

**Filed By:**

**Record No: 2018/00287**

**AN CHUIRT CHUARDA  
(THE CIRCUIT COURT)**

**SOUTH WESTERN CIRCUIT  
COUNTY OF KERRY TRALEE**

**BEFORE JUDGE DALY**

**THE 26<sup>th</sup> DAY OF January 2022**

**BETWEEN**

**KERRY COUNTY COUNCIL**

**PLAINTIFF**

**-AND-**

**JOHN PATRICK MURPHY**

**DEFENDANT**

**AMENDED ORDER**

**This matter coming on for Hearing before the Court on the 25th January 2022 and on this day, on Notice of Motion dated 13th July 2018 on behalf of the Plaintiff for relief pursuant to Section 160 of the Planning and Development Act, 2000 as amended. WHEREUPON, and on reading the pleadings and documents filed, and on hearing what was urged by Mr. E. Keane S.C. and Ms. E. Houlihan B.L., counsel for the Plaintiff (instructed by Ms. R. Cronin, County Solicitor), and Mr. H Downing S.C., Ms. E Kelleher B.L and Mr. M. Rogers B.L., counsel for the Defendant (instructed by S. T. O'Sullivan & Company Solicitors), and the Court being informed that the action herein had been settled on the terms of the Consent & Compromise in writing executed by the parties and their respective solicitors and here and now handed into Court on this date and a copy of which is annexed hereto**

**THE COURT DOTH DECLARE**

**1. That the fencing situate on the lands comprised in Folio KY17068 along the lines shown in green between the points 'X' to 'Y' and 'W' to 'Z' on the map attached to the aforementioned Notice of Motion (a further copy of which map is attached hereto) is unauthorised development.**

**AND THE COURT DOTH ORDER**

**2. That the Defendant, his servants and/or agents, licensees or anyone acting in consort with him, and all persons having knowledge of the granting of the Order herein, shall cease forthwith and refrain from the erection, replacement, repair and/or renewal of fencing on that portion of the lands owned and/or occupied by the Defendant situate at Fenit Within, Fenit, in the Barony of Trughanacmy and the Electoral Division of Ballynahaglish, County Kerry, which comprise that portion of the lands contained within Folio KY17068, Register of Freeholders, County of Kerry as are designated as part of the Akeragh, Banna and Barrow Harbour Special Area of Conservation, which portion of lands are shown on the map annexed hereto shown shaded in red and hatched in blue (hereinafter referred to as "the said lands") with a stay on this Order**

for a period of 9 months from the date hereof.

3. That the Defendant shall demolish and remove from the said lands, the fencing presently situate upon the said lands along the lines shown in green between the points 'X' to 'Y' and 'W' to 'Z' on the said map, which fencing comprises unauthorised development, with a stay on this Order for a period of 9 months from the date hereof.

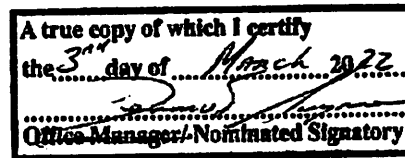
4. That the Defendant shall remove all foundations, supports or other apparatus used or designed to support fencing from the said lands so as to restore in so far as is practicable that portion of the lands to the condition they were in prior to the unauthorised development, with a stay on this Order for a period of 9 months from the date hereof.

5. Liberty to the parties to re-enter.

6. The issue of costs to be adjourned to the County Registrar's List to fix dates at the Courthouse, Tralee, on the 29th March 2022 at 10.30 a.m.

BY THE COURT

  
NOMINATED SIGNATORY BY THE COMBINED OFFICE MANAGER



AN CHUIRT CHUARD A  
THE CIRCUIT COURT

SOUTH WESTERN CIRCUIT

COUNTY OF KERRY

RECORD No's: PL 287/2018; PL 288/2018, PL 289/2018

BETWEEN

KERRY COUNTY COUNCIL

APPLICANT

- v -

SEANUS O' SULLIVAN, JOHN P. MURPHY,  
KIT Mc CARTHY & LIAM Mc CARTHY

RESPONDENT

CONSENT & COMPROMISE

WHEREAS the above entitled proceedings came before this Honorable Court for hearing on the 25<sup>th</sup> January 2022 & the 26<sup>th</sup> January 2022 the parties have agreed to compromise the same on the following terms:

(i) An Order declaring the following fencing to be unauthorised development

(i) The fencing situate on the lands comprised in Folio KY17072 along the lines shown green between the points 'X' and 'Y' on the map attached to the Notice of Motion in proceedings under Record No. PL 289/2018;

(ii) The fencing situate on the lands comprised in Folio KY17068 along the lines shown in green between the points 'X' to 'Y' and 'W' to 'Z' on the map attached to the Notice of Motion in proceedings under Record No. PL 287/2018;

(iii) The fencing situate on the lands comprised in Folio KY 17067 along the lines shown in green between the points 'T', 'S', 'U' to 'V', 'W' to 'X' and 'Y' to 'Z' on the map attached to The Notice of Motion in proceedings under Record No. PL 288/2018.

(2) Injunctions as per paragraphs (i), (ii) and (iii) of each Notice of Motion in each of the proceedings under Record No's PL 287/2018; PL 288/2018 and PL 289/2018 with a stay on the said injunctions for a period of 9 months from the date hereof.

(3) The Defendants agree to pay the Plaintiff the sum of £50,000 plus VAT @ 23% as a contribution towards the Plaintiff's costs, to be paid within 2 months of the date hereof.  
The Defendants in the proceedings under Record No's PL 287/2018; PL 288/2018 & PL 289/2018 to be jointly & severally liable for payment of the said sum.

In the event of any default in the said payment, the Defendants consent to an Order in each set of proceedings for the unpaid balance. It being ~~noted~~ noted & agreed that the Plaintiff will be entitled only to the unpaid balance of the said sum of £50,000 plus VAT.

The Court to adjourn the issue of costs to the first available date after 2 months of the date hereof.

(4) Liberty to the parties to re-enter.

Dated this 26<sup>th</sup> day of January, 2022.

Signed by John P Murphy  
+ Kit McCarthy and  
Liam McCarthy in the  
presence of

John P Murphy  
Kit McCarthy  
Liam McCarthy

STO. 51  
K. Co. Clare  
Solicitor


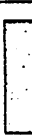

Signed by Seamus O'Sullivan  
in the presence of

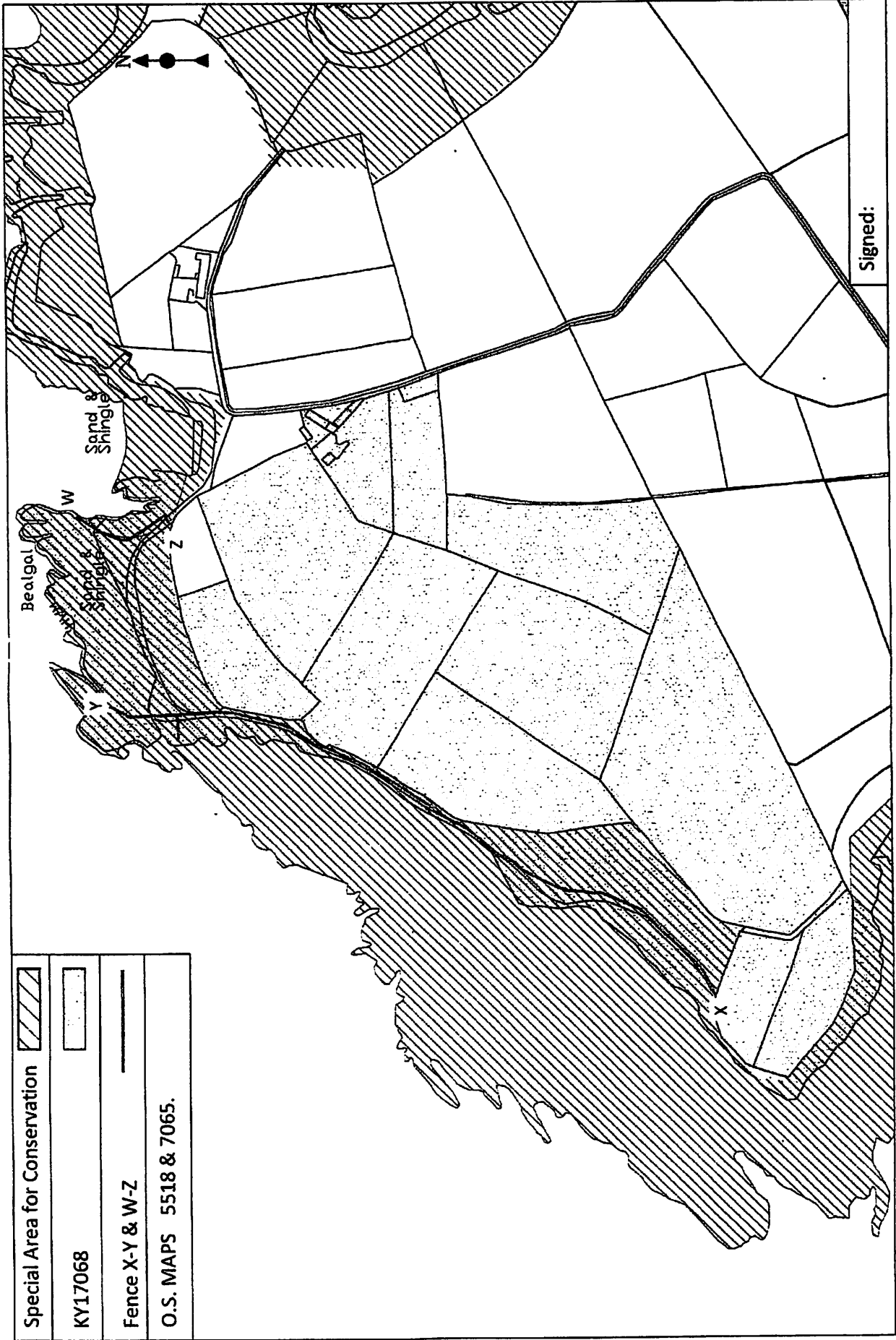
STO. 51

Niall O'Sullivan  
Ennis Co. Clare  
Legal Executive.

Signed by Gerald Brien.  
in the presence of  
Rosemary Brown  
Solicitor  
Kerry County Council  
Trades

Gerald Brien

Special Area for Conservation	
KY17068	
Fence X-Y & W-Z	
O.S. MAPS 5518 & 7065.	



Signed:



June 2018  
SAC Encroachment  
1:3000 @ A3  
S. Mulligan

DATE:  
TITLE:  
SCALE:  
DESIGNED BY:

Kerry County Council  
Fenit Island,  
Fenit  
HOP-018-010-ENF-LOC

APPLICANT:  
SITE AT:  
DRAWING NO.:

KERRY COUNTY COUNCIL HOUSING OPERATIONS CENTRAL DESIGN OFFICE  
COUNTY BUILDINGS, RATHASS, TRALEE, COUNTY KERRY.  
P. NEARY, SENIOR ENGINEER.



**Filed By:**

**Record No: 2018/00288**

**AN CHUIRT CHUARDA  
(THE CIRCUIT COURT)**

**SOUTH WESTERN CIRCUIT  
COUNTY OF KERRY TRALEE**

**BEFORE JUDGE DALY**

**THE 26<sup>th</sup> DAY OF January 2022**

**BETWEEN**

**KERRY COUNTY COUNCIL**

**PLAINTIFF**

**-AND-**

**SEAMUS O' SULLIVAN**

**DEFENDANT**

**AMENDED ORDER**

**This matter coming on for Hearing before the Court on the 25th January 2022 and on this day, on Notice of Motion dated 13th July 2018 on behalf of the Plaintiff for relief pursuant to Section 160 of the Planning and Development Act, 2000 as amended. WHEREUPON, and on reading the pleadings and documents filed, and on hearing what was urged by Mr. E. Keane S.C. and Ms. E. Houlihan B.L., counsel for the Plaintiff (instructed by Ms. R. Cronin, County Solicitor), and Mr. H Downing S.C., Ms. E Kelleher B.L and Mr. M. Rogers B.L., counsel for the Defendant (instructed by S. T. O'Sullivan & Company Solicitors), and the Court being informed that the action herein had been settled on the terms of the Consent & Compromise in writing executed by the parties and their respective solicitors and here and now handed into Court on this date and a copy of which is annexed hereto**

**THE COURT DOTH DECLARE**

**1. That the fencing situate on the lands comprised in Folio KY17067 along the lines shown in green between the points 'T,' 'S,' 'U' to 'V,' 'W' to 'X' and 'Y' to 'Z' on the map attached to the aforementioned Notice of Motion (a further copy of which map is attached hereto) is unauthorised development.**

**AND THE COURT DOTH ORDER**

**2. That the Defendant, his servants and/or agents, licensees or anyone acting in consort with him, and all persons having knowledge of the granting of the Order herein, shall cease forthwith and refrain from the erection, replacement, repair and/or renewal of fencing on that portion of the lands owned and/or occupied by the Defendant situate at Fenit Within, Fenit, in the Barony of Trughanacmy and the Electoral Division of Ballynahaglish, County Kerry, which comprise that portion of the lands contained within Folio KY17067, Register of Freeholders, County of Kerry as are designated as part of the Akeragh, Banna and Barrow Harbour Special Area of Conservation, which portion of lands are shown on the aforesaid map annexed hereto shaded in red and hatched in blue (hereinafter referred to as "the said lands") with a stay on this Order**

for a period of 9 months from the date hereof.

3. That the Defendant shall demolish and remove from the said lands, the fencing presently situate upon the said lands along the lines shown in green between the points 'T', 'S', 'U' to 'V', 'W' to 'X' and 'Y' to 'Z' on the said map, which fencing comprises unauthorised development, with a stay on this Order for a period of 9 months from the date hereof.

4. That the Defendant shall remove all foundations, supports or other apparatus used or designed to support fencing from the said lands so as to restore in so far as is practicable that portion of the said lands to the condition they were in prior to the unauthorised development with a stay on this Order for a period of 9 months from the date hereof.

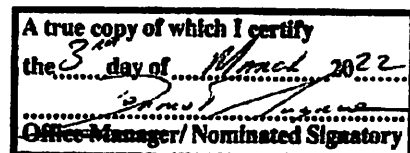
5. Liberty to the parties to re-enter.

6. The issue of costs be adjourned to the County Registrar's List to fix dates at the Courthouse, Tralee, on the 29th March 2022 at 10.30 a.m.

BY THE COURT



NOMINATED SIGNATORY BY THE COMBINED OFFICE MANAGER





AN CHIEF CLERK  
THE CIRCUIT COURT

SOUTH WESTERN CIRCUIT

County OF KERRY

Record No's: PL 287/2018; PL 288/2018, PL 289/2018

BETWEEN

KERRY COUNTY COUNCIL

APPLICANT

- v -

SEANUS O' SULLIVAN, JOHN P. MURPHY,  
KIT M' CARTHY & LIAM M' CARTHY

RESPONDENT

CONSENT & COMPROMISE

WHEREAS the above entitled proceedings came before this Honorable Court for hearing on the 25<sup>th</sup> January 2022 & the 26<sup>th</sup> January 2022 the parties have agreed to compromise the same on the following terms:

(1) An Order declaring the following fencing to be unauthorised development

(i) The fencing situated on the lands comprised in Folio KY17072 along the lines shown in green between the points 'X' and 'Y' on the map attached to the Notice of Motion in proceedings under Record No. PL 289/2018;

(ii) The fencing situated on the lands comprised in Folio KY17068 along the lines shown in green between the points 'X' to 'Y' and 'W' to 'Z' on the map attached to the Notice of Motion in proceedings under Record No. PL 287/2018;

(iii) The fencing situate on the lands comprised in Folio KY 17067 along the lines shown in green between the points 'T', 'S', 'U' to 'V', 'W' to 'X' and 'Y' to 'Z' on the map attached to the Notice of Motion in proceedings under Record No. PL 288/2018.

(2) Injunctions as per paragraphs (i), (ii) and (iii) of each Notice of Motion in each of the proceedings under Record No's PL 287/2018; PL 288/2018 and PL 289/2018 with a stay on the said injunctions for a period of 9 months from the date hereof.

(3) The Defendants agree to pay the Plaintiff the sum of £50,000 plus VAT @ 23% as a contribution towards the Plaintiff's costs, to be paid within 2 months of the date hereof.

The Defendants in the proceedings under Record No's PL 287/2018; PL 288/2018 and PL 289/2018 to be jointly & severally liable for payment of the said sum.

In the event of any default in the said payment, the Defendants consent to an Order in each set of proceedings for the unpaid balance. It being ~~noted~~ noted & agreed that the Plaintiff will be entitled only to the unpaid balance of the said sum of £50,000 plus VAT.

The Court to adjudge the issue of costs to the first available date after 2 months of the date hereof.

(4) Liberty to the parties to re-enter.

Dated this 26th day of January, 2022.

Signed by John P Murphy  
+ Kit McCarthy and  
Liam McCarthy in the  
presence of

John P Murphy  
Kit McCarthy  
Liam McCarthy

STO. O'             
Rt. G. Clane  
Solicitor




Signed by Eamonn O'Sullivan  
in the presence of

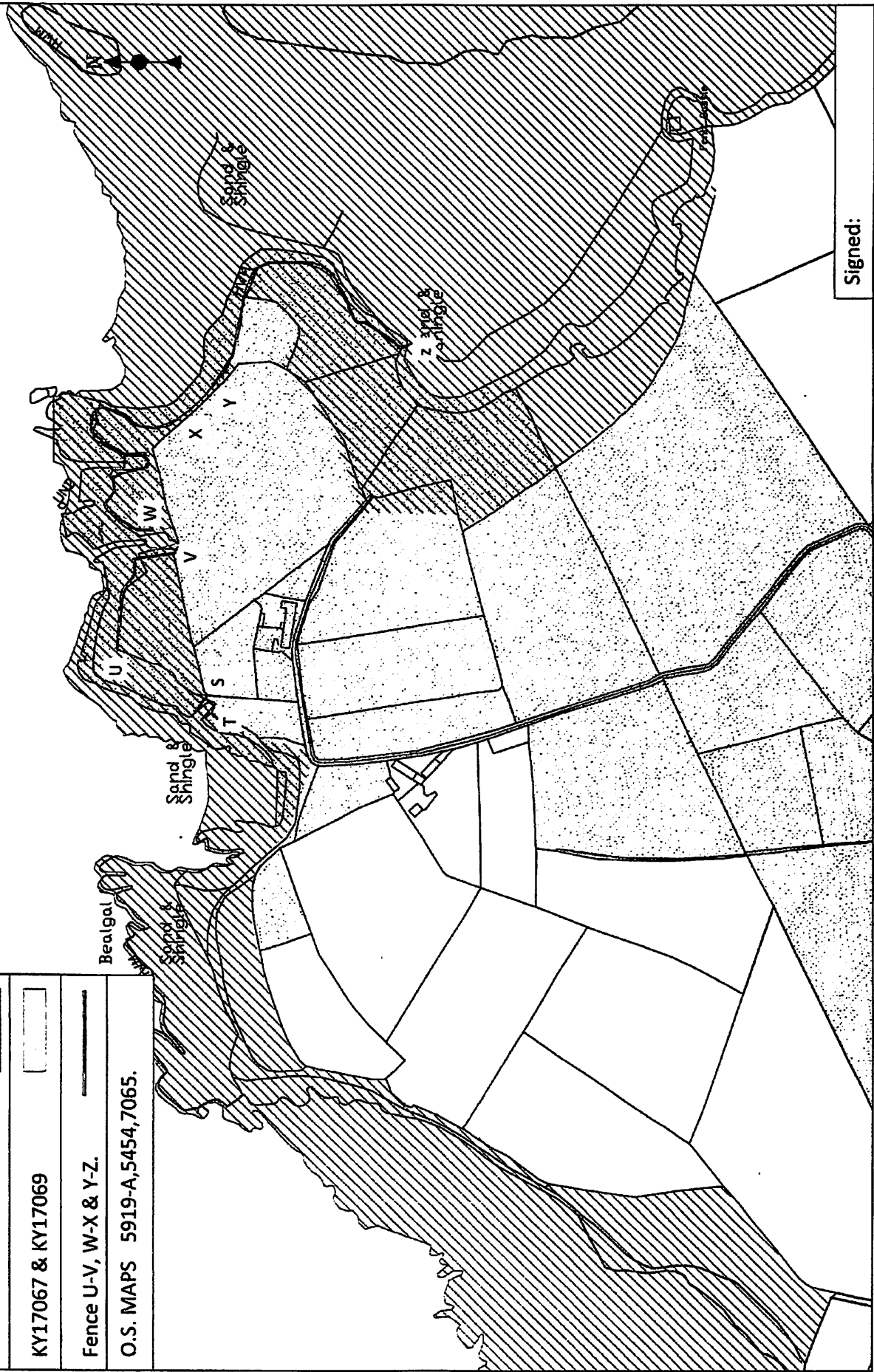
STO. O'           

Niall O'Sullivan  
Eamonn Co. Clane  
Legal Executive -

Signed by Gerardo Briar.  
in the presence of  
Rosemary Brown  
Solicitor  
Kerry County Council  
Index

Gerardo Briar

Special Area for Conservation	
KY17067 & KY17069	
Fence U-V, W-X & Y-Z.	
O.S. MAPS 5919-A, 5454, 7065.	



Signed:

	<b>KERRY COUNTY COUNCIL HOUSING OPERATIONS CENTRAL DESIGN OFFICE</b> COUNTY BUILDINGS, RATHASS, TRALEE, COUNTY KERRY. P. NEARY, SENIOR ENGINEER.			
	APPLICANT: SITE AT: DRAWING NO.:	Kerry County Council Fenit Island, Fenit HOP-018-013-ENF-LOC	DATE: TITLE: SCALE: DESIGNED BY:	

**Filed By:**

**Record No: 2018/00289**

**AN CHUIRT CHUARDA  
(THE CIRCUIT COURT)**

**SOUTH WESTERN CIRCUIT  
COUNTY OF KERRY TRALEE**

**BEFORE JUDGE DALY**

**THE 26<sup>th</sup> DAY OF January 2022**

**BETWEEN**

**KERRY COUNTY COUNCIL**

**PLAINTIFF**

**-AND-**

**LIAM MC CARTHY AND KIT MC CARTHY**

**DEFENDANTS**

**AMENDED ORDER**

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**THE COURT DOTH DECLARE**

**1. That the fencing situate on the lands comprised in Folio KY17072 along the lines shown in green between the points 'X' to 'Y' on the map attached to the aforementioned Notice of Motion (a further copy of which map is attached hereto) is unauthorised development.**

**AND THE COURT DOTH ORDER**

**2. That the Defendants and each of them, their servants and/or agents, licensees or anyone acting in consort with them or either of them, and all persons having knowledge of the granting of the Order herein, shall cease forthwith and refrain from the erection, replacement, repair and/or renewal of fencing on that portion of the lands owned and/or occupied by the Defendants and/or either of them situate at Fenit Within, Fenit, in the Barony of Trughanacmy and the Electoral Division of Ballynahaglish, County Kerry, which comprise that portion of the lands contained within Folio KY17072, Register of Freeholders, County of Kerry as are designated as part of the Akeragh, Banna and Barrow Harbour Special Area of Conservation, which portion of lands are**

shown on the aforesaid map annexed hereto shaded in red and hatched in blue (hereinafter referred to as "the said lands") with a stay on this Order for a period of 9 months from the date hereof.

3. That the Defendants and each of them shall demolish and remove from the said lands, the fencing presently situate upon the said lands along the lines shown in green between the points 'X' to 'Y' on the aforesaid map, which fencing comprises unauthorised development, with a stay on this Order for a period of 9 months from the date hereof.

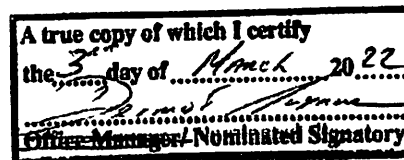
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5. Liberty to the parties to re-enter.

6. The issue of costs to be adjourned to the County Registrar's List to fix dates at the Courthouse, Tralee, on the 29th March 2022 at 10.30 a.m.

BY THE COURT

  
NOMINATED SIGNATORY BY THE COMBINED OFFICE MANAGER



AN CHUIRT CHUARD  
THE CIRCUIT COURT

SOUTH WESTERN CIRCUIT

COUNTY OF KERRY

RECORD No's: PL 287/2018; PL 288/2018, PL 289/2018

BETWEEN

KERRY COUNTY COUNCIL

APPLICANT

- v -

SEANUS O' SULLIVAN, JOHN P. MURPHY,  
KIT M'CARTHY & LIAM M'CARTHY

RESPONDENT

CONSENT & COMPROMISE

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(3) The Defendants agree to pay the Plaintiff the sum of £50,000 plus VAT @ 23% as a contribution towards the Plaintiff's costs, to be paid within 2 months of the date hereof. The Defendants in the proceedings under Record No's PL 287/2018; PL 288/2018 & PL 289/2018 to be jointly & severally liable for payment of the said sum.

In the event of any default in the said payment, the Defendants consent to an Order in each set of proceedings for the unpaid balance. It being ~~noted~~ noted & agreed that the Plaintiff will be entitled only to the unpaid balance of the said sum of £50,000 plus VAT.

The Court to adjourn the issue of costs to the first available date after 2 months of the date hereof.

(4) Liberty to the parties to re-enter.

Dated this 26<sup>th</sup> day of January, 2022.



Signed by John P Murphy  
+ Kit McCarthy and  
Liam McCarthy in the  
presence of

John P. Murphy  
Kit McCarthy  
~~Liam McCarthy~~

STO. O'L  
Rt. Co. Clerk  
Solicitor

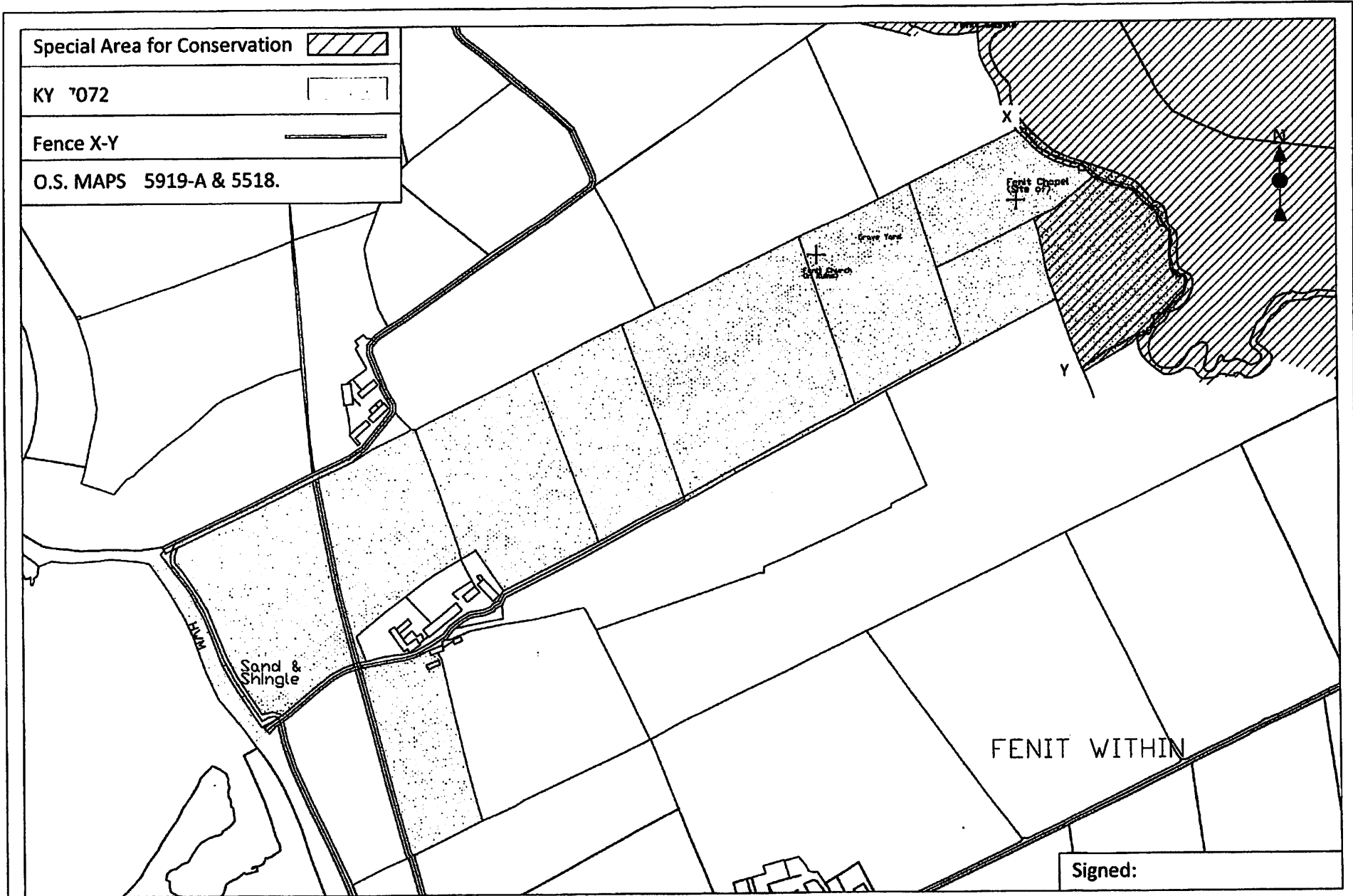
Signed by Seamus O'Sullivan  
in the presence of

STO. O

Niall O'Sullivan  
Ennis Co. Clerk  
Legal Executive.

Signed by Gerard Brien.  
in the presence of  
Rosemary Cronin  
Solicitor  
Kerry County Council  
Treasurer

Gerard Brien



**KERRY COUNTY COUNCIL HOUSING OPERATIONS CENTRAL DESIGN OFFICE**  
**COUNTY BUILDINGS, RATHASS, TRALEE, COUNTY KERRY.**  
 P. NEARY, SENIOR ENGINEER.

**APPLICANT:**  
**SITE AT:**  
**DRAWING NO.:**

Kerry County Council  
 Fenit Island,  
 Fenit.  
 HOP-018-011-ENF-LOC

**DATE:**  
**TITLE:**  
**SCALE:**  
**DESIGNED BY:**

June 2018  
 SAC Encroachment  
 1:3000 @ A3  
 S. Mulligan

