

MAGUIRE & ASSOCIATES

CHARTERED ENGINEERS
BUILDING DESIGNERS

CHARTERED TOWN PLANNERS
ARCHITECTS

6, Railway Terrace,
Dublin Road.
Naas.
Co. Kildare
W91 NYK3

Telephone No. (045) 876384
Mobile No. (087) 2680888
E-mail. admin@manda.ie

Our Ref: 624.2018 (Appeal)

29th January 2019

By Email/Post: bord@pleanala.ie

Attention: Eoin O'Sullivan – Kildare Section

An Bord Pleanala,
64 Marlborough Street,
Dublin 1.
D01 V902

Re: Planning Application Ref: ED00692
An Bord Pleanala Ref: ABP-303326-18
Applicant: Ulric (Ollie) Barry
Planning Authority: Kildare County Council
Development: Whether the formation of a vehicular entrance from an agricultural tract of land onto Local Road L2023, within the townland of Mylerstown, Two Mile House, Naas, Co. Kildare and the installation of a gate structure on or near the front boundary of this land, comprises development or constitutes exempted development.

Development at: Mylerstown, Two Mile House, Naas, Co. Kildare.
Our Clients: George and Elizabeth Boland
Address: Hillside House, Two Mile House, Naas, Co. Kildare.

Dear Sir/Madam,

We refer to your letter dated 3rd January 2019 in relation to the above. We have been instructed by George and Elizabeth Boland of Hillside House, Two Mile House, Naas, Co. Kildare to respond to the section 5 referral to An Bord Pleanala. This referral was made by Vincent Farry on behalf of Mr. Ulric (Ollie) Barry of "Murrayville House", Mylerstown, Two Mile House, Naas, Co. Kildare.

We set out hereunder our detailed responses: -

Introduction

We will set out our response under the following headings: -

- (a) History of Site Entrance
- (b) Current ownership of lands in the area
- (c) Planning Permission Register Reference: 06/41
- (d) Response to Vincent J. Farry & Co Limited Report

(a) History of Site Entrance

We attach the following list of sworn affidavits from people who have lived in the area and who previously owned and farmed this land prior to the purchase in 2006 by the applicant.

The names and addresses of the individual parties who signed the sworn affidavits are listed below: -

- (i) Patrick O'Toole, Stephenstown, Two Mile House, Naas, Co. Kildare
Landowner from the area
- (ii) Susan Bates, Ballinard, Fethard, Clonmel, Co. Tipperary
Previous owner of the overall landholding in Folio KE66185F which was purchased by her from Martin Kennelly in 1990.
The lands the subject of this referral was sold to Ulric Barry and Miriam Barry in 2006.
- (iii) Martin Kennelly, Mylerstown Stud, Two Mile House, Naas, Co. Kildare
Previous owner of Folio KE66185F who sold to Susan Bates
- (iv) Sean Kennelly, Mylerstown Stud, Two Mile House, Naas, Co. Kildare
He is son of Martin Kennelly landowner
- (v) Liam Dowling, Mullacash, Naas, Co. Kildare
Agricultural Contractor from the immediate vicinity of the site

Please note that copies of all these sworn affidavits are attached to this letter in **Appendix I** together with Folio Map KE66185F

(b) Current Ownership

The landholdings of Ulric Barry and Miriam Barry are shown on various folios. It is noted that the address on three of these four folios was 14 Jigginstown Green, Naas, Co. Kildare.

We have examined the Folio KE50964F in respect of 14 Jigginstown Green and note that the current owner of this property is Miriam Kehoe.

Copies of these folios with map are attached in **Appendix II**

(c) Planning Permission Register Reference: 06/41

We have examined planning permission register reference 06/41 in the name of Miriam Kehoe and Ulric Barry which was granted on 20th February 2007.

Copies of this planning permission is attached in **Appendix III**

We note from an inspection of this planning file that a Commencement Notice for the commencement of development on site was validated on 11th September 2008 by Kildare County Council.

Copies of this Commencement Notice is attached in **Appendix IV**

We have examined some of the conditions of this Planning Permission Register Reference 06/41 and note that Condition 2 relating to permanent occupancy and Condition 17 in relation to section 47 have not yet been complied with.

In addition Condition 16 regarding the "closing" of the site entrance to the existing dwelling has not yet been complied with.

Copies of Photographs dated 29th January 2019 are attached in **Appendix V**

(d) Response to Vincent J. Farry & Co Limited Report

Our clients have provided significant documentary evidence by various local landowners, previous owners of the lands and other locals of long standing in the area. The site entrance with gate has obviously been in existence since the 1950's. It has been in continuous use over this period.

It is noted in page 3 of Vincent J. Farry & Co Limited Report in respect of Condition 16 – *“ Within 3 months from the date of completion of the development the entrance to the existing dwelling on the landholding shall be closed up and replace with a continuous deciduous hedge interspersed with broad-leaved deciduous trees, at 4 metre centres along the road boundary inside the line of sight identified on the site layout plan.*

Reason: In the interest of residential amenity.”

This Condition 16 has not yet been complied with by the referrer.


In Item 5 submission reference is made to the fact that Mr. Barry's home was overlooking this field since 2006. We are perplexed by this statement. Based on the factual evidence that Planning Permission Register Reference 06/41 was not granted until February 2007 and work did not commence until September 2008 it is difficult to understand this statement. Taking into consideration the normal “construction period” for a development of this nature it would be March/April 2009 before this house would have been occupied.

There are other issues that should be considered in this instance with respect to the existing site entrance and gate. The sight lines to this existing site entrance are extremely good in both directions while the site entrance and gate are within the 60 kph speed limit.

Concluding Comment

The evidence in this instance from previous landowners clearly emonstrates that there has been a site entrance and gate at this location since the 1950's.

Yours sincerely,


THOMAS MAGUIRE
Managing Director
MAGUIRE & ASSOCIATES

APPENDIX I

SWORN AFFIDAVIT'S

- Patrick O'Toole, Stephenstown, Two Mile House, Naas, Co. Kildare
- Susan Bates, Ballinard, Fethard, Clonmel, Co. Tipperary
- Martin Kennelly, Mylerstown Stud, Two Mile House, Naas, Co. Kildare
- Sean Kennelly, Mylerstown Stud, Two Mile House, Naas, Co. Kildare
- Liam Dowling, Mullacash, Naas, Co. Kildare
- Folio Map KE66185F

AFFIDAVIT OF PATRICK O'TOOLE

I, Patrick O'Toole, of Stephenstown, Naas, Co. Kildare, aged 79 years and upwards make Oath and say:-

1. I am very familiar with the lands at Mylerstown purchased by George and Elizabeth Boland. These lands formerly belonged to Martin Kennelly and Susan Bates. I have lived in the area all my life and confirm that as a young teenager in around the mid 1950's, that there was always an entrance to the land purchased by George and Elizabeth Boland by means of a gate and this entrance was used by Martin Kennelly and Susan Bates when they owned the lands. I can confirm that this is the gateway marked on the map attached which has been re-hung by George Boland.
2. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false or misleading.

SWORN by Patrick O'Toole

Pat O Toole
DEPONENT.

At STEPHENSTOWN, NAAS.

In the County of Kildare this 26th January, 2019

Before me a Commissioner for Oaths, and

I know the Deponent.

Declan Curry

COMMISSIONER FOR OATHS.

Declan Curry
Commissioner For Oaths

Planning Rack Map

CENTRE COORDINATES:
ITM 688125.714509

PUBLISHED: 04/07/2018
ORDER NO.: 50014332_1

MAP SERIES: 1:2,500
1:2,500
1:2,500
MAP SHEETS: 3607-D
3608-C

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

Unauthorised reproduction
infringes Ordnance Survey Ireland
and Government of Ireland
copyright.

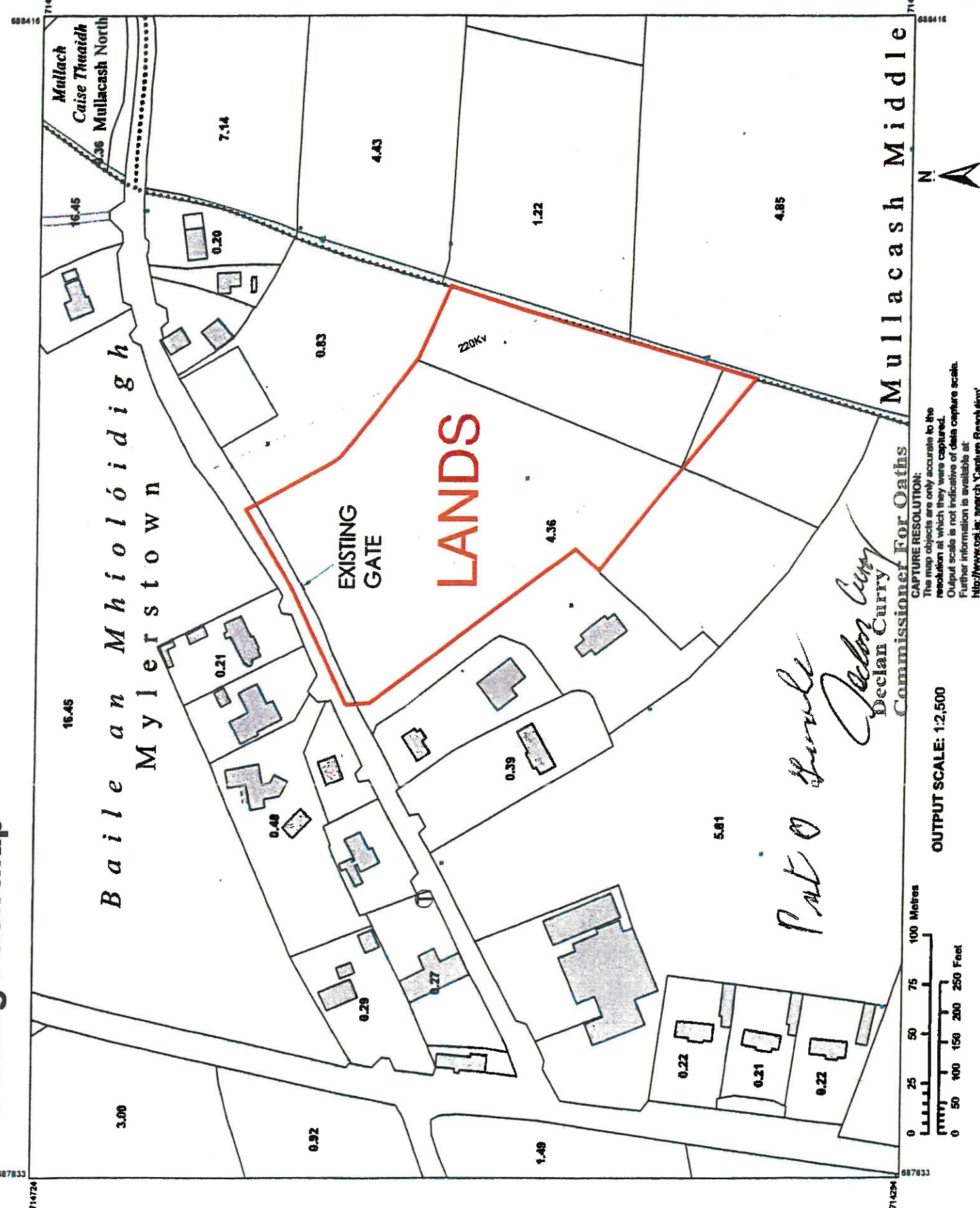
All rights reserved.
No part of this publication may
be copied, reproduced
or transmitted in any form
or by any means without the prior
written permission of
the copyright owners.

The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Ordnance Survey maps
never show legal property
boundaries, nor do they
show ownership of
physical features.

© Suirbhéireacht Ordanáis Éireann
2018
© Ordnance Survey Ireland, 2018
www.osi.ie/copyright

LEGEND:
<http://www.osi.ie>
Search 'Large Scale Legend'



AFFIDAVIT OF SUSAN BATES

I, Susan Bates of Ballinard, Fethard, Clonmel, Co. Tipperary aged 18 years and upwards make Oath and say:-

1. I was the owner of lands at Mylerstown of which these lands now comprised on folio KE66185F form part when I purchased same from Martin Kennelly in or around 1990. I used these lands and other lands for the purposes of breeding horses and general farming and the gate shown as the "existing gate" on the map attached was used by me and my licensees, workmen and contractors to gain access to these lands now owned by George and Elizabeth Boland. This was always the entrance to this portion of land. I beg to refer to the said map attached hereto upon which marked with the letter "A" I have signed my name prior to the swearing hereof.
2. I sold the lands now on folio KE66185F together with other lands to Ulrick Barry and Miriam Barry in 2006 and the gate was existing at that point in time.
3. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false or misleading.



SWORN by Susan Bates

at 23 JAMES STREET, KILKENNY

sg. in the County of ~~Tipperary~~ KILKENNY this 21st day of September 2018

before me a ~~Commissioner for Oaths~~ Practising Solicitor and I know the

Deponent.



sg. ~~COMMISSIONER FOR OATHS~~
Practising Solicitor

Planning Pack Map

SEE BACK OF DOCUMENT FOR "A" AND SUSAN BATES SIGNATURE

CENTRE COORDINATES:
ITM 688125.714509

PUBLISHED: 04/07/2016
ORDER NO.: 50014332_1

MAP SERIES: 1:2,500
MAP SHEETS: 3607-D, 3608-C

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright.

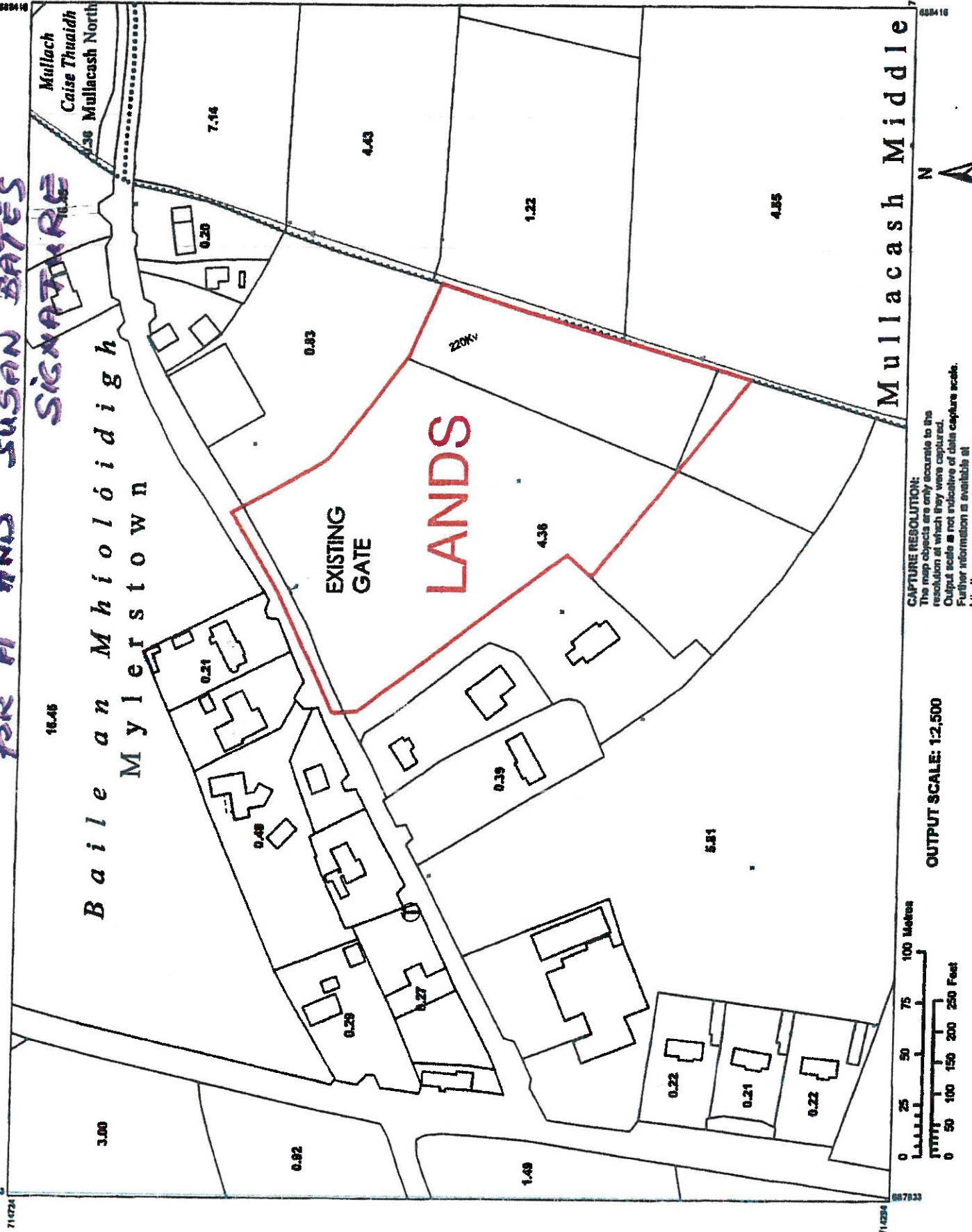
All rights reserved.
No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owners.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.

© Swíthéarsacht Ordánáis Éireann 2018
© Ordnance Survey Ireland, 2018
www.osi.ie/copyright

LEGEND:
<http://www.osi.ie>,
search 'Large Scale Legen.'



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 <http://www.osi.ie>, search 'Capture Resolution'

OUTPUT SCALE: 1:2,500

COPY

AFFIDAVIT OF MARTIN KENNELLY

I, Martin Kennelly of Mylerstown Stud, Twomilehouse, Naas, Co. Kildare aged 18 years and upwards make Oath and say:-

1. I say that I sold part of my lands at Mylerstown now comprised in folio KE66185F in or around 1990 to Susan Bates. I had owned these lands for 40 years previously prior to the sale and they formed part of a larger holding. I attach map of the said lands now owned by George and Elizabeth Boland upon which marked with the letter "A" I have signed my name prior to the swearing hereof.
2. I say that I always used this entrance gate to gain access with my farm machinery and animals.
3. I say that this has been the existing gate to this holding of George and Elizabeth Boland since the 1980's
4. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false of misleading.

SWORN by Martin Kennelly

Martin Kennelly
DEPONENT

at *NAAS CO. KILDARE*
in the County of Kildare this *11th* day of *SEPTEMBER*, 2018 before
me a Commissioner for Oaths and I know the Deponent.

Declan Curry

COMMISSIONER FOR OATHS.

Declan Curry
Commissioner For Oaths

We hereby certify that we have compared the within document with the original and that it is a true copy thereof

Dated the *20th* day of *September*, 20*18*

MacHales
.....
MacHales, Solicitors, Ballina, Co. Mayo.

Planning Pack Map

Map for City

16

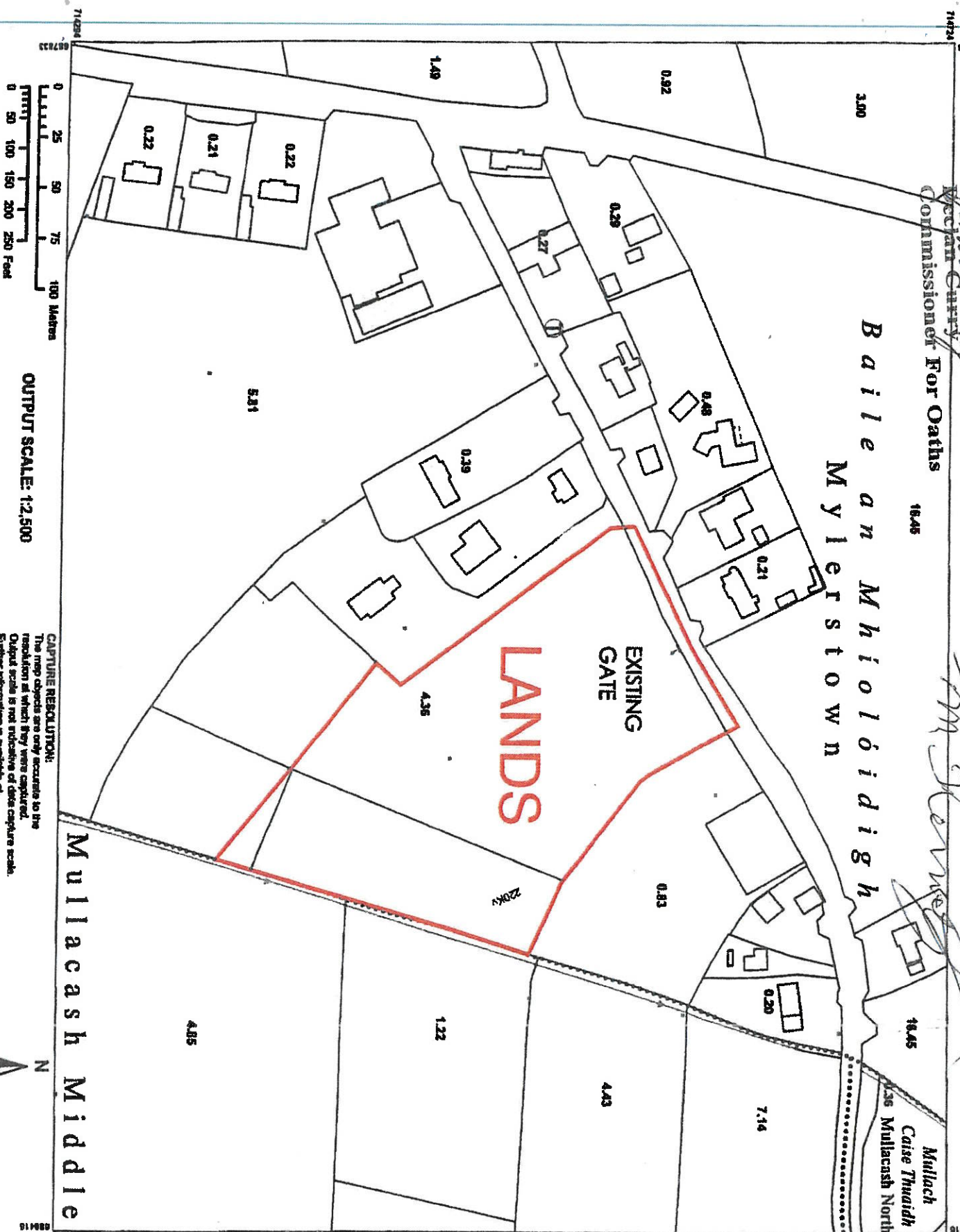
Commissioner For Oaths

1845

Baile an Mhíoláidigh
Mylertstown

Mullach
Caise Thuaidh

1845
436 Mullacash North



OUTPUT SCALE: 1:2,500



National Mapping Agency

CENTRE COORDINATES:
ITM 698125, 714509

PUBLISHED: ORDER NO.: 04072018
50014332_1

MAP SERIES: MAP SHEETS:
1:2,500 3507-D
1:2,500 3508-C

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

Unauthorized reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright.

All rights reserved. No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owners.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.

© Súrthréiseacht Ordánais Éireann 2018
© Ordnance Survey Ireland, 2018
www.ors.ie/copyright

LEGEND:
<http://www.ors.ie>,
search 'Large Scale Legend'

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 <http://www.ors.ie>; search 'Capture Resolution'

AFFIDAVIT OF SEAN KENNELLY

I. Sean Kennelly of Mylerstown Stud, Twomilehouse, Naas, Co. Kildare aged 18 years and upwards make Oath and say:-

1. I say that I farmed part of the lands along with my father Martin Kennelly in the 1980's at Mylerstown prior to my father selling these lands now comprised in folio KE66185F in or around 1990 to Susan Bates. My father owned these lands for 40 years previously prior to the sale and they formed part of a larger holding. I attach map of the said lands now owned by George and Elizabeth Boland upon which marked with the letter "A" I have signed my name prior to the swearing hereof. I say that I always used this entrance gate to gain access to the lands.
2. I say that this has been the existing gate to this holding of George and Elizabeth Boland since the 1980's
3. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false or misleading.

SWORN by Sean Kennelly

at *NAAS*

in the County of Kildare this *11th* day of *SEPTEMBER*, 2018 before

me a Commissioner for Oaths and I know the Deponent.

Sean Kennelly _____
Declan Curry

COMMISSIONER FOR OATHS.

**Declan Curry
Commissioner For Oaths**

DEPONENT

We hereby certify that we have compared the within document with the original and that it is a true copy thereof

Dated the *20th* day of *September*, 2018.

.....*MacHales*.....
MacHales, Solicitors, Ballina, Co. Mayo

Planning Pack Map

See Plans 11/11/11 Declan Curry



National Mapping Agency

CENTRE COORDINATES:
ITM 688125,714509

PUBLISHED: 04/07/2018
ORDER NO.: 50014332_1
MAP SERIES: 1:2,500
MAP SHEETS: 3607-D
3608-C

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Pigeon Park,
Dublin 8,
Ireland.

Unauthorised reproduction
infringes Ordnance Survey Ireland
and Government of Ireland
copyright.

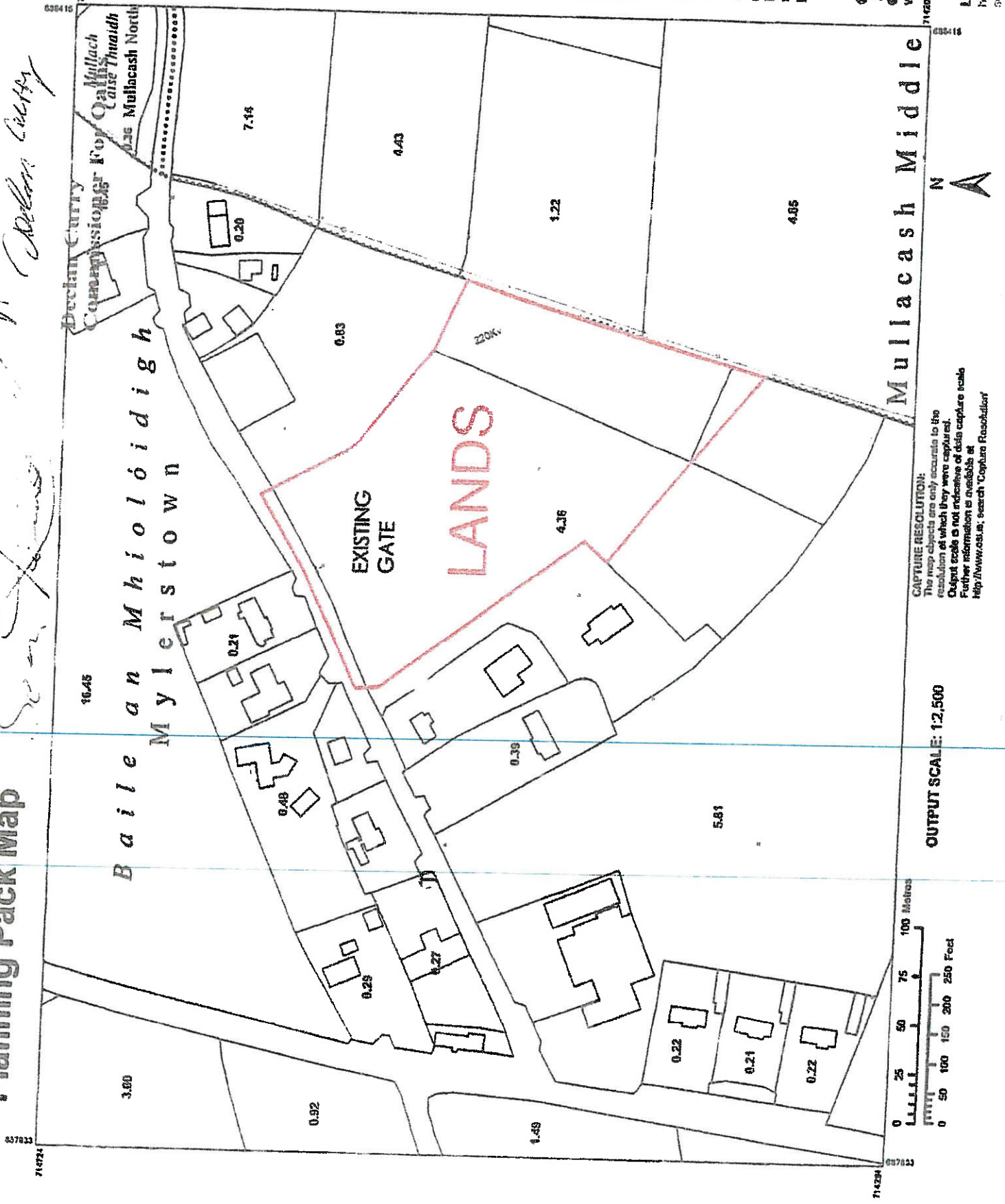
All rights reserved.
No part of this publication may
be copied, reproduced
or transmitted in any form
or by any means without the prior
written permission of
the copyright owners

The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Ordnance Survey maps
never show legal property
boundaries, nor do they
show ownership of
physical features.

© Suidéireachí Ordánais Éireann
2018
© Ordnance Survey Ireland, 2018
www.osi.ie/copyright

LEGEND:
<http://www.osi.ie>,
search 'Large Scale Legend'



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
<http://www.osi.ie>, search 'Capture Resolution'

OUTPUT SCALE: 1:2,500



AFFIDAVIT OF LIAM DOWLING

I, Liam Dowling of Mullcash, Naas, Co. Kildare aged 18 years and upwards make Oath and say:-

1. I say that I am the owner of the lands on folio KE2749 which lands are directly across the road from the lands on folio KE66185F.
2. I am an Agricultural Contractor of many years standing and have worked for the previous owner Martin Kennelly and these lands form part of a larger folio. These lands were sold by Martin Kennelly in or around 1990 to Susan Bates. I attach map of the lands now owned by George and Elizabeth Boland upon which marked with the letter "A" I have signed by name prior to the swearing hereof. I say that I used the gate shown as the "existing gate" on the lands of George and Elizabeth Boland to gain access to these lands with my farm machinery.
3. I say that this has been the existing gate to this holding of George and Elizabeth Boland since the 1980's.
4. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false or misleading.

SWORN by Liam Dowling

at NAAS
in the County of Kildare this 11th day of SEPTEMBER, 2018 before
me a Commissioner for Oaths and I know the Deponent.

Liam Dowling
DEPONENT

Debian Curry
COMMISSIONER FOR OATHS.

We hereby certify that we have compared the within document with the original and that it is a true copy thereof

Dated the 20th day of September, 2018

MacHales
MacHales, Solicitors, Ballina, Co. Mayo.

Debian Curry
Commissioner For Oaths

Planning Pack Map

Siobhán Fanning

Kevin C. J. Kelly



National Mapping Agency

CENTRE COORDINATES:
ITM 688125,714500

PUBLISHED: 04/07/2018

MAP SERIES: 1:2,500
1:2,500

ORDER NO.: 58014332_1

MAP SHEETS: 3607-D
3608-C

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

Unauthorised reproduction
infringes Ordnance Survey Ireland
and Government of Ireland
copyright.

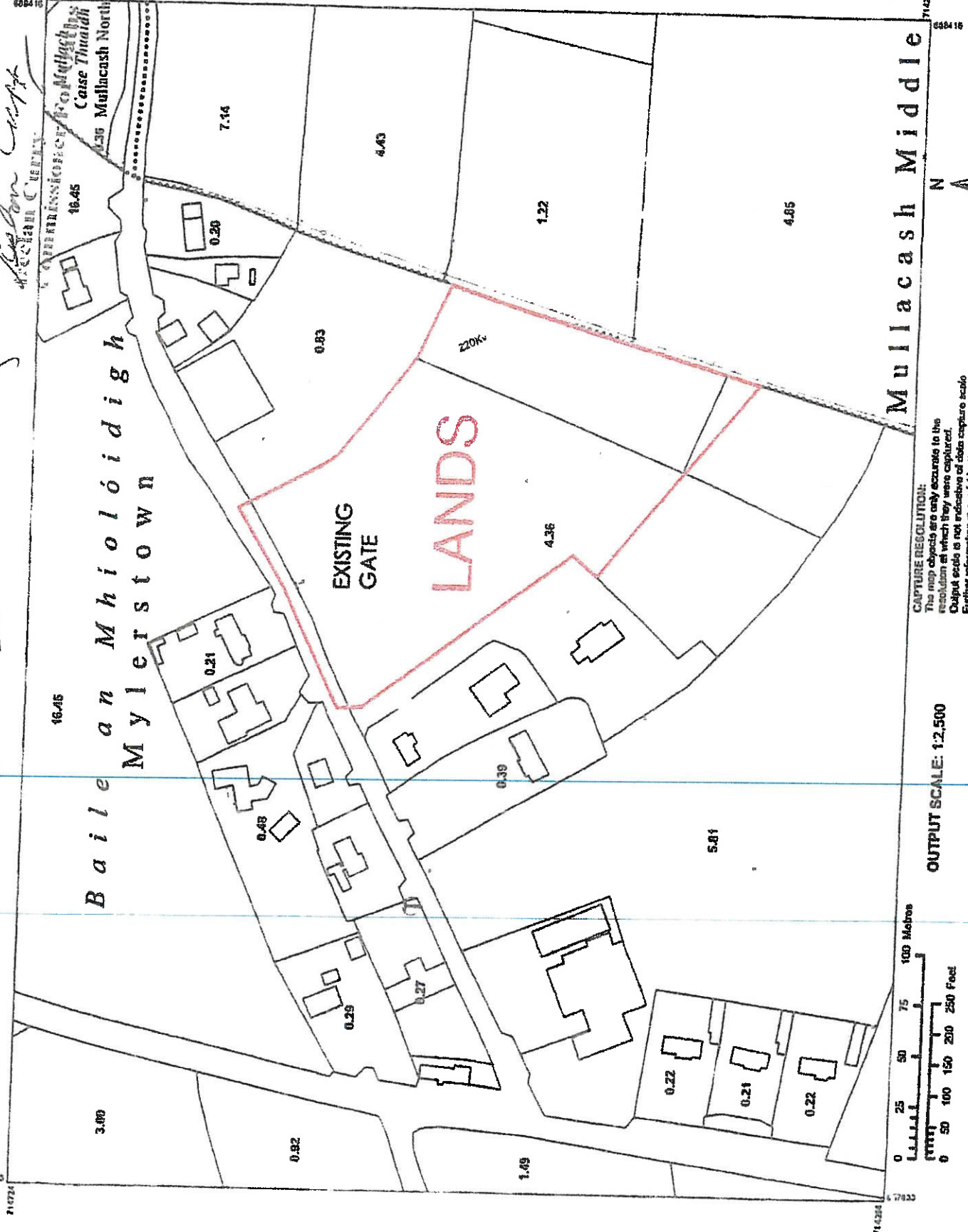
All rights reserved.
No part of this publication may
be copied, reproduced,
or transmitted in any form
or by any means without the prior
written permission of
the copyright owners

The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Ordnance Survey maps
never show legal property
boundaries, nor do they
show ownership of
physical features.

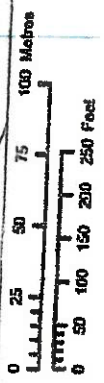
© Suirbhéireacht Ordnáinís Éireann
2018
© Ordnance Survey Ireland, 2018
www.osi.ie/copyright

LEGEND:
<http://www.osi.ie>
search 'Large Scale Legend'



CAPTURE REGULATION:
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
<http://www.osi.ie>, search 'Capture Resolution'

OUTPUT SCALE: 1:2,500



APPENDIX II

COPY OF FOLIO'S WITH MAP

- Folio KE51964F
- Folio KE52540F
- Folio KE52544F
- Folio KE62088F
- Folio KE62402F

Land Registry

County Kildare

Folio 51964F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

For parts transferred see Part 1(B)

No.	Description	Official Notes
1	<p>The property shown coloured Red as plan(s) BH3ER on the Registry Map, in the Parish of NAAS , situate in the Townland of JIGGINSTOWN , known as 14 JIGGINSTOWN GREEN, NEWBRIDGE ROAD, NAAS , in the Barony of NAAS NORTH , in the Electoral Division of NAAS URBAN .</p> <p>The Registration does not extend to the mines and minerals</p>	From Folio KE23448F

Land Registry

County Kildare

Folio 51964F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	05-APR-2007 MIRIAM KEHOE of 14 JUGGINSTOWN GREEN, NAAS, CO KILDARE is full owner. D2007KW007123C

The Property Registration Authority

An tÚdarás Clárúcháin Maoinne



Official Property Registration Map


This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale accuracy is limited to that of the original OSI Map Scale.

For details of the terms of use, and limitations as to scale, accuracy and other conditions relating to Land Registry Maps, see www.pra.ie.

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(Identify line of parcel(s) edged)

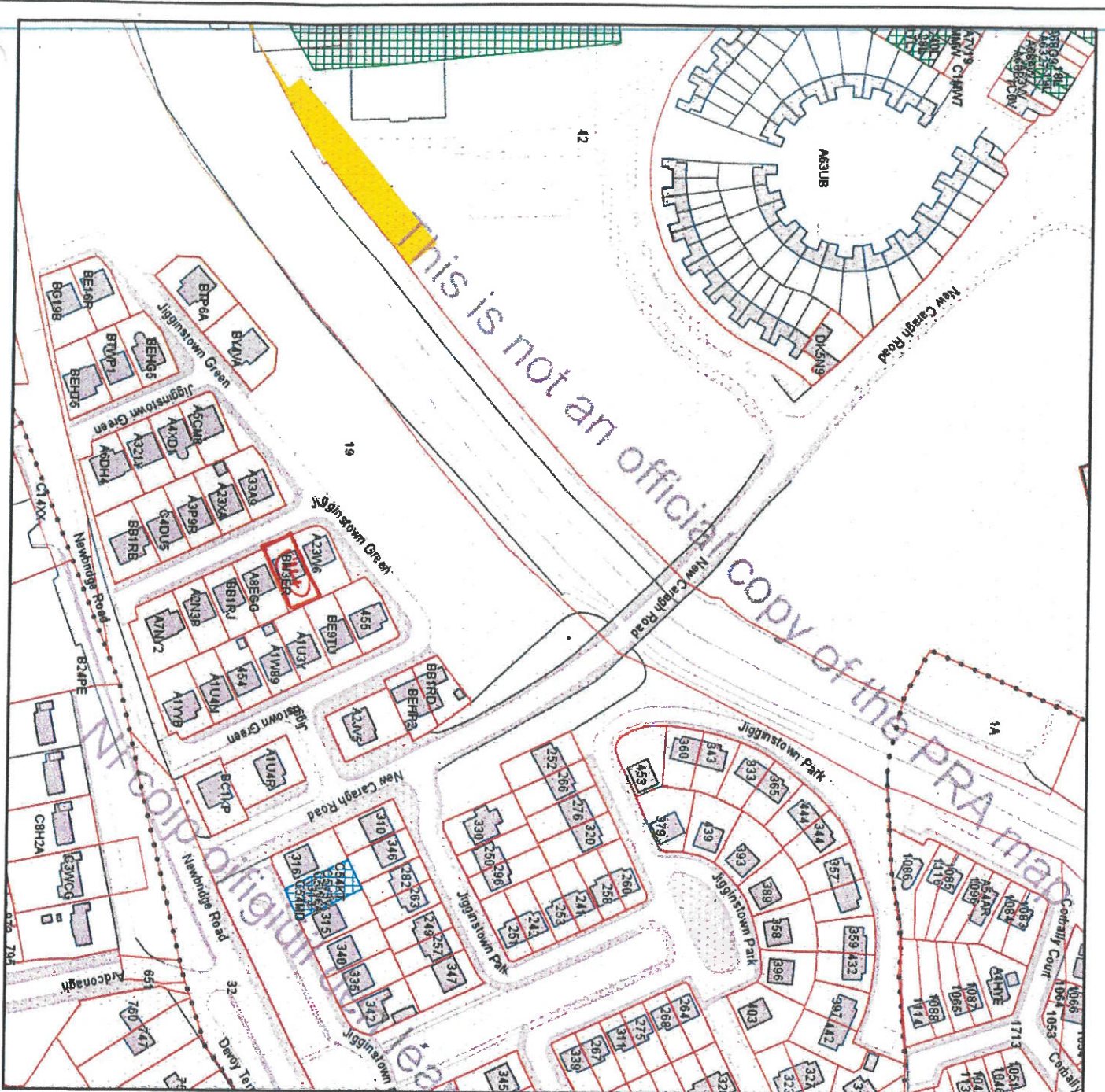
-  Freehold
-  Leasehold
-  Subleasehold
-  'S' Register

(see Section 8(5)(b) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

-  Burdens (may not all be represented on map)
 -  Right of Way / Wayleave
 -  Turbary
 -  Pipeline
 -  Well
 -  Pump
 -  Septic Tank
 -  Soak Pit
- A full list of burdens and their symbology can be found at: www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent

(see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.



Land Registry

County Kildare

Folio 52540F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1	<p>The property shown coloured Red as plan(s) C7B0K on the Registry Map, situate in the Townland of MYLERSTOWN, in the Barony of NAAS SOUTH, in the Electoral Division of CARNALWAY.</p> <p>The Registration does not extend to the mines and minerals</p> <p>Plan C7B0K added to folio, see Instrument No. D2010LR058700C.</p>	From Folio KE17884F

Land Registry

County Kildare

Folio 52540F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	05-SEP-2007 ULRIC BARRY of 14 JIGGINSTOWN GREEN, NAAS, COUNTY KILDARE and D2007KW017618G MIRIAM KEHOE BARRY of 14 JIGGINSTOWN GREEN, NAAS, COUNTY KILDARE are full owners.

Land Registry

County Kildare

Folio 52544F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1	<p>The property shown coloured Red as plan(s) BJK62, C7B0G on the Registry Map, situate in the Townland of MYLERSTOWN, in the Barony of NAAS SOUTH, in the Electoral Division of CARNALWAY.</p> <p>The Registration does not extend to the mines and minerals</p> <p>Plan C7B0G added to folio, see Instrument No. D2010LR058700C.</p>	From Folio KE17884F

Land Registry

County Kildare

Folio 52544F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965		
1	04-SEP-2007 D2007KW017619H	MARIE BARRY of C/O SEAN COSTELLO & CO SOLRS., OCEAN HOUSE, ARRAN QUAY, DUBLIN 7 and ULRIC BARRY of C/O SEAN COSTELLO & CO SOLRS., OCEAN HOUSE, ARRAN QUAY, DUBLIN 7 and CATHERINE BARRY of C/O SEAN COSTELLO & CO SOLRS., OCEAN HOUSE, ARRAN QUAY, DUBLIN 7 are full owners.	Cancelled D2009LR056838C 19-MAR-2009
2	19-MAR-2009 D2009LR056838C	ULRIC BARRY of 14 JIGGINSTOWN GREEN, NAAS, COUNTY KILDARE is full owner.	

Land Registry

County Kildare

Folio 62088F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1	<p>The property shown coloured Red as plan(s) C7B0M on the Registry Map, situate in the Townland of MYLERSTOWN, in the Barony of NAAS SOUTH, in the Electoral Division of CARNALWAY.</p> <p>The Registration does not extend to the mines and minerals</p>	From Folio KE52540F

Land Registry

County Kildare

Folio 62088F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	14-MAY-2010 URLIC BARRY of 14 Jigginstown Green, Naas, County Kildare and D2010LR058700C MIRIAM BARRY of 14 Jigginstown Green, Naas, County Kildare are full owners.

Land Registry

County Kildare

Folio 62402F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1	<p>The property shown coloured Red as plan(s) C7B0H on the Registry Map, situate in the Townland of MYLERSTOWN, in the Barony of NAAS SOUTH, in the Electoral Division of CARNALWAY.</p> <p>The Registration does not extend to the mines and minerals</p>	From Folio KE52544F

Land Registry

County Kildare

Folio 62402F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	14-MAY-2010 ULRIC BARRY of 14 Jigginstown Green, Naas, County Kildare is full-owner. D2010LR058700C Cancelled D2017LR129061Q 21-SEP-2017
2	21-SEP-2017 ULRIC BARRY of Murrayville, Two Mile House, Naas, County Kildare and MIRIAM BARRY of Murrayville, Two Mile House, Naas, County Kildare and are full owners. D2017LR129061Q

Planning Pack Map

CENTRE COORDINATES:
ITM 688125,714509

PUBLISHED: 04/07/2018
ORDER NO.: 50014332_11

MAP SERIES: 1:2,500
MAP SHEETS: 3607-D
3608-C

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

Unauthorised reproduction
infringes Ordnance Survey Ireland
and Government of Ireland
copyright.

All rights reserved.
No part of this publication may
be copied, reproduced
or transmitted in any form
or by any means without the prior
written permission of
the copyright owners.

The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Ordnance Survey maps
never show legal property
boundaries, nor do they
show ownership of
physical features.

© Suirbhéireacht Ordnáis Éireann
2018
© Ordnance Survey Ireland, 2018
www.osi.ie/copyright

LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



APPENDIX III

COPY OF PLANNING PERMISSION REG REF: 06/41



Date: 20/02/2007

Pl Ref.: 06/41

llh

Miriam Kehoe & Ulric Barry
Damian O'Flynn & Associates
Lower Eyre Street
Newbridge
Co Kildare

PLANNING REGISTER NUMBER: 06/41
APPLICATION RECEIPT DATE: 13/01/2006

PERMISSION sought for (a) 5 bedroom 2 storey house, (b) double garage with sheds, (c) EPS Bison effluent treatment plant system and percolation area, (d) all associated site development works to include site entrance, roads, services at Mylerstown Crossroads Two Mile House Naas, Co. Kildare

In pursuance of the powers conferred upon them by the Planning and Development Act 2000 - 2005, Kildare County Council have by order granted PERMISSION to the above named, for the above development subject to the 36 conditions set out in the Schedule attached.

Date: 20/02/2007

Signed: Shirley Farrell
Senior Executive Officer Planning
Kildare County Council

- NOTE: The permission herein granted shall, on the expiration of the period of 5 years beginning on the date of the granting of permission, cease to have effect as regards:
- (1) In case the development to which the permission relates is not commenced during the period, the entire development, and
 - (2) In case such development is so commenced, so much thereof as is not completed within that period.

It should be noted that outline permission will cease to have effect after a period of 3 years and also that such permission is subject to the subsequent grant of permission consequent on the grant of outline permission by the Planning Authority and that, until such permission has been obtained to detailed plans of the development proposed, the development is NOT AUTHORISED.

RE:/ Planning Permission is sought for the following (a) 5 bedroom 2 storey house (b) double garage with shed s (c) EPS Bison treatment plant system and percolation area (d) all associated site development works to include site entrance roads services etc at Mylerstown Cross Roads, Two Mile House, Naas, Co. Kildare - Miriam Kehoe. - 06/41

Schedule 1 - Considerations and Reasons.

Having regard to the nature and design of the proposed development, and the character of adjoining development, it is considered that, subject to compliance with the conditions attached, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, and would be in accordance with the proper planning and sustainable development of the area.

Schedule 2 - Conditions to apply.

1. The development shall be carried out in accordance with documentation and particulars submitted to the Planning Authority on 13/01/06 and as per revised drawings and documentation submitted to the Planning Authority on the 24/05/06 and 10/10/06, except where altered or amended by conditions in this permission.

Reason: To enable the Planning Authority to check the proposed development when completed, by reference to approved particulars.

2. The proposed dwelling when completed shall be first occupied for a minimum period of five years as a sole place of permanent residence by the applicants, Miriam Kehoe & Ulric Barry.

Within two months of the occupation of the proposed dwelling the applicants shall submit to the Planning Authority a letter from their Architect/Engineer or other suitable qualified and indemnified person indicating the date on which the first occupation of the dwelling occurred.

The Planning Authority will consent to any sale of the property by a lending institution in exercise of its powers as mortgagee and likewise consent to any sale by any person deriving title from the lending institution. Approval to the sale of the property in any other circumstance will be considered on its merits by Kildare County Council.

Reason: To secure in the interests of orderly development that the proposed house is used to meet the applicants stated housing needs and to ensure that development in this rural area is appropriately restricted in the interest of proper planning and development and visual amenity.

3. The external finishes shall consist of natural stone indigenous to the area, wet dash or napp plaster. The use of brick or reconstituted stone shall not be permitted. The roof shall be blue/black or slate grey in colour, using tiles or slates. Orange or red colour roofing or materials other than tiles or slates shall not be used.

Reason: In the interests of visual amenity and orderly development.

4. Existing hedgerows, trees and shrubs on site shall be retained, preserved and maintained except at the proposed entrance. All boundaries of the site shall be planted each with a continuous deciduous hedge interspersed with broad-leaved deciduous trees, at 4 metre centres. The remaining site shall be landscaped in accordance with the site layout plan submitted to the Planning Authority on the 10/10/06.

A timber post and rail fence shall be erected around the perimeter of the site.

This planting shall be carried out and completed within the first planting season following first occupation of the dwelling.

Reason: In order to screen the development within a reasonable period of time.

5. All service lines and cables servicing the proposed development shall be located underground except where otherwise agreed in writing with the Planning Authority.

Reason: In the interest of orderly development and visual amenities.

6. The overall site shall be used for domestic-related purposes only, and not for any commercial, workshop, or other non-domestic use.

Reason: In the interest of the proper planning and development of the area.

7. At least two domestic type smoke alarms to Bs 5839 (Part 6) mains powered but with battery backup to be installed in the interest of safety of the occupants.

Reason: In the interests of Fire Safety

8. The development shall not impair existing land or road drainage and the new entrance shall be designed and shaped to ensure the uninterrupted flow of existing roadside drainage.

Reason: In the interest of traffic safety, and to prevent interference with existing road/land drainage, in the interest of proper planning and development.

9. During construction the developer shall provide adequate off carriageway parking facilities for all traffic associated with the proposed development, including delivery and service vehicles/trucks. There shall be no parking along the public road.

Reason: In the interest of traffic safety.

10. This permission authorises the proposed development and does not relate to any other development not subject of this application whether or not such development would otherwise constitute exempted development.

Reason: To avoid any misunderstanding as to the proper construction of this permission.

-
11. The grass margin along the front of the site shall be cleared at the location of the proposed entrance only. The entrance shall be a standard recessed entrance to E1516. The recessed space shall be splayed with wing walls, timber fences or stone banks not exceeding 1.2m in height (including any pillars). External walls shall be finished to match that of the proposed dwelling house.

Reason: In the interests of traffic safety and visual amenity

12. The design of the proposed dwelling shall be modified to the Planning Authority's satisfaction in the following respects:
- (i). The projected element in the front elevation shall be omitted
 - (ii). The selected window surrounds and feature front door surround shall be omitted.
- and the applicant shall submit a set of drawings of the revised design, and shall obtain the written consent of the Planning Authority for this before development is commenced.

Reason: In the interest of visual amenity

13. The area shaded in green on the 1:500 map submitted to the Planning Authority on the 13th January 2006 shall be kept free from future residential development and any other non-agricultural development.

Reason: To ensure the preservation of the rural character and amenities of the area.

14. The proposed garage shall not be used for human habitation, any commercial use or any other purpose other than a purpose incidental to the enjoyment of the dwelling, whether or not such use might otherwise constitute exempted development.

Reason: In the interest of orderly development.

15. The roof and external wall finishes of the proposed garage shall match that of the proposed dwelling house in all respects.

Reason: In the interests of architectural harmony and visual amenity.

16. Within 3 months from the date of completion of the development the entrance to the existing dwelling on the landholding shall be closed up and replaced with a continuous deciduous hedge interspersed with broad-leaved deciduous trees, at 4 metre centres along the road boundary inside the line of sight identified on the site layout plan.

Reason: In the interests of residential amenity.

17. Prior to the commencement of development, the owner of the property (the applicants) shall enter into an agreement with the Planning Authority, pursuant to Section 47 of the Planning and Development Act 2000 or any amending or replacement statutory provision, restricting the sale/transfer of the current bungalow dwelling on the landholding. The existing dwelling shall be occupied, by people directly employed with the Stud Farm, and shall not be sold, let or otherwise conveyed save as part of the overall landholding.

Reason: In order to meet the stated housing needs of the proposed development and to prevent the speculative sale of the dwellings, in the interest of the protection of the rural amenity of the area.

18. The developer shall consult with Eircom in relation to the pole interfering with the lines of sight and prior to the occupation of the dwelling, shall have the pole re positioned.

Reason: In the interests of road safety.

19. Building line shall be a minimum of 18.5 metres from the front boundary.

Reasons: In the interest of traffic safety and the proper planning and sustainable development of the area.

20. Recessed entrance shall be provided to site and constructed generally in accordance with drawing number E1516B (copy attached).

Reasons: In the interest of traffic safety and the proper planning and sustainable development of the area.

21. Existing land and roadside drainage to be maintained by applicant. Alterations to verge levels adjacent to the road edge shall be such that surface water runoff is not impaired. Where water is ponding on the road gullies to be provided by applicant and taken to adjacent ditch or soakhole. Contact Area Engineer in advance

Reasons: In the interest of traffic safety and the proper planning and sustainable development of the area.

22. All surface water generated on site be disposed of on site and not allowed onto the public road

Reasons: In the interest of traffic safety and the proper planning and sustainable development of the area.

23. Because the driveway falls towards the public road, runoff shall be collected either by gullies or by precast concrete drainage channels and discharged to suitably sized soakholes located within the site boundary

Reasons: In the interest of traffic safety and the proper planning and sustainable development of the area.

24. Only foul sewage and soiled water from the development shall be discharged to the private wastewater treatment system

Reason: In the interest of public health and to ensure proper development.

25. Only clean, uncontaminated surface water from the development shall be discharged to the surface water system.

Reason: To avoid pollution and to ensure proper development.

26. All surface water shall be collected and disposed of to soakways or a surface water system designed and constructed in accordance with B.S. 8301:1985 and BRE Digest 365 and provided with inspection manhole covers.

Reason: To ensure proper servicing of the development.

27. All toilet cisterns shall incorporate a dual flush function incorporating reduced flush and full flush options.

Reason: In the interest of water conservation and to ensure proper servicing of the development.

28. A grease trap shall be constructed on the waste discharge from the kitchen waste outlets.

Reason : To ensure proper servicing of the development.

29. The house shall have its own individual service connection and boundary box. The boundary box shall have a customer access lid, a shut off device/stopcock and an approved leakage flowmeter, such as the standard *Talbot Matrix Meter Box*, or the standard *Industrial Plant WSC-R-CA* unit or similar unit as approved by the Water Services Department..

Reason : To ensure proper servicing of the development.

30. A minimum of 24 hour water storage shall be provided.

Reason: To ensure proper servicing of the development.

31. All foul waste and soiled water shall discharge to the Irish Agrément Board approved EPS Bison wastewater treatment system.

(b) The wastewater treatment system shall be located not nearer than 10 metres from any dwelling, not nearer than 10 metres from any watercourse/stream, not nearer than 3 metres from the site boundary and not nearer than 4 metres from a road or slope break/cut. The wastewater treatment system shall be located not nearer than *40 metres from any water supply source unless such source is from a public piped supply.

Reason: In the interest of proper planning and development

32. The treated effluent from the EPS Bison wastewater treatment system shall be discharged to a polishing filter, which shall be designed and constructed in accordance with the EPA Wastewater Treatment Manual "Treatment Systems for Single Houses".

b) The polishing filter shall be located not nearer than 10 metres from any dwelling, not nearer than 10 metres from any watercourse/stream, not nearer than 3 metres from the site boundary, not nearer than 4 metres from a road or slope break/cut and not nearer than *40 metres from any water supply source unless such source is from a public piped supply.

c) A suitably qualified engineer familiar with the Site Characterisation Form prepared for the site shall design the polishing filter, supervise its construction and submit certification to the Planning Authority that all works have been completed in compliance with the requirements of the EPA Wastewater Treatment Manual "Treatment Systems for Single Houses".

d) With regards to all other aspects of the wastewater treatment system and polishing filter installation, the Irish Agrément Certificate and Site Suitability Report dated 16/12/05 shall be followed.

Reason: In the interest of proper planning and development

33 The applicant shall enter a maintenance contract with EPS Ltd, the manufacturers/suppliers of the EPS Bison wastewater treatment system to ensure satisfactory performance at all times.

Reason: In the interest of proper planning and development

34. Any well shall be located not nearer than 40* metres from the EPS Bison wastewater treatment system and polishing filter and any other wastewater treatment system and percolation areas/polishing filters.

*See Table 4, P19, EPA Wastewater Treatment Manual "Treatment Systems for Single Houses" and DOELG/EPA/GSI "Groundwater Protection Responses for On-Site Wastewater Systems for Single Houses" FOR SUGGESTED MINIMUM DISTANCES FROM A WELL.

Reason: To meet public health requirements.

35. All solid household waste from the development shall be offered for collection to a waste contractor in possession of a valid waste collection permit under the Waste Management (Collection Permit) Regulations 2001 or alternatively the householder may bring household waste to an appropriate civic waste facility or recycling centre. No burning of waste is permitted. (The household may wish to use an on-site compost bin for suitable wastes and where a dry recyclable bin collection service is available it should be utilised). Please contact the Environment Section, Kildare County Council for further information.

Reason: In the interest of public health and proper planning and sustainable development

36. Before development commences the applicant/developer shall pay to Kildare County Council the sum of € 14,787 being the appropriate contribution to be applied to this development in accordance with the Development Contributions Scheme adopted by Kildare County Council on 23rd February 2004 in accordance with Section 48 of the Planning and Development Act 2000. The amount payable under this condition shall be fully index-linked from the date of grant of permission.

Reason: It is considered reasonable that the development should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

Date: 20th February 2007

Signed Shulany Farrell
of Senior Executive Officer
Planning

APPENDIX IV

**COPY OF COMMENCEMENT NOTICE
FOR
PLANNING PERMISSION REG REF: 06/41**

Date: 11/09/2008
Ref.: CN08690

Miriam Kehoe & Ulric Barry
14 Jigginstown Green
Naas
Co Kildare

**Re: Commencement Notice for Planning Ref :06/41
Development at Mylerstown Crossroads Two Mile House Naas, Co. Kildare**

Dear Sir/Madam

Thank you for your submission of a Commencement Notice on 28/08/2008 , in respect of development under the above permission.

Your notice is valid and has been given the reference CN08690 on our register.

Please find enclosed your receipt in respect of the fee paid. Please be advised that this letter should be retained safely, as you may be required to produce it to an Inspecting Officer from this Authority. In addition, confirmation of receipt of a valid Commencement Notice will be required if the development is to be sold (either whole or in part) in the future.

Copies of Commencement Notices may be ordered from this office. Any such request should be in writing and should be accompanied by a fee of €12.00

If you have any queries, please contact the Building Control Section at 045-980833.

Yours faithfully,

**Senior Executive Officer,
Planning & Public Safety.**



PLANNING CASH OFFICE
Kildare County Council
Aras Chill Dara
Devooy Park
Naas
Co. Kildare

28-06-2008 16:03:49

Receipt No. : PLG1/0/49983
***** REPRINT *****

Miriam Kehoe & Ulric Barry
PI Ref 06/41

COMMENCEMENT NOTICE 30.00

Total 30.00 EUR
23.63 IEP

Tendered:
Cheque 30.00

Issued By : Garrett Byrne Planning Cash Office
From: Planning Lodgement Area

Second Schedule

Form of Commencement Notice for Development

(Notice to a Building Control Authority pursuant to Part II of the Building Control Regulations, 1997)



Kildare County Council
Planning Department

Kildare County Council 28 AUG 2008

RECEIVED

OFFICE USE ONLY

Date received: _____
Register Ref: _____
Entered on: _____
Entered by: _____
Fee Received: _____

Kildare County Council
Building Control
RECEIVED
3 SEP 2008

1.

I, the undersigned, hereby give notice/give notice on behalf of the person(s) named below to the above Building Control Authority (in accordance with Part II of the Building Control Regulations) that I/the persons named below* intend to carry out the development as described below. (* Cross out whichever is inappropriate)

Signature: Mir Barry Date: 28.8.08 Tel: 045 899898 Fax: _____
Name of person(s): MIRIAM KEHOE + ULRIC BARRY Email: miriamkehoebarry@hotmail.com
Address: 14 JIGGINSTOWN GREEN, NAAS, CO. KILDARE
Commencement date (of works): 11/9/08 (14 to 28 days notice required)
Fee payable (€): _____ €30 per unit

2a. PROJECT PARTICULARS: (In addition, for Residential Developments, please complete Section 2b below)

Description of proposed development:
2 Storey house, double garage with sheds, EPS effluent treatment plant + assoc. site development.
Planning permission no.: 06-41 Date of grant: 20.2.07 Date of expiry: 19.2.2011
Fire Safety Certificate Number (if applicable): _____
Location of development: MYLERSTOWN CROSSROADS, NAAS, CO. KILDARE

2b. Residential Development Information:

Total number of dwelling units (all phases*): _____ Total no of phases*: _____
Phase for this commencement notice: _____ No. of units for this phase/commencement notice**: _____
Commencement date for this phase: _____ (Proposed) end-date for this phase: _____
• where applicable, i.e. phasing not relevant for single houses. ** include single house figure here also.

3. Builder:

Name: Brian Kehoe Tel: _____ Fax: _____
Address: DONAGHEES LANE, ROSPERDUS Email: _____

4. Building Owner Details: (if different from Section 1 above)

Name: MIRIAM KEHOE + ULRIC BARRY Tel: 045 899898 Fax: _____
Address: 14 JIGGINSTOWN GREEN, NAAS, CO. KILDARE Email: _____

5. Building Designer Details:

Name: D. O'FLYNN ASSOC Tel: 045 433400 Fax: 045 44 0024
Address: LR. EYRE STREET, NEWBIDGE Email: DAMIANOFLYNN@eircom.net
CO. KILDARE

6. Information: Person(s) from whom such plans, documents and any other information, as are necessary to show that the building or works will, if built in accordance with design, comply with the requirements of the Building Regulations, may be obtained.

Name: as s above. Tel: _____ Fax: _____
Address: _____ Email: _____

7. Drainage System Foundations: Person(s) from whom notifications of the pouring of any foundations and/or the covering up of any drainage systems may be obtained

Name: as s above Tel: _____ Fax: _____
Address: _____ Email: _____

APPENDIX V

PHOTOGRAPHS OF "EXISTING ENTRANCE"

NOT YET CLOSED UP





2