

Administrative Officer,  
Planning Department,  
Wicklow County Council,  
County Buildings,  
Whitegates,  
Wicklow Town,  
A67 FW96

Submitted by email to: [RZLT@wicklowcoco.ie](mailto:RZLT@wicklowcoco.ie)

Date: 21<sup>st</sup> December 2022

Reference: PT JN 21120

Dear Sir/Madam,

**RE: RESIDENTIAL ZONED LAND TAX SUBMISSION IN RESPECT OF LANDS AT BULLFORD, KILCOOLE, CO. WICKLOW**

## **1.0 INTRODUCTION**

[REDACTED] has instructed John Spain Associates, 39 Fitzwilliam Place, Dublin 2, to prepare a submission in respect of lands at Bullford, Kilcoole, Co. Wicklow, in relation to the Residential Zoned Land Tax and the current inclusion of certain lands on the map. The details included in this submission, including the accompanying appendices, addresses the requirements of WCC's RZLT Submission template.

This submission is made in accordance with Section 653D (1)(a) of the Finance Act 2021, as follows:

***“653D. (1) A person may, not later than 1 January 2023, make a submission in writing, on a draft map published in accordance with section 653C (2), regarding—***  
***(a) the inclusion in, or exclusion from, the final map of a site, or by sending the submission, together with the person's name and address, to the local authority concerned.”***

As set out herein, this submission seeks that the residential zoned lands at Bullford, Kilcoole, as identified in Figure 2.1, 2.2 and 2.3 below (and Appendix 1 attached), in our client's ownership are removed from the RZLT map, having regard to the specific exclusions provided under Section 653B(iii)(l) which are addressed in Section 5 of this submission.

In accordance with Section 653D (3), *“a map prepared by Ordnance Survey Ireland at a scale at which the site can be accurately identified”* is included in Appendix 1 of this submission. In accordance with Section 653D (4) of the Act and WCC's checklist, Appendix 2 provides details of the land owner of the lands the subject of this submission and attaches a copy of the folio / land registry details confirming Brookhampton Limited's ownership of the subject lands.

Managing Director: John P. Spain BBS MRUP MRICS ASCS MRTPI MIPi  
Executive Directors: Paul Turley BA MRUP Dip Environmental & Planning Law MIPi Rory Kunz BA (MOD) MScERM MAT&CP Dip EIA Mgmt. MIPi  
Stephen Blair BA (Mod) MRUP MIPi MRTPI Blaine Cregan B Eng BSc MSc

Senior Associate Directors: Luke Wymer BA MRUP Dip Plg & Env Law Dip PM Prof Cert Env Mgmt MIPi

Meadhbh Nolan BA MRUP MRTPI Kate Kerrigan BA MSc MRTPI

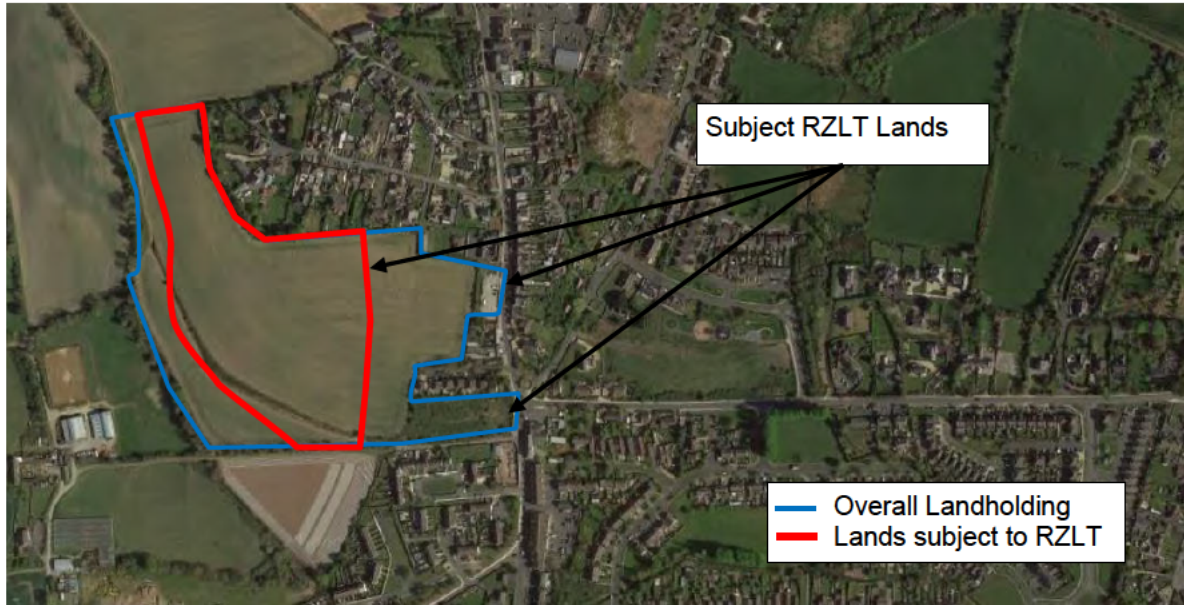
Associate Director: Ian Livingstone MA (Hons) Town & Regional Planning, MSc. Spatial Regeneration. MRTPI

John Spain Associates Ltd. trading as John Spain Associates. Directors: J. Spain, S. Spain.  
Registered in Ireland No. 396306. Registered Office: 39, Fitzwilliam Place, Dublin 2 D02 ND61. VAT No. IE 6416306U

## 2.0 LOCATION OF SUBJECT SITE

The subject lands, identified in Figure 2.1, 2.2 and 2.3 below, relate to the residential zoned portion of our client’s landholding at Bullford, Kilcoole, which are located west of Kilcoole town centre and the existing built-up area, as shown in Figure 2.1. The lands are situated to the west of the Main Street with two sections of frontage onto the Main Street within the centre of the town. The R22 lands the subject of this submission have a site area of c. 4.99 ha and form part of an overall landholding under the ownership of Brookhampton Limited at Bullford, with an area of c. 9.16 ha, as identified in blue in the figures below / Appendix 1.

**Figure 2.1: Aerial photo with [redacted] approximate overall land ownership outlined in blue and approximate extent of lands proposed to be subject to RZLT outlined in red**



Source: Google maps

**Figure 2.2: OS Map with Overall Lands in Red and R22 Zoned Lands identified in Green Hatching (See Appendix 1 for full scale map prepared by PCOT Architects)**

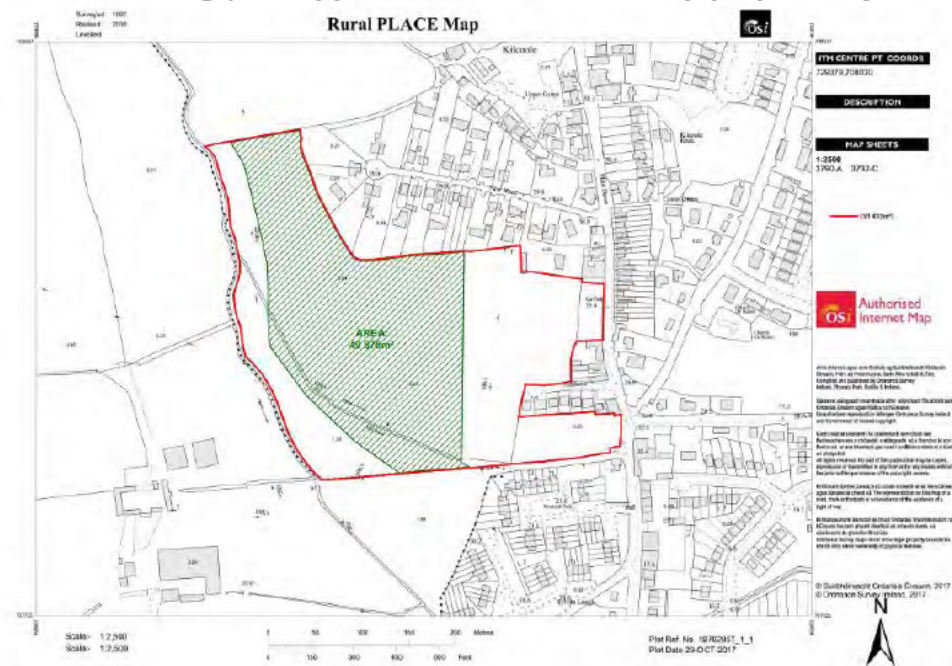
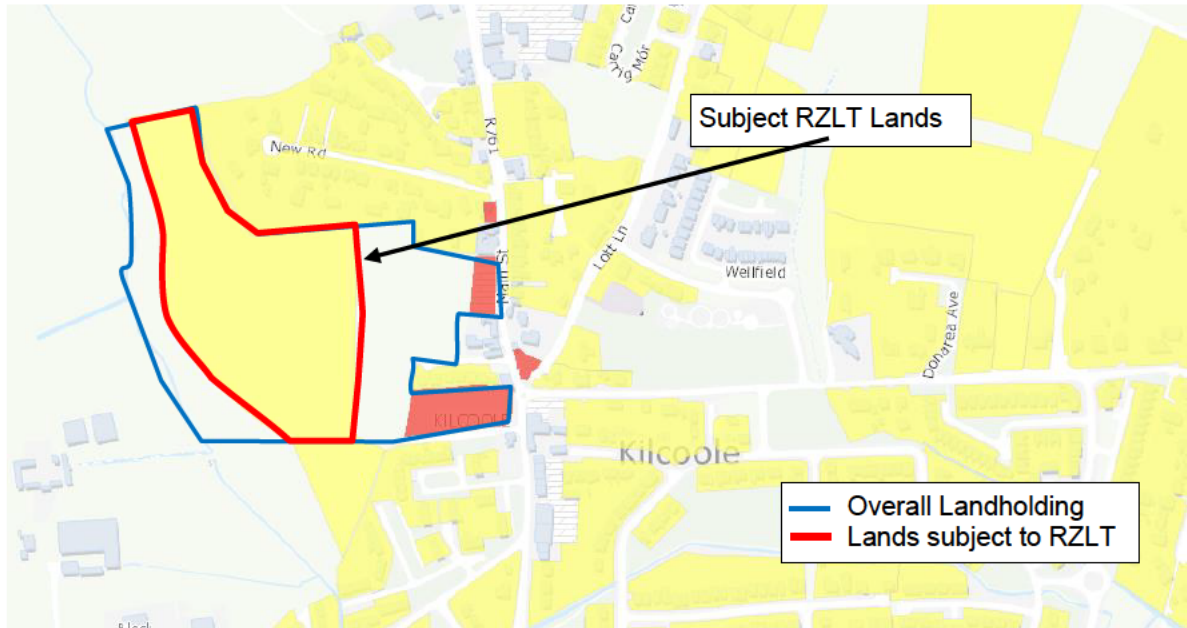


Figure 2.3: RZLT map with [REDACTED] approximate overall land ownership outlined in blue and approximate extent of lands proposed to be subject to RZLT outlined in red



Source: Residential Zoned Land Tax (arcgis.com)

The majority of the overall site is currently in agricultural use. An existing car park is located in the east of the site adjoining Main Street. The site is bounded by agricultural lands to the west and south. Existing residential developments are located along the site's northern and eastern boundaries. The Kilcoole Stream forms the site's western boundary. Site elevation varies, with levels rising from south to north.

Vehicular access to the site is currently achieved via Farm Lane, a laneway off Main Street. The site is served by Dublin Bus route 84 (Blackrock to Newcastle) and is located approximately 1.8 km west of Kilcoole railway station, and 4 km south of Greystones DART station.

### 3.0 RELEVANT RECENT PLANNING HISTORY

#### **Subject Lands**

##### WCC Reg. Ref.: 22/15 & ABP Ref.: - Current Application

A decision is pending from An Bord Pleanála, with the target decision date being the 08/02/23, following a first party appeal against WCC's decision to refuse permission for the development of 56 no. residential units, internal roads, car parking, pedestrian and cycle paths, public open space and all associated site and infrastructural works to facilitate connections to public services, on the southern portion of our client's overall landholding at Bullford, Kicloole, as illustrated in Figure 3.1 below.



**Figure 3.1: Extract of Site Layout Plan, as submitted at CFI stage, for the above application, with the overall masterplan context shown for information purposes**



The Planning Authority’s reason for refusal No. 1 reads as follows:

‘1. Having regard to:

- a) The central location of the site within the town of Kilcoole;
- b) The Town Centre zoning of the eastern portion of the lands;
- c) The low density of residential development proposed, particularly within the Town Centre zoned lands; and
- d) The lack of variety of house types proposed;

*It is considered that the proposed development would provide an insufficient density of development on the site, resulting in the under-utilisation of these centrally located lands, and would fail to provide an appropriate mix of house types in the interests of housing choice and the creation of interesting and attractive settlements. Consequently, the proposed development is not in accordance with the requirements of SPPR4 of the Building Height Guidelines 2018, the Guidelines for Sustainable Residential Development in Urban Areas 2009, the Greystones, Delgany & Kilcoole LAP 2013-2019 and the objectives of the Wicklow County Development Plan 2016-22, could set a precedent for similar unacceptable development and would therefore be contrary to the proper planning and sustainable development of the area.’*

**ABP Ref.: 302552-18- SHD Application**

Planning permission for a Strategic Housing Development was refused by An Bord Pleanála in an Order dated the 14<sup>th</sup> December 2018. The development comprised the construction of 267 number residential units, five number retail units, four number office units, a childcare facility, an innovation hub facility including adjacent civic space, internal roads, car parking,

pedestrian and cycle paths, public open space, and all associated site and infrastructural works to facilitate connection to all public services.

The Board's decision to refuse included 3 no. reasons for refusal, which are summarised below.

- **Refusal Reason no. 1-** related to the lack of certainty in relation to the wastewater network capacity, pumping station capacity and the water storage requirements for the overall development, and the proposal being premature pending the existing deficiencies being addressed.
- **Refusal Reason no. 2-** related to the AA Screening Assessment and the deficiencies in the wastewater system, with the Board not being satisfied that the development would not adversely affect the integrity of Natura 2000 European sites.
- **Refusal Reason no. 3-** related to the provision of residential units on open space zoned land.

#### ABP Ref.: 304348-19- SHD Pre-Application Request

Updated proposals for the overall Bullford site were progressed as far as Stage 2 of the SHD process with An Bord Pleanála under ABP Ref.: 304348-19. However, a Stage 3 SHD application was not subsequently lodged. The Board's Opinion was issued on the 26<sup>th</sup> of June 2019 and includes two items requiring further consideration and twelve specific information items for the proposals to constitute a reasonable basis for an application. The two items requiring further consideration can be summarised as follows:

- **Item No. 1- Infrastructural Constraints-** The Board requested documentation at application stage to clearly address 1) issues of water and wastewater infrastructure constraints in the network serving the proposed development, 2) the timelines involved in addressing the constraints relative to the construction and completion of the proposed development and 3) who will be carrying out any necessary works.
- **Item No. 2- Unit Mix-** The Board requested further consideration/justification of the proposed unit mix, particularly the extent of 3 bed and larger residential units, with regard to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, Urban Design Manual and SPPR4 of the Building Height Guidelines.

#### **Other Relevant Permissions**

##### Wicklow County Council Reg. Ref.: 03/8544

On the 20th June 2003, permission was refused by Wicklow County Council (WCC) for the construction of a 206-unit residential development consisting of 44 no. 3-bed townhouses, 50 no. 2-bed townhouses, 22 no. 4-bed semi-detached houses, 18 no. 3-bed duplex townhouses, 72 no. 2-bed apartments and development works including a portion of a distributor road on site.

WCC's reasons for refusing application Reg. Ref.: 03/8544 related to (a) the dangerous and inadequate junction with Main Street proposed, (b) no traffic impact assessment, (c) inadequate surface water drainage, (d) insufficient public and private open space, (e) inadequate variety of layout, pedestrian and cycle links and poor integration with existing development, (f) no provision for childcare facilities and (g) no Part V proposals.

Wicklow County Council Reg. Ref.: 98/8364

On the 29th May 1998, permission was refused by WCC for the construction of 6 no. residential and 2 no. retail units in a 2-storey block with attic conversion, car parking and associated works. The scheme was to be located in the northeast corner of the subject site, facing onto Main Street. WCC's reasons for refusal related to (a) prematurity pending upgraded sewerage facilities, (b) prematurity pending the determination by WCC of a road layout for the area, as the site was considered the only feasible route for a road to serve town centre zoned lands to the west, and (c) building height out of keeping with existing development.

## Summary

The planning history set out above demonstrates the challenges our client has faced in trying to secure permission for development on their overall landholding at Bullford, having regard to concerns raised by the Planning Authority / ABP on the infrastructural capacity in the area to cater for additional development / requirement for infrastructure on third party lands, and therefore, and as set out below, we request the R22 zoned lands within our client's ownership to be removed from the Draft RZLT maps, i.e. until such time as the Planning Authority / infrastructure providers are willing to grant permission for development on the subject lands.

## 4.0 PLANNING CONTEXT

### ***Greystones-Delgany and Kilcoole Local Area Plan 2013-2019***

The Greystones-Delgany and Kilcoole Local Area Plan 2013-2019 (LAP) sets out the overall development strategy for the area within which the subject lands are located.

### **Land Use Zoning and Map Based Objectives**

The lands the subject of this RZLT submission is zoned as follows:

- **R22: Residential** – *'To provide for the development of sustainable residential communities up to a maximum density of 22 units per hectare and to preserve and protect residential amenity.'*

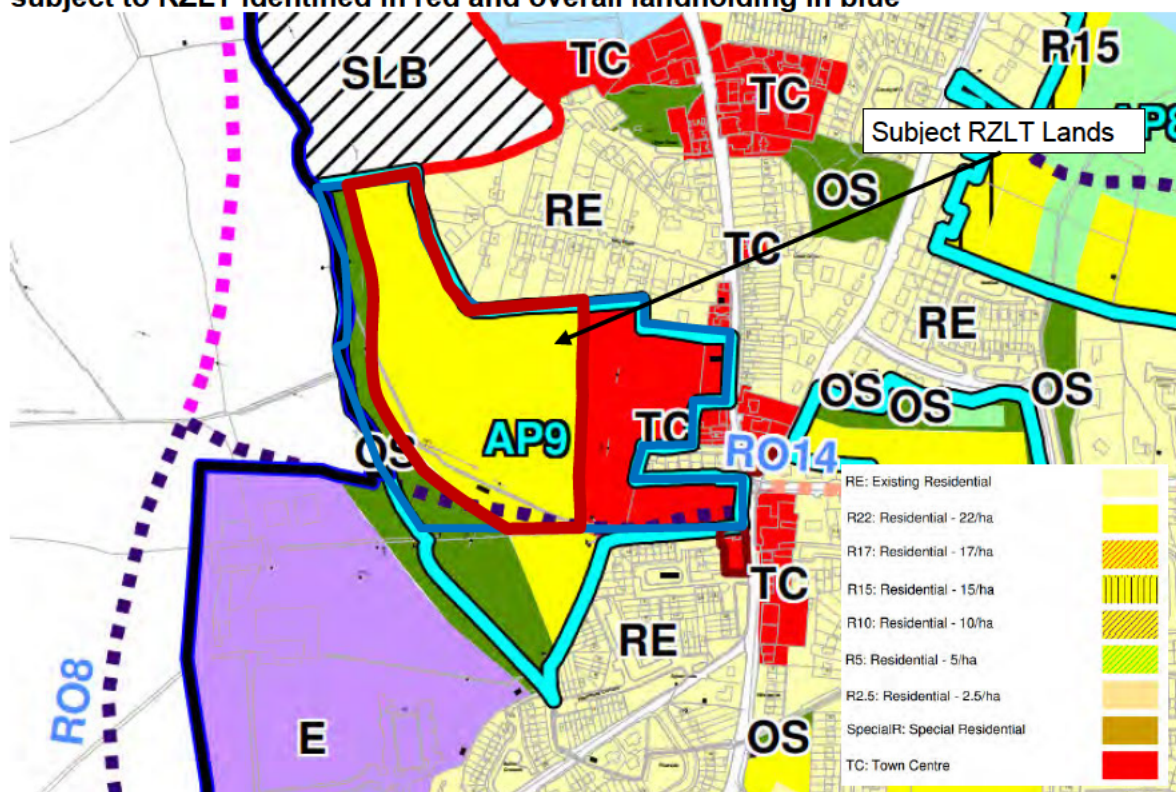
The remainder of our client's lands at Bullford are zoned as follows:

- **TC: Town Centre** – *'To protect, provide for, and improve the development of a mix of town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation. To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and promote urban design concepts and linkages between town centre activity areas.'*

The relevant extracts from the LAP in relation to the residential lands are as included at Figure 4.1.



Figure 4.1: Land Use Zoning Map (extract) with location of lands proposed to be subject to RZLT identified in red and overall landholding in blue



As illustrated in Figure 4.1 above, the subject lands are subject to a map based objective to deliver an east-west road (navy dashed line) to connect to the Western Distributor Road, identified as RO8 on the land use zoning map. The southern portion of this road objective, which is required to be delivered to allow the remaining 50% of development to be delivered on the AP9 lands, extends from Main Street, through our client's lands and then westwards and southwards through third party lands (as identified by the navy dashed line in Figure 4.1 and 4.2).

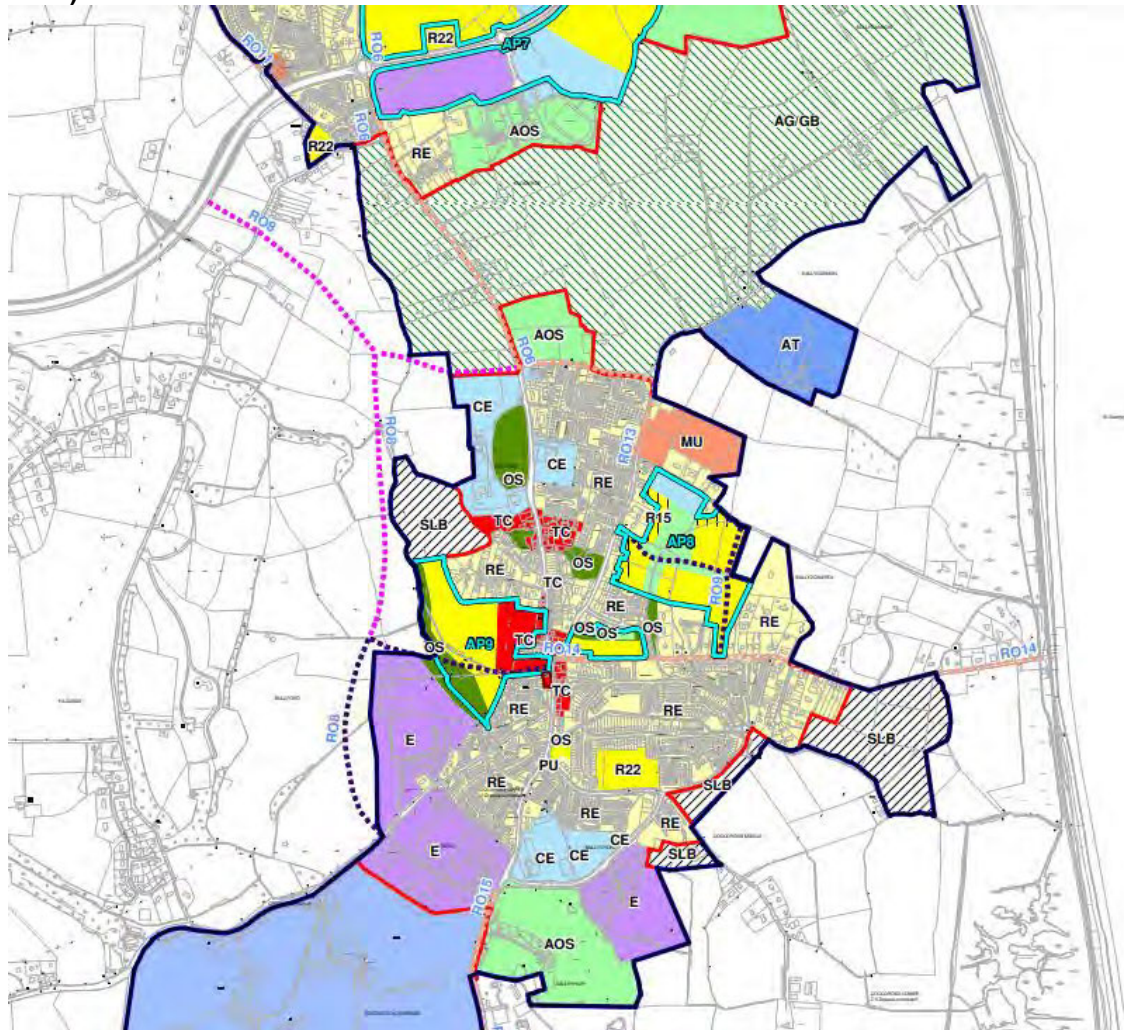
Objective RO8 of the LAP states the following:

*'To provide for the development of a Western Distributor Road to bypass Kilcoole. The northern section of the route shall be developed in the long term, with linkage to the R774. It is a long term objective to develop an additional link between R761 intersection with Lott Lane and the Western Distributor Road. To provide for the development of a local access road in conjunction with the development of zoned lands at AP9: Bullford Action Plan and to provide for the development of a through link road from Main Street to the Western Distributor Road. This section of the route is necessary for the opening up of zoned lands (AP9 and E lands at Bullford Farm). Only 50% of development on these lands shall be permitted before the southern part of this road is completed.'*

In turn, Section 10.10 of the LAP relates to AP9: BULLFORD ACTION PLAN, which incorporates the R22 zoned lands the subject of this submission, in addition to adjoining lands, and includes the following criteria for development on such lands:

- *Vehicular access shall be provided from the proposed western distributor road and the east-west linkage to Main Street. Only 50% of development shall be completed before the entire link between Main Street and the Newtownmountkennedy Road has been completed*

**Figure 4.2: Extract from Greystones, Delgany, Kilcoole LAP Zoning Map, illustrating the extent of the Western Distributor Road (blue and navy dashed line identified as RO8)**



We note in assessing previous applications for residential development on the overall landholding, under SHD ABP Ref.: 302552-18 and SHD Pre-App Ref.: 304348-19, that the Planning Authority have stated that the proposed development would be premature as it would result in more than 50% of the development within the Action Plan lands being completed before the link between Main Street and the Newtownmountkennedy Road is completed (indicated as the navy dashed line in Figure 4.2 above).

## 5.0 BASIS FOR REMOVAL FROM RZLT MAP

Section 653B sets out criteria for inclusion on the RZLT maps as follows:

**“653B.** *In this Part, a reference to land which satisfies the relevant criteria is a reference to land that–*

- (a) *is included in a development plan, in accordance with section 10(2)(a) of the Act of 2000, or a local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned–*
  - (i) *solely or primarily for residential use”*



The subject lands are zoned R22: Residential, which has an objective to: *‘To provide for the development of sustainable residential communities up to a maximum density of 22 units per hectare and to preserve and protect residential amenity.’*

However, Section 653B(b) states further criteria which a residential or mixed use zoned site must satisfy for its inclusion in the RZLT map, as follows:

*“(b) it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development. and  
(c) it is reasonable to consider is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains.”*

The S.28 RZLT Guidelines provide further guidance to Planning Authorities / landowners in respect to the above aspects of the legislation and state the following in Section 4.1.1:

*“Road access- In considering road access, the Planning Authority must take into account the ease of access to existing road infrastructure by the identified lands. Construction of significant sections of new road access across other landholdings, should be discounted with the exception of Local Authority owned lands, where use and access are a matter for the authority.”*

In addition, on page 27 the Guidelines include the following advice:

*“Most of the roads or footpaths servicing a development are likely to be in the control of the Local Authority. In certain instances, phasing of particular settlements via an SDZ, LAP or non-statutory land use plan may require significant road or public transport infrastructure to be in place prior to development. Where such plans allow for a certain quantum of residential development prior to such projects being permitted or constructed, all of the land which may be able to access the infrastructure, or if specifically identified in the plan, the relevant phased area of land, should be considered in scope. Where development takes place and capacity no longer remains, then the annual review of the map should reflect this and lands may be removed from scope.”*

As set out in Section 4 above, the R22 zoned lands identified by Wicklow County Council on the Draft RZLT maps relate to the Bullford AP9 lands. Objective R08 of the LAP, which provides for the delivery of the Western Distributor Road to bypass Kilcoole, restricts development of the zoned lands identified as AP9 and E lands at Bullford Farm to 50% before the southern part of this road is completed, stating the following:

*“The northern section of the route shall be developed in the long term, with linkage to the R774. It is a long term objective to develop an additional link between R761 intersection with Lott Lane and the Western Distributor Road. To provide for the development of a local access road in conjunction with the development of zoned lands at AP9: Bullford Action Plan and to provide for the development of a through link road from Main Street to the Western Distributor Road. This section of the route is necessary for the opening up of zoned lands (AP9 and E lands at Bullford Farm). **Only 50% of development on these lands shall be permitted before the southern part of this road is completed.**” (Emphasis added)*

In assessing the previous SHD proposals for the overall landholding, including the R22 zoned lands, the Planning Authority noted significant concerns with the proposed phasing of development stating that (1) it failed to demonstrate how these lands are to be developed in accordance with the criteria set out for these lands in the Greystones, Delgany and

Kilcoole Local area Plan (AP9 Bullford Action Plan), (2) that it fail demonstrate how the proposed residential development is to be managed and phased appropriately to ensure that infrastructure and in particular community infrastructure, is provided to match the needs of the new residents, and (3) it failed to adequately demonstrate that the development, is to be carried out in accordance with the sequential approach which would be contrary to Objective HD7 of the County Development Plan and to proper planning and sustainable development.

In the previous SHD application / pre-application request, and the current Section 34 application for 56 no. houses, the Planning Authority, in the context of the LAP road objective requirements, have raised concerns in respect to the capacity of the proposed junctions off the Main Street to cater for the proposed residential and mixed use development on the subject lands, thus, indicating that the Planning Authority do not consider that the necessary road access / infrastructure is in place to service residential development on the R22 zoned lands at Bullford, Kilcoole, and that improvements are required which are beyond the applicant's control.

Therefore, based on the Planning Authority's assessment of previous applications for development on our client's landholding, it is apparent that the R22 zoned lands the subject of this submission is not considered by the Planning Authority to be provided with the necessary access, or connected to the necessary public infrastructure and facilities, (i.e. roads and footpaths) necessary for dwellings to be developed.

Thus, given the LAP requirements in respect to the AP9 lands, which state that only 50% of development can be delivered before a section of road infrastructure from Main Street, through the subject lands and westwards towards Newtownmountkennedy and the planned Western Distributor Road, and the interpretation by the Planning Authority to date, it is submitted that this results in the R22 zoned lands the subject of this submission (which equate to c. 50% of our client's developable area within AP9) being outside the scope of the RZLT as to deliver the complete southern part of this road is outside the control of the applicant and the Planning Authority.

In addition, it has been evident from discussions to date with the Planning Authority on the overall landholding that there are no proposals in place to deliver the Western Distributor Road, or the southern section to the west of our client's landholding to the Newtownmountkennedy Road. Thus, in the context of the Guidelines and legislation, and given the Planning Authority's position based on RO8 and AP9 requirements in respect to the construction of significant sections of new road access across other landholdings, which the applicant does not have any control over, the subject R22 lands at Bullford should be excluded from the RZLT maps.

The above assessment is consistent with the guidance provided in Section 4.1.1 Considerations, subsection (ii) of the Section 28 RZLT Guidelines, which states the following:

*“While the aim of the tax is to activate land which can be developed for housing, this should not result in land being considered in scope for the tax where significant works are required to enable connection to services which are outside of the control of the applicant or the relevant planning authority to enable. In particular, where planning permissions have been granted subject to requirements for significant infrastructure to be delivered by infrastructure providers, this land should not be considered to be ‘in-scope’.”*

Having regard to the above, we respectfully request that the lands, as outlined in red on the RZLT map presented at Figure 2.3 and in Appendix 1, be excluded from the RZLT mapping until this objective has been removed from the LAP, or the southern section of the Western

Distributor Road has been delivered, which in turn our client can connect into through the delivery of residential development and associated infrastructure on the southern portion of their landholding.

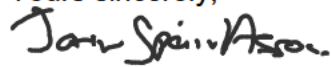
## 6.0 SUMMARY AND CONCLUSIONS

[REDACTED] respectfully request that the Planning Authority takes into account the content of this submission, and for the reasons set out in Section 5 above, we respectfully request that the draft RZLT mapping for Kilcoole is amended to exclude the R22 zoned lands at Bullford, which are the subject of this submission.

We would be grateful if you could confirm receipt of this submission.

If you require any further information, please do not hesitate to contact us.

Yours sincerely,



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**John Spain**

*Managing Director John Spain Associates Ltd.*



**APPENDIX 1 – LAND OWNERSHIP MAP**



**APPENDIX 2- LAND OWNER DETAILS & FOLIO DOCUMENTATION**

<b>Town</b>	Kilcoole
<b>Landowner name</b>	[REDACTED]
<b>Landowner address</b>	[REDACTED]
<b>Landowner phone</b>	[REDACTED]
<b>Landowner email</b>	<del>sean@eayceconstruction.com</del>
<b>Address of site</b>	Bullford, Kilcoole, Co. Wicklow. The site is located to the west of Main Street, Kilcoole, Co. Wicklow.
<b>Site description</b>	See relevant sections above
<b>Site Area Subject of this RZLT Submission</b>	4.99 ha





**The Property Registration Authority**  
**An tÚdarás Clárúcháin Maoine**

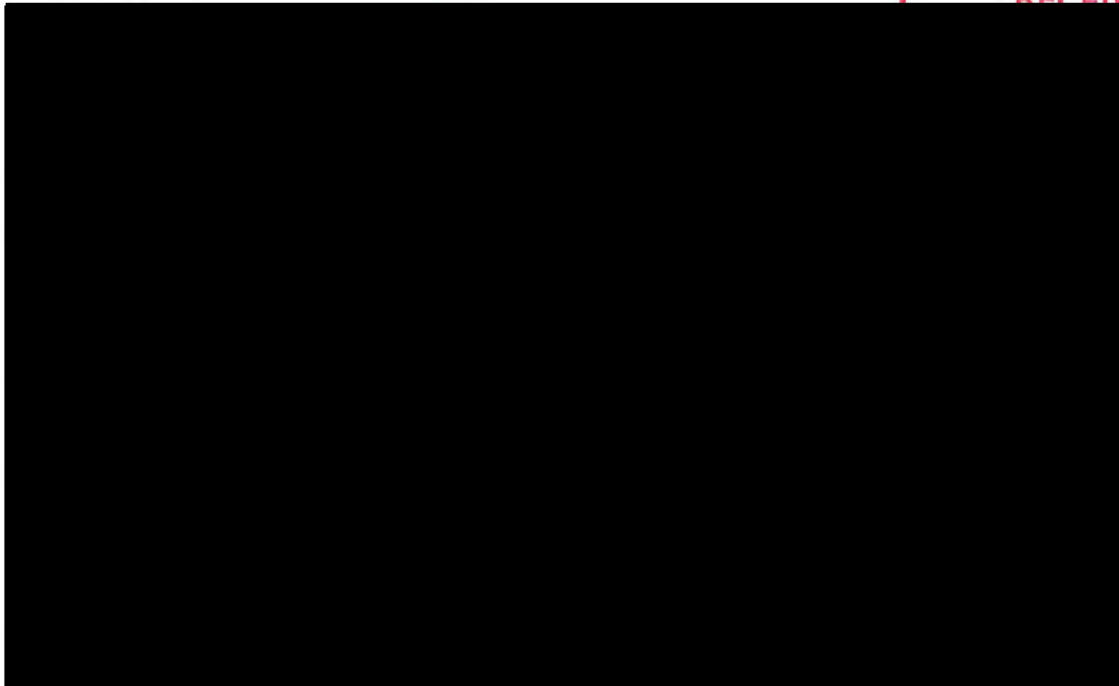
**Land Registry Sealed and Certified Copy Folio (& Filed Plan)**

PEARTS SOLICITORS  
177 LOWER RATHMINES ROAD  
RATHMINES  
DUBLIN 6

PEARTS SOLICITORS

21 AUG 2019

RECEIVED



**Schedule**



**Notes:**

1. Filed plans should be read in conjunction with the Register. The description of the land in the Register or on the filed plan is not conclusive as to the boundaries or extent of the land (see Section 85 of the Registration of Title Act 1964, as substituted by Section 62 of the Registration of Deeds and Title Act, 2006).
2. Filed plans greater than A3 in size may be provided as separate A3 tiles with an overlap and print gutter. When aligning the tiled sheets, customers are advised to use the underlying topographical detail.
3. On receipt of this record, please check to verify that all the details contained therein are correct. If this is not the case, please return the document to the Property Registration Authority immediately.

Folio Number: WW42054F  
Date Printed: 16/08/2019

Application Number: D2019LR000938H  
Page 1 of 6

## Land Registry

County Wicklow

Folio 42054F

## 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) 7C on the Registry Map, situate in the Townland of KILCOOLE, in the Barony of NEWCASTLE, in the Electoral Division of KILCOOLE.</p> <p>The Registration does not extend to the mines and minerals</p>	From Folio WW3643
2	<p>The property shown coloured Red as plan(s) DM8RB on the Registry Map, situate in the Townland of KILCOOLE, in the Barony of NEWCASTLE, in the Electoral Division of KILCOOLE.</p> <p>The Registration does not extend to the mines and minerals</p>	Instrument D2018LR170810D
3	<p>The property shown coloured Red as plan(s) DM8QV on the Registry Map, situate in the Townland of KILCOOLE, in the Barony of NEWCASTLE, in the Electoral Division of KILCOOLE.</p> <p>The Registration does not extend to the mines and minerals</p>	Instrument D2018LR170810D

Land Cert Issued: No

Page 1 of 4

Collection No.:

Date Printed: 16/08/2019

Page 2 of 6

# Land Registry

County Wicklow

Folio 42054F

## Part 1(B) - Property

### Parts Transferred

No.	Prop No:	Instrument:	Date:	Area (Hectares):	Plan:	Folio No:



Land Registry

County Wicklow

Folio 42054F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
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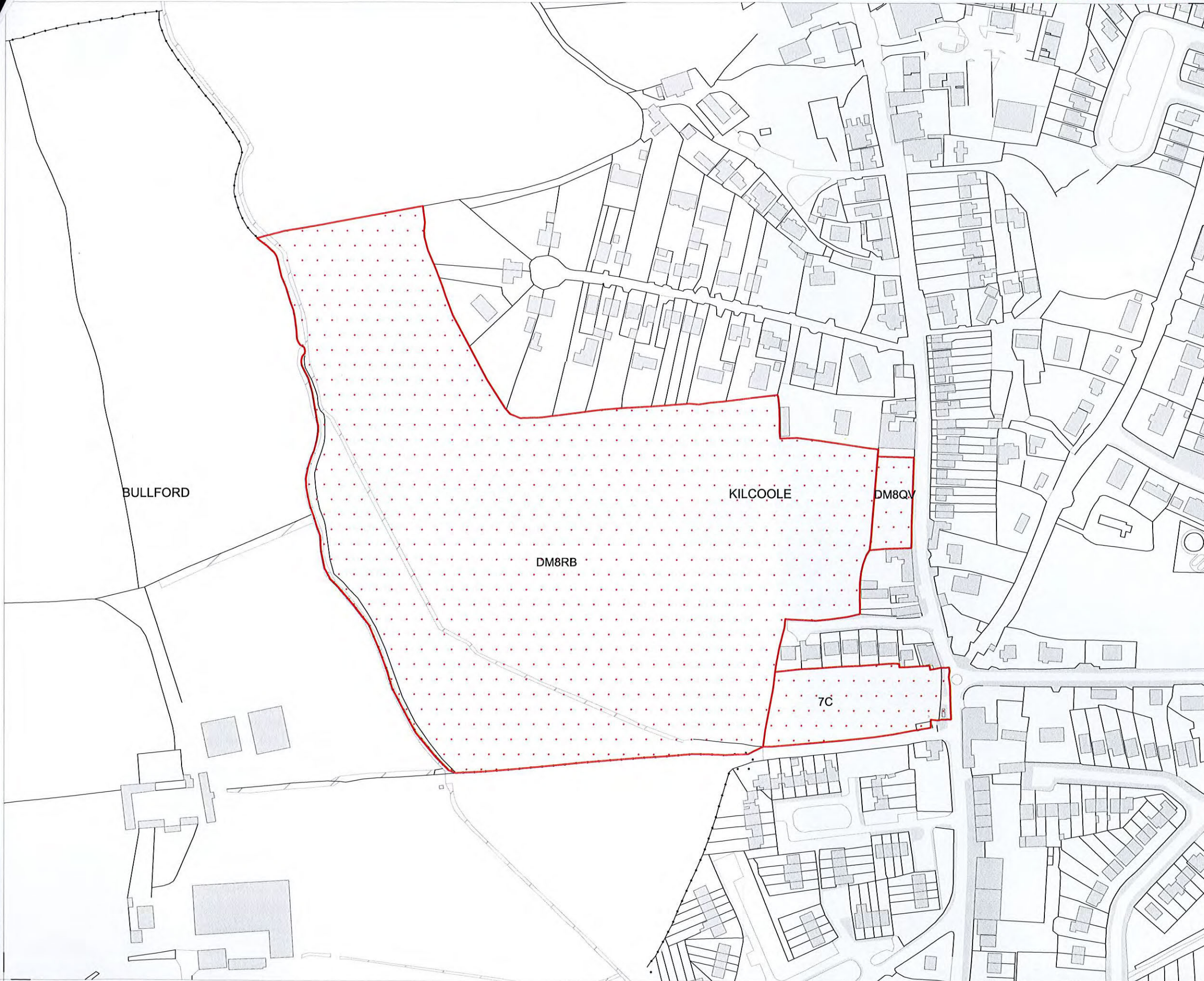
1

2

S



729770 mE, 708380 mN



The Property  
 Registration Authority  
 An tÚdarás  
 Clárúcháin Maoine



Folio: WW42054F

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.prai.ie](http://www.prai.ie).

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

- (centre-line of parcel(s) edged)
  - Freehold
  - Leasehold
  - SubLeasehold
- 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](http://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.