRESS
GLENFARNE
CO. LEITRIM

R24-42 COMHAIRLE

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 - DEIRDRE FRENCH
From : MAIN CASH OFFICE LODGEMENT A
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.
E95DXP2

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



R24-42

**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	Robert Spratt Stranagress Glenfarne Co. Leitrim
(b) Telephone No.:	085 855 9366
(c) Email Address:	Robspratt85@outlook.com
(d) Agent's Name and address:	N/A

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?*

Whether works undertaken to replace the waste wastewater treatment system at Armada Hotel without prior consent/authorisation is considered exempt when failures to address numerous Further Information requests from the Local Authority have previously transpired or where there has been unassessed/unsubstantiated/unauthorised increases in WWTS loading on a site that abounds/is contiguous with the an SAC, SPA, and pNHA.

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

This Section 5 submission is to request further clarification in relation to a Section 5 submission that has been referred to An Bord Pleanála (Ref: 319064). The current question asked under the Section 5 referral makes no reference to the sites history with regards previous applications and failures to answer fundamental operational questions in line with EPA COP requirements nor does it identify increases in load on the WWTS in question, change in system design i.e. not like for like or does not identify its location within/adjacent to an SAC, SPA or pNHA.

(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)

Site Location Plan

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site Building for which the declaration sought:	The Armada Hotel Spanish Point Miltown Malbay Co. Clare V95 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?	N/A
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	N/A
(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>	John Burke The Armada Hotel, Spanish Point Miltown Malbay, Co. Clare, V95 R883
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	No
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	Yes. UD22-031
(g) Were there previous planning applications on this site? If so please supply details:	Yes. 21/999 (deemed withdrawn) 22/677 (withdrawn) 23/60374 (withdrawn)
(h) Date on which 'works' in question were completed are likely to take place:	works illegal installed approx November 2021 after failure to comply with FI response in relation to application 21/999

SIGNED:



DATE:

26.04.24

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
I95DXP2

- (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:	

Tailte Éireann

MAP SERIES:	MAP SHEETS:
1 2 500	4256-D
1 2 500	4314-B

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Site Location Map



Táille
Éireann

CENTRE
COORDINATES:
ITM 503231 678115

PUBLISHED: 26/04/2024
ORDER NO.: 50396875_1

MAP SERIES: 6 Inch Raster
MAP SHEETS: CE030

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Táille Éireann
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Dublin 8
Ireland
D08F6E4

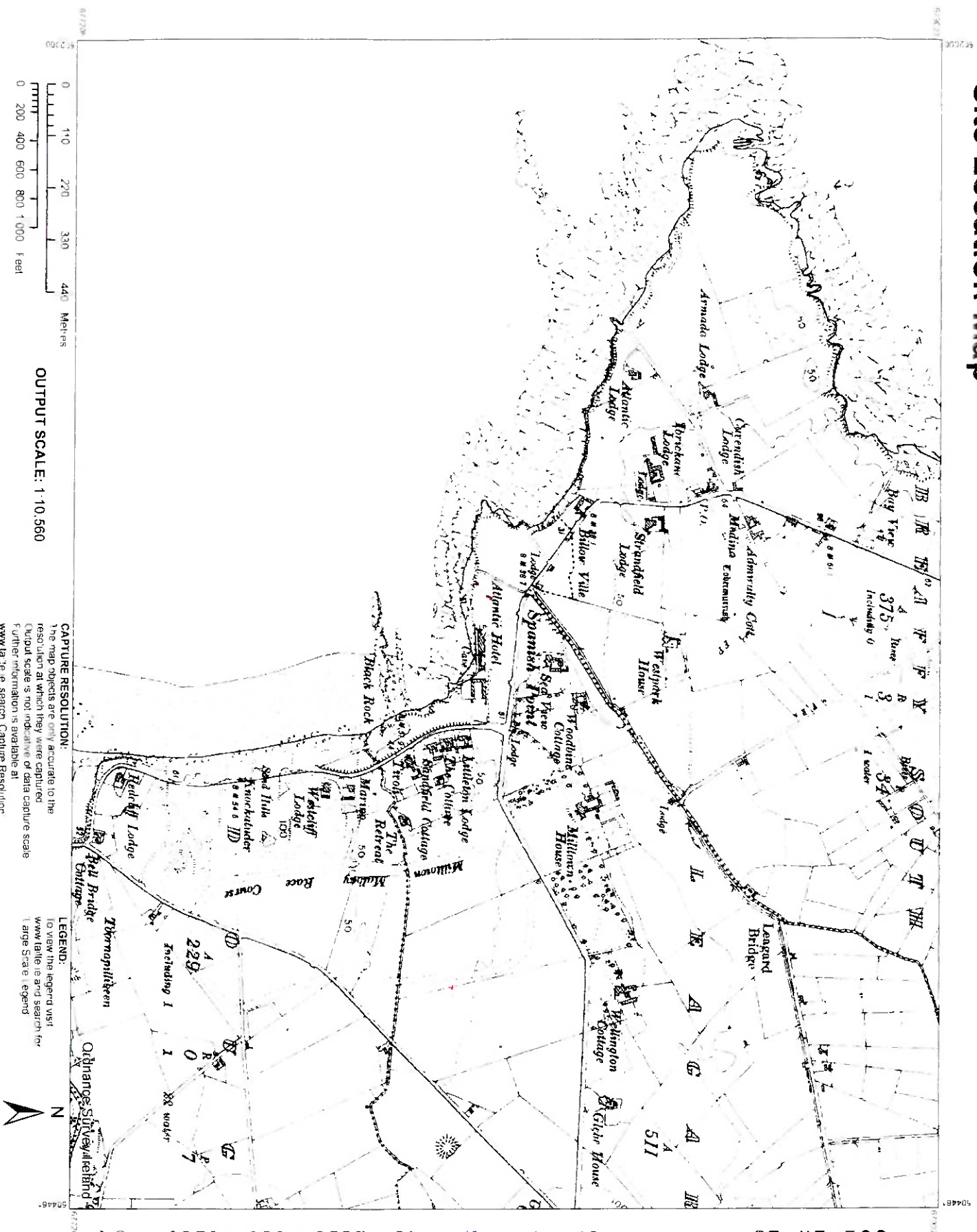
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0 110 220 330 440 Metres
0 200 400 600 800 1000 Feet

OUTPUT SCALE: 1:10,560

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured
Output scale is not indicative of data capture scale
Further information is available at
www.taille.ie search Capture Resolution

LEGEND:
To view the legend visit
www.taille.ie and search for
Large Scale legend

