

Could you please acknowledge
receipt of appeal.

Joe Friel

Killult

Ialcanagh

Letterkenny

Co. Donegal

F92 YV61

60 Raibh mile maith agat.

Go. C.D.

**NOTICE OF APPEAL UNDER SECTION 40(1) OF
FISHERIES (AMENDMENT) ACT 1997 (NO. 23)**



Appeal Form

**Please note that this form will only be accepted by REGISTERED POST
or handed in to the ALAB offices**

Name of Appellant (block letters)	JOE FRIEL		
Address of Appellant	Killult, Falcarragh, Letterkenny, Co.Donegal		
Phone:		Email:	
Mobile:		Fax:	

Fees

Fees must be received by the closing date for receipt of appeals	Amount	Tick
Appeal by licence applicant	€380.92	
Appeal by any other individual or organisation	€152.37	x
Request for an Oral Hearing * (fee payable in addition to appeal fee)	€76.18	x
* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.		
(Cheques Payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))		
Electronic Funds Transfer Details	IBAN: IE89AIBK93104704051067	BIC: AIBKIE2D

Subject Matter of the Appeal

Determination by the Minister for Agriculture, Food and Marine to grant Aquaculture and Foreshore Licences for the cultivation of Oysters using bags and trestles in Ballyness Bay, Killult, Falcarragh, Letterkenny.



Site Reference Number:- (as allocated by the Department of Agriculture, Food and the Marine)	T 12 / 516 A
Appellant's particular interest in the outcome of the appeal:	
<p>I, Joe Friel am the owner occupier of a dwelling house and land in Killult with lands immediately adjoining the foreshore at Ballyness bay or in very close proximity thereto, Folio DL 36827 which includes a right of way from my land to the foreshore which we use on a regular basis. Fig. 1. (a) Attached.</p> <ul style="list-style-type: none"> - Health and Safety concerns - Detrimental to the Corncrake - Environmental - Conservational - Noise Disruption - My own Families Safety. 	
Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):	
<p>The Minister exercised his discretion to grant the said licence in an arbitrary and autocratic manner without proper enquiry into the impacts of the proposed aquaculture in the local area, having regard to the massive scale of not only this proposed application but also the cumulative effect of the several other licences granted by the minister on the same general area of foreshore in December 2019.</p> <p>The Minister wrongly stated that the impact of the visual amenity would be acceptable. In fact, the impact on visual amenity of this development in conjunction with other adjoining developments will be unacceptable in an environment which is currently in a pristine condition and a jewel in the crown of the Wild Atlantic Way, which can be seen from the N56 Fig. 1. (b) attached.</p> <p>The Minister failed to take account of the consequence of the immediate devaluation of lands and houses in the neighbourhood and loss of potential tourist revenue to the local economy.</p> <p>No consideration appears to have been given to the lack of proper facilities for packaging or storing shellfish prior to transportation on an industrial scale and the Minister improperly neglected to impose conditions</p>	

regulating the following matters as provided for in the fisheries (Amendment) Act, 1997.

Amount of feed inputs, Operational practices, including the following of sites, Reporting of incidences of disease and the presence of parasites, The disposal of dead fish/shellfish.

Most of all there was not an appropriate environmental, water quality and biological monitoring put in place.

Proprietorial rights

-This plot is virtually on my doorstep and immediately adjacent to my lands.

-My access to the shore using a long established right of way from my land to the shore will be completely blocked by trestles Fig. 1. (C), which I have been instructed is totally illegal, also the proposed aquaculture will interfere with the longstanding tradition of taking seaweed from the shore to fertilise our land which has been enjoyed by us since time immemorial and therefore if this licence is granted and not overturned then I will be seeking a court injunction against the licence holder.

Another concern is the Health and Safety worries for my family, this is an area that we have used for generations, swimming, kayaking, fishing and nature watching, this is going to be fouled by deposition and sediment from oyster waste. The very real health concerns associated with layers of fouling from a commercial oyster production plant covering and seeping into the substance around the trestle area. Chemicals and various other waste products have the potential to cause serious sickness if picked up by the children and adults in the vicinity of this site. This site is placed in a cove off the centre of the bay. The scouring effects of the tide etc. will be minimal resulting in a steady build up of any waste coming from the oyster site. The odour generated by the decomposition of oyster waste into ammonium at the site, especially in warm weather. The physical danger to the children and indeed adults from the sharp trestles, broken trestles and associated debris, i.e. dead oyster shells, bag ties and other rubbish that are commonplace around such sites. Fig. 1. (d) shows some of the waste debris that has come from across the bay from the illegally operated oyster farm which includes oyster bags and ties among other rubbish washed up on the shore.

The noise disruption to the family and wildlife in the area that was always a quiet haven for a wide variety of species. As you know the oyster farming is tidal therefore, they will be working with there machines at night as well as during the day. This will not only make things difficult for us as we have some very young children but also for the nocturnal animals.

The destruction of all native flora and fauna by the construction of an access road along the shoreline to accommodate this site. That shoreline is a daily feeding area for curlew, oystercatchers, gulls, ducks, otters and directly across from our access is a landing spot for seals. The destruction of a quiet corner of an S.A.C. and SPA site for private commercial gain is in contravention of the letter and spirit of the EU Habitats and Birds Directive. The proposed access road runs directly along an S.P.A. protected site that was in use by nesting corncrakes in the 2019 season. Oyster production and traffic will undoubtedly scare away and disrupt any chance of protecting that important corncrake breeding site... contrary to the EU Directives and Natura 2000.

We consume wild mussels from the bay below our land on a regular basis, as studies have shown the population of wild mussels will be decimated with the introduction of oysters at this site as they both feed on the same phytoplankton and any mussels that do survive potentially could have the diseases that come hand in hand with oyster farms.

On our original maps Folio DL 36827 gives us fishing and hunting rights. This access and rights will be completely blocked if this is not overturned. The applicant in question has over 20 acres granted to him in Ballyness bay and this is just pure greed. This is a small one in comparison to the rest of his applications. His farm will not even create any employment but could be a factor for people losing jobs in the tourism sector locally, as people come from far and wide to see this beautiful unspoilt bay.

We are in an S.A.C. here and work closely with the department and the National Parks and Wildlife Service in the conservation of the Corncrake. We farm in a Corncrake friendly manner and over the last few years we have had a Corncrake on our lands and indeed surrounding lands. Studies have shown that the Corncrake is a shy bird by nature and doesn't like human interference. This said, the oyster farm by its own nature is tidal therefore there will be people and machinery working day and night in close proximity to where the Corncrake was found to be nesting as shown in Fig. 2 (a). Studies have shown according to Nagues et al farming of oysters has been detrimental to grassland nearby. As I am sure you are aware the corncrake likes tall grass/nettles to use for cover and protection. The Corncrake has been recorded less than 50m from the proposed oyster farm and I'm sure this could affect the good work that is already being carried out. The access road to site T12/516A runs along the foreshore side by side with a known Corncrake nesting area. The Corncrake is a shy and elusive bird and will certainly be displaced and banished from the area by the noise and traffic to this site. This flies in the face of recent announcement of extra money being provided by the Department of Minister Josepha Madigan in an effort to preserve and enhance Corncrake habitat in SPA areas. The access roads shown on the map Fig. 2 (b) contravene all the guidelines in the EU Habitats Directives/ Birds Directive/ Natura 2000 sites and SPA guidelines.

Otters forage from the pier in Ballyness to the pier in Killult. The access roads to the Killult sites runs for approximately 800metres along the foreshore. This divides the otter feeding area in two. The roads going through their foraging area will destroy that area as a food source for otters.

The Appropriate Assessment did not supply this information to the minister. This lack of relevant information did not enable him to make a balanced judgement on the licensing of this site.

Environmental health... Physical processes and manmade structures i.e. the trestles. Oyster cultivation on trestles significantly reduces the strength of tidal currents which in turn limits the dispersal of pseudo faeces and faeces in the water column and thus increase the natural sedimentation process by several orders of magnitude, which is detrimental to existing aquaculture and promote disease. Biological... Again, studies have shown changes to the seabed caused by the secretion of oyster forming ammonium converting eventually to nitrogen gas. Which in turn increase the sediment beneath the oyster trestles which consist of both organic matter / faeces and other contaminants which my children would have to work through to get passed the trestles. This is a serious Health and Safety issue. The ecological interaction between organisms, viruses, bacterial infections and infectious diseases are a well-documented consequence of this type of oyster and oyster farming.

Pacific oysters and the invasive parasitic *Mytilicola orientalis* go hand in hand. Diseases such as the Herpes virus, Flat worm and the Mud worm which infects oyster larvae and spat. These types of oysters are very invasive in rocky habitats and as you can see from the photos attached this site is exactly that and this is the type of oyster that they are planning on using. Not to mention the type of manmade pesticides that are commonly used in this industry.

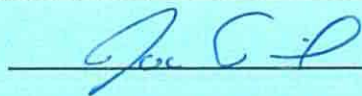
The adverse effects of pest and disease introduction and spread, can have profound and irreversible consequences. Surely this would be criminal to introduce this to an area of such beauty and environmental importance. The Health and Safety of my family and I are huge. If any one of us were to swallow any of the water while kayaking or swimming, it could prove to be extremely dangerous, not to mention the odour generated by the decomposition of oyster waste into ammonium at the site, especially in warm weather and prevailing winds. My house, my home would surely be affected.

I am appealing to you on these grounds to overturn this decision to grant the application here in this plot. In fact, as a point of law this should never have been granted as I said it is blocking our existing access which has been there for generations. Also, on the applicant's application, Question (xviii) Are there known sources of pollution in the vicinity e.g. Sewage outfall? The applicant said no! This is totally untrue. Again, this has been in the news and well documented recently that the sewerage in the area is untreated and there are plans scheduled to have a new sewerage system scheme put in place, but this is something that has been looked for for some time. I trust you take this application to appeal on its merits and rethink the allocation of the licence.

Kind regards,

Joe Friel

Signed by appellant:



Date:

23.12.19

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or handed in to the ALAB offices**

Fees must be received by the closing date for receipt of appeals

This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

DATA PROTECTION – the data collected for this purpose will be held by ALAB only as long as there is a business need to do so and may include publication on the ALAB website

Extracts from Act

Please forward completed form to: Aquaculture Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co. Laois. Tel: (057) 8631912 Email: info@alab.ie

40.—(1) A person aggrieved by a decision of the Minister on an application for an aquaculture licence or by the revocation or amendment of an aquaculture licence may, before the expiration of a period of one month beginning on the date of publication in accordance with this Act of that decision, or the notification to the person of the revocation or amendment, appeal to the Board against the decision, revocation or amendment, by serving on the Board a notice of appeal.

(2) A notice of appeal shall be served—

(a) by sending it by **registered post** to the Board,

(b) **by leaving it at the office of the Board**, during normal office hours, with a person who is apparently an employee of the Board, or

(c) by such other means as may be prescribed.

(3) The Board shall not consider an appeal notice of which is received by it later than the expiration of the period referred to in subsection (1)

41.—(1) For an appeal under *section 40* to be valid, the notice of appeal shall—

(a) be in writing,

(b) state the name and address of the appellant,

(c) state the subject matter of the appeal,

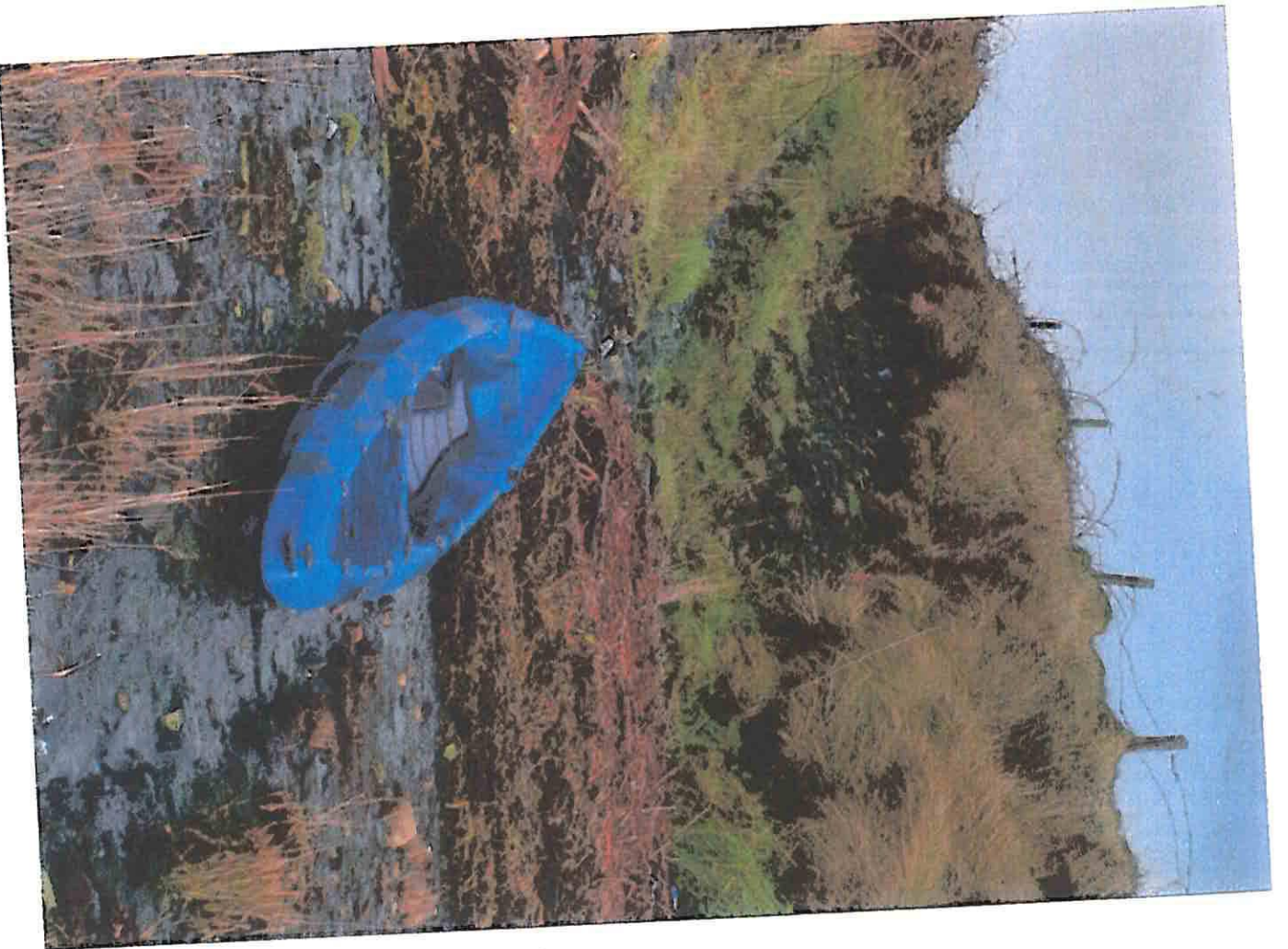
(d) state the appellant's particular interest in the outcome of the appeal,

(e) state in full the grounds of the appeal and the reasons, considerations and arguments on which they are based, and

(f) **be accompanied by such fee**, if any, as may be payable in respect of such an appeal in accordance with regulations under *section 63*, and

shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.

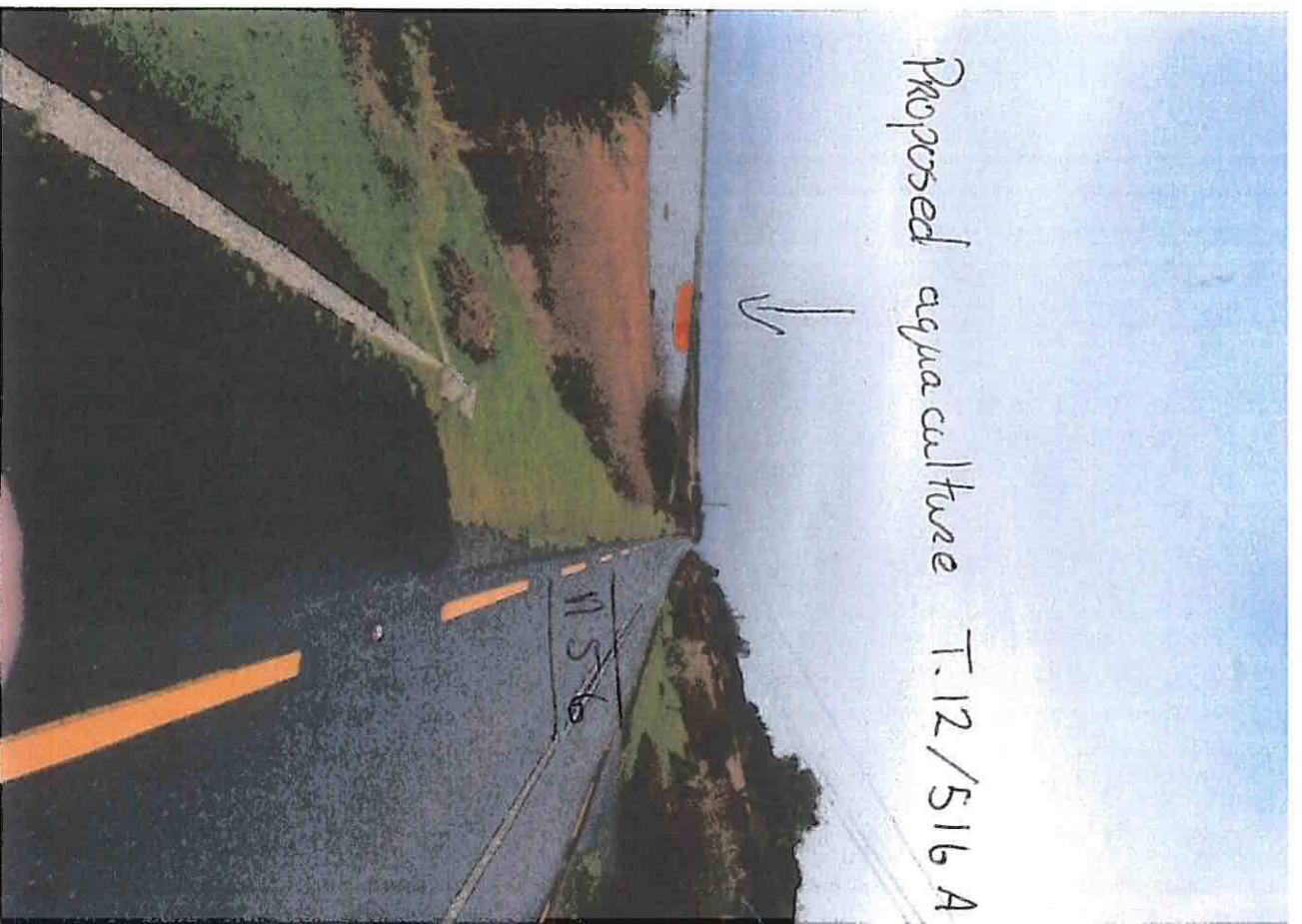
is. I (a)
right of way from my land to the shore
which we as a family use on a regular
basis.



is 1. (b)

12 / 516 A


proposed aquaculture farm which is
clearly visible from the main Road
156.



15.1(c)

T 12 / 516 A

proposed agriculture farm

haded in 

My right of way access

haded in 

This clearly shows that my access
is completely blocked on both sides

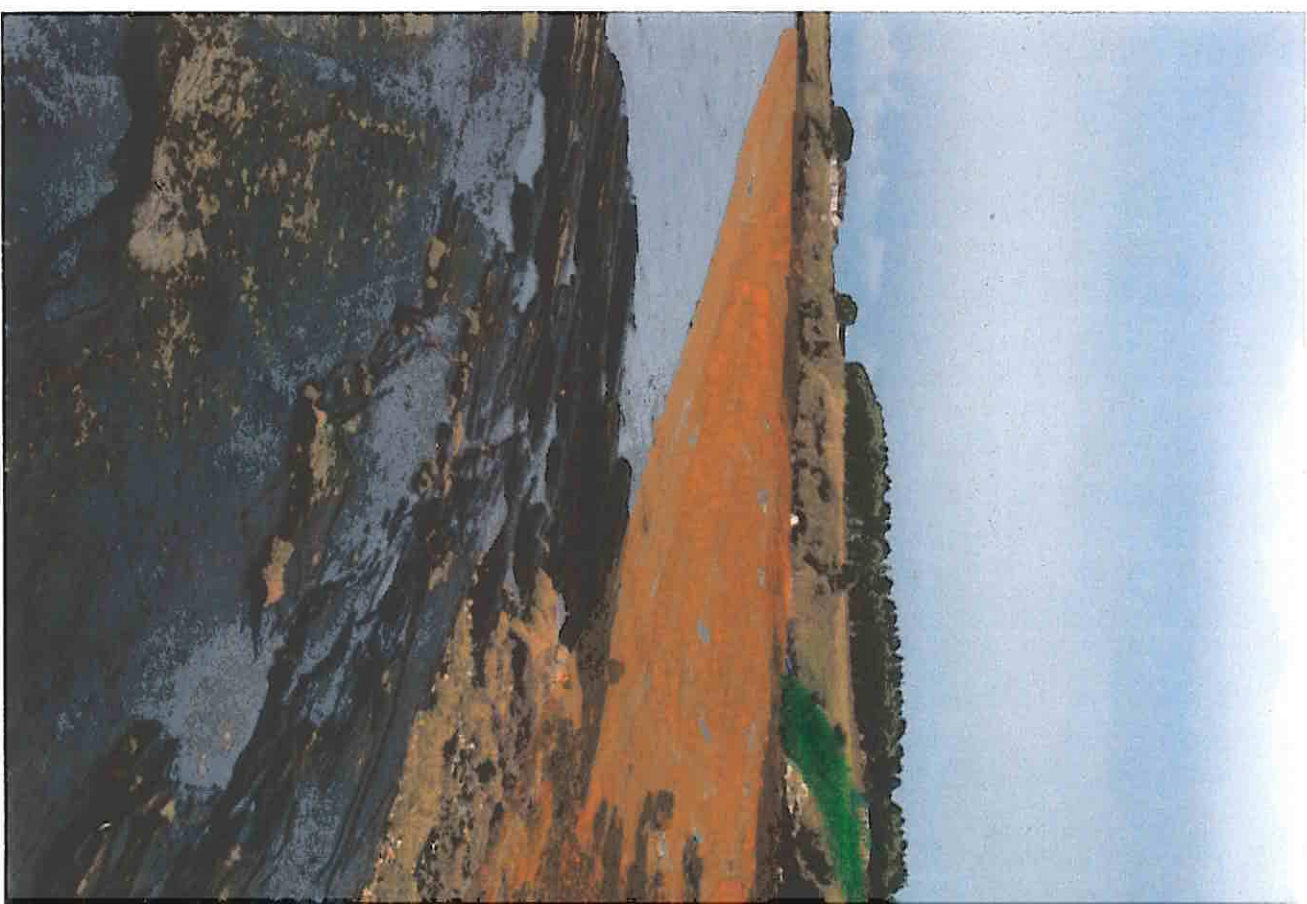
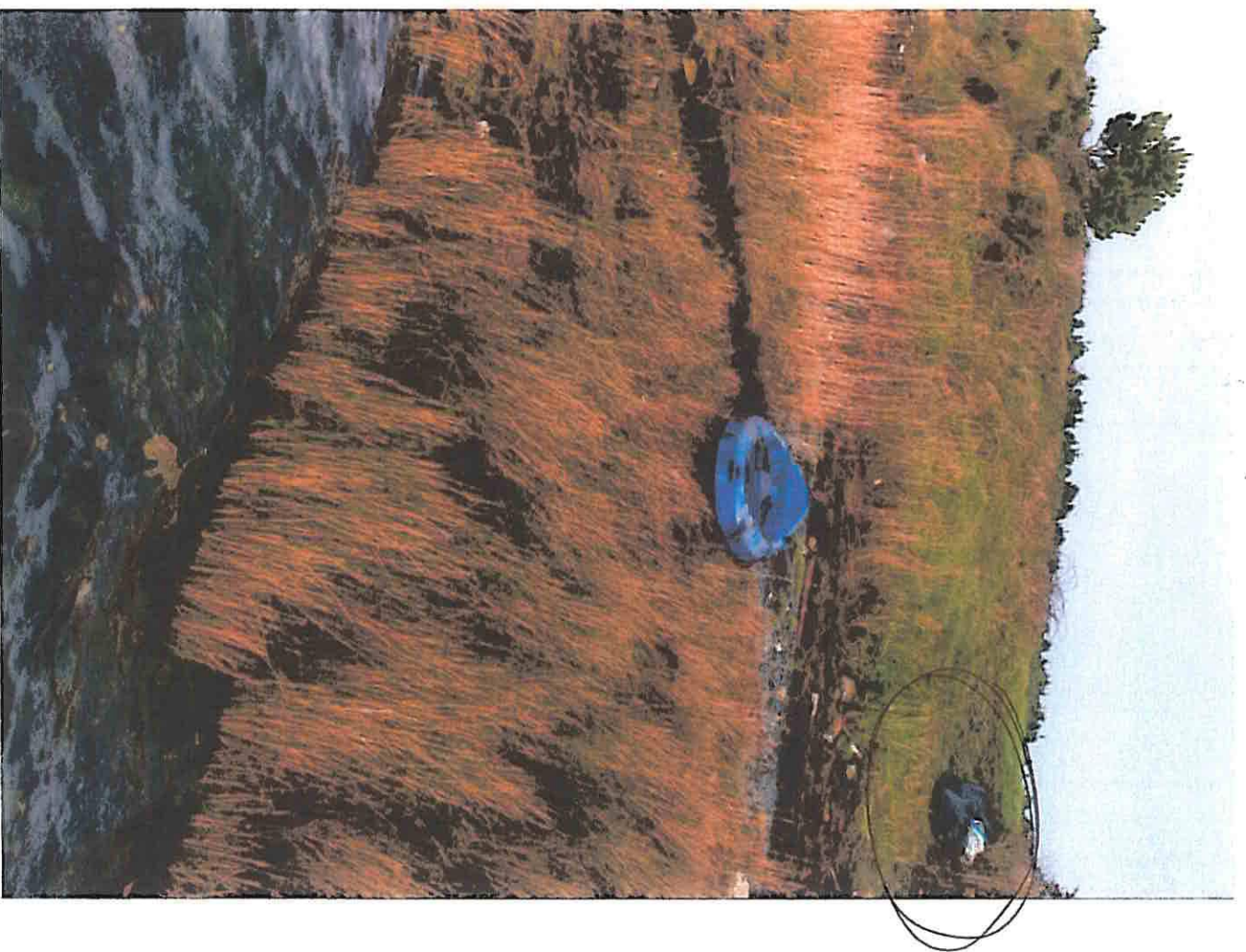


Fig. 1 (D)

T12 / 516 A

ome rubbish which
cludes oyster bags and
ies which has washed up
om the illegally operated
yster farm on the otherside
f the bay.

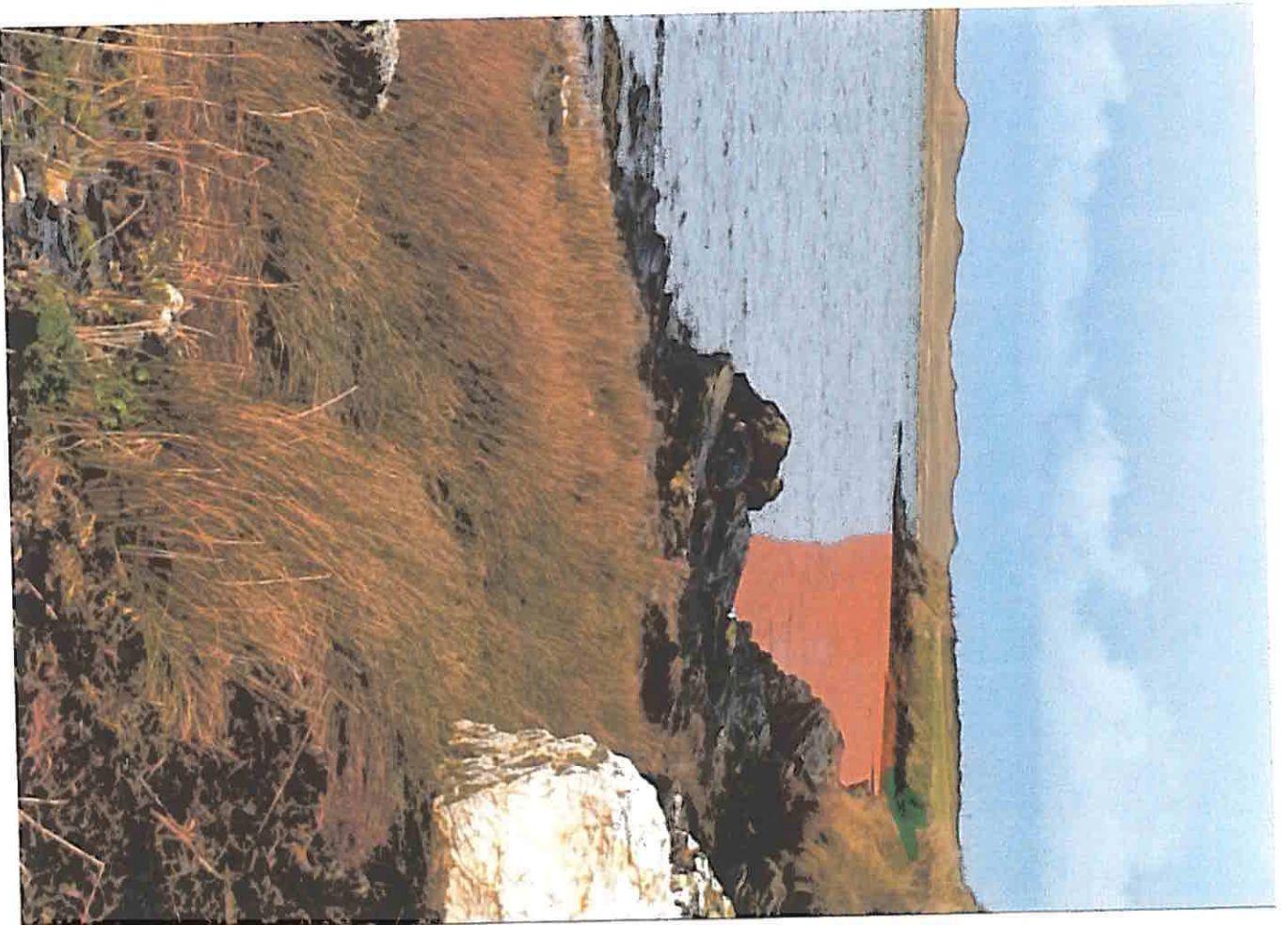


T 12 / 516 4

proposed aquaculture farm

right of way

This not only illegally blocks my
right of way from my lands to the
shore, but it is also impacts
visually on our beautiful bay



T12 / 5164

proposed agriculture farm
Our beautiful bay will
be destroyed. This is
visible from the N56.

Pier in Killult →



T 12 / 5 16 A

Proposed aquaculture Farm

right of way

This picture not only shows the visual impact but it also shows my legal access is completely blocked if the licence is upheld.



T12 / 516 A

High Rocks

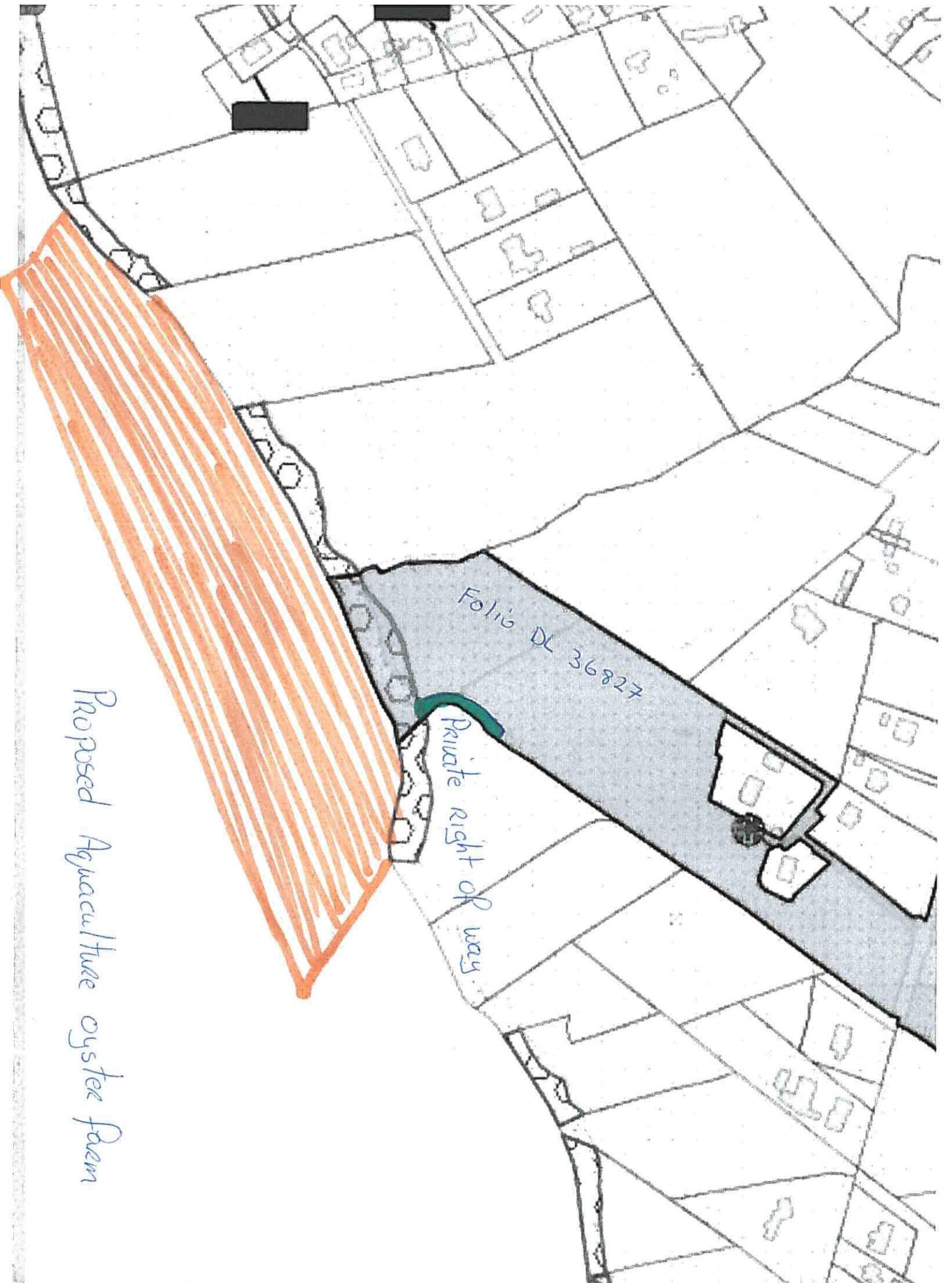
Proposed agriculture farm

Right of way

This shows that we are completely blocked in.



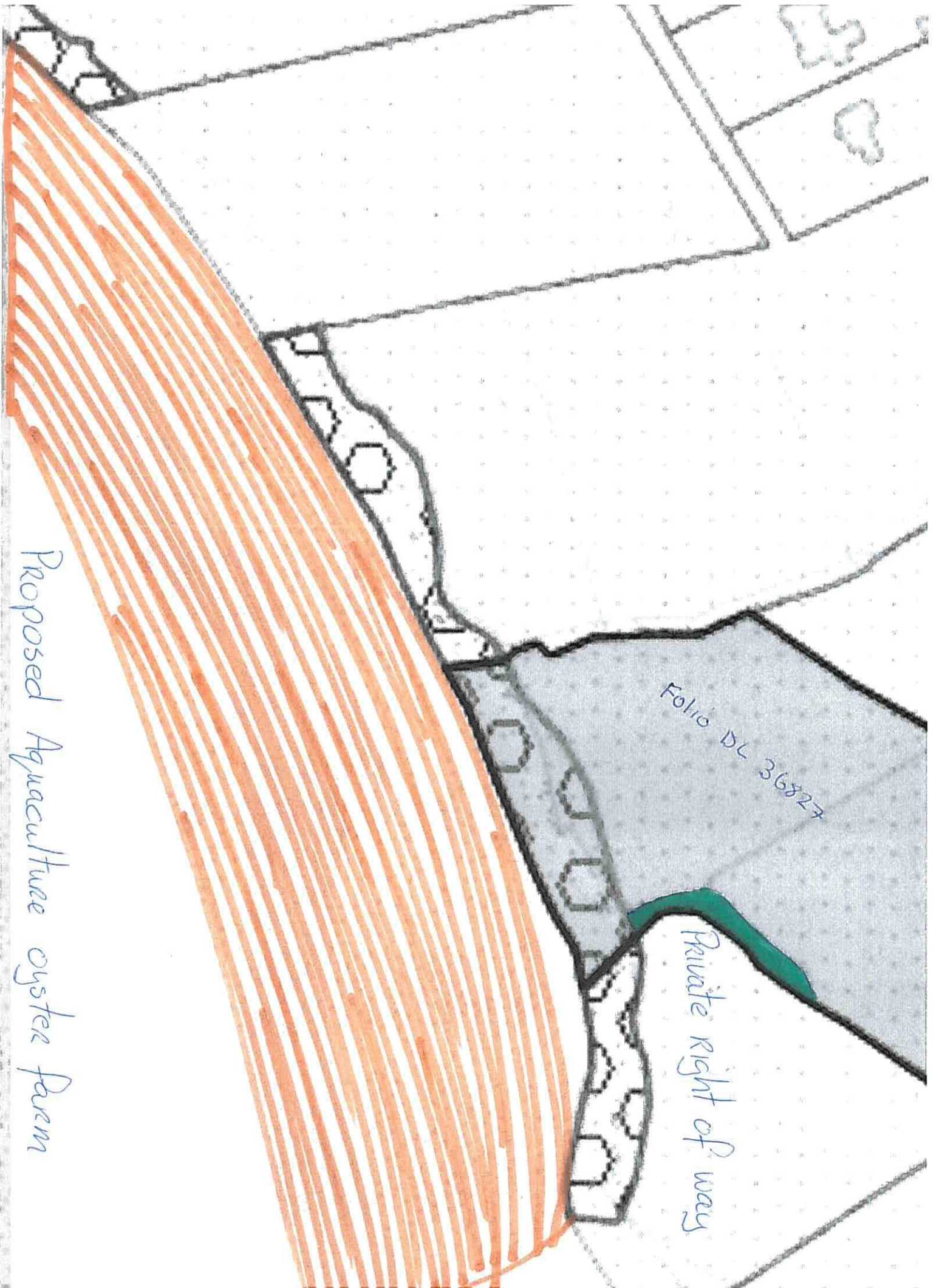
Proposed Aquaculture oyster farm

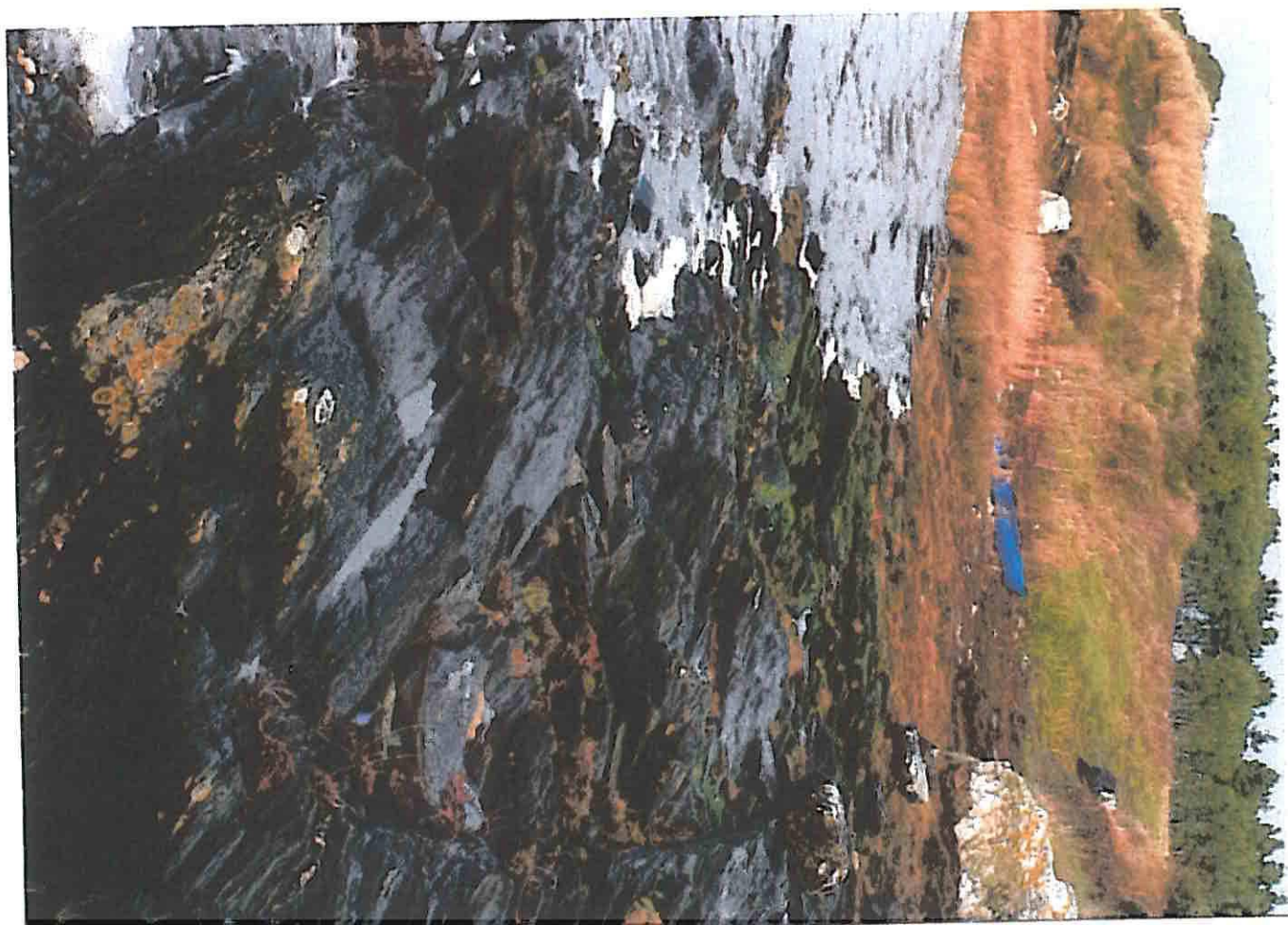


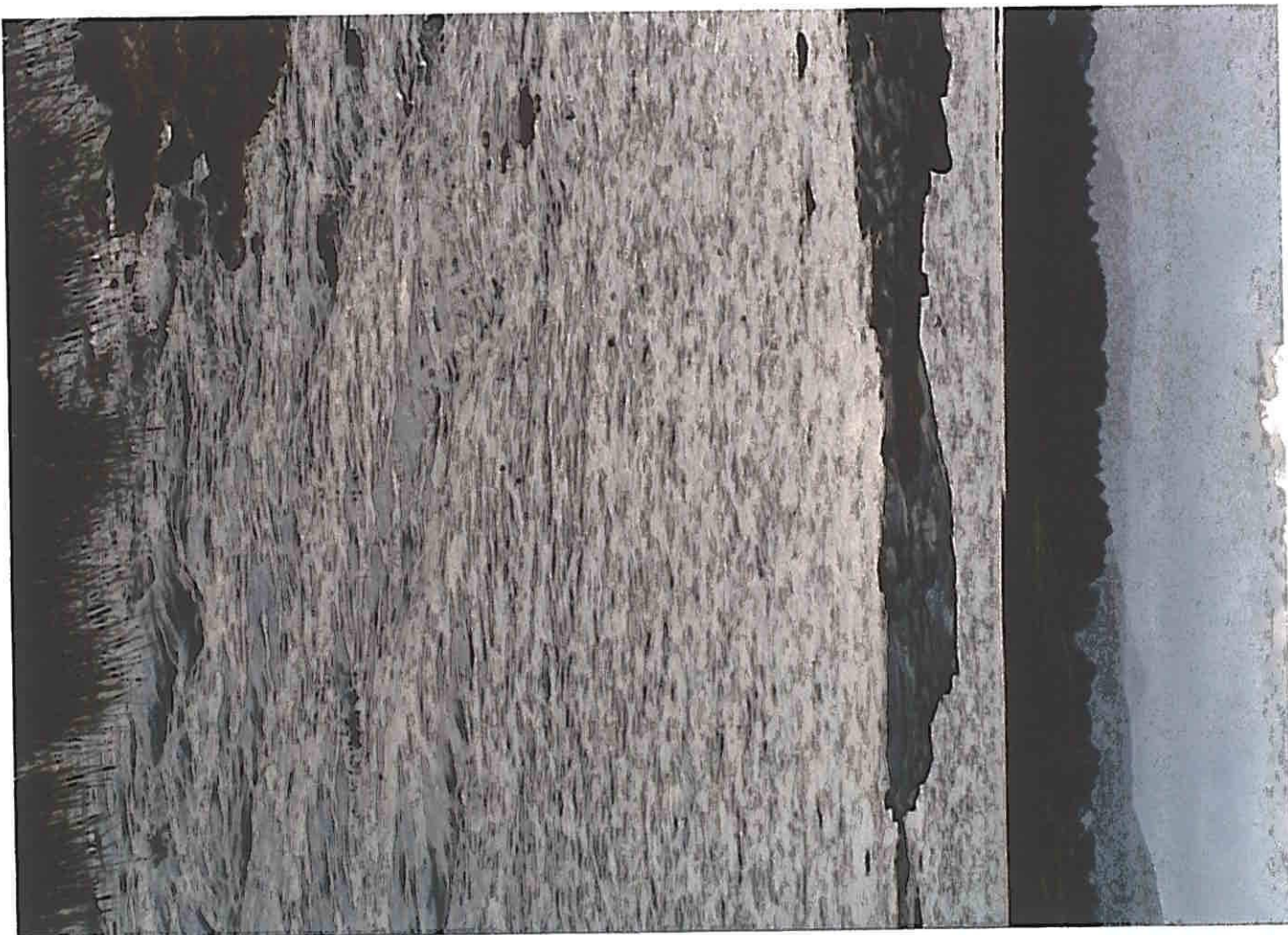
Folio DL 36827

Private right of way

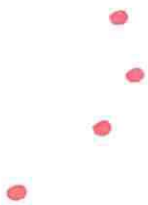
Proposed Aquaculture oyster farm

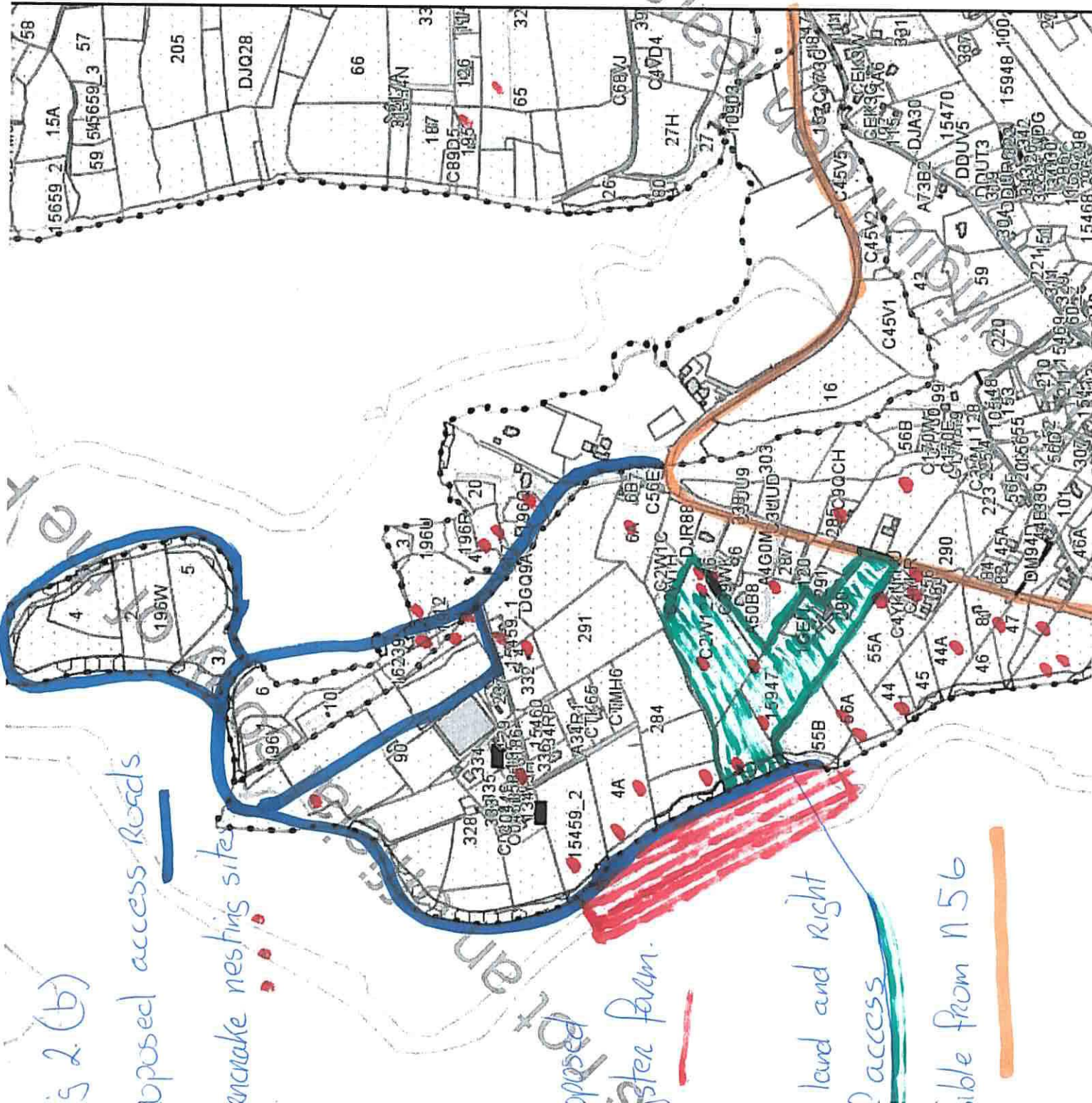






7
15
F





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- (centre-line of road)
- Freehold —
 - Leasehold —
 - SubLeasehold —
 - 'S' Register —
- (see Section 8(b)(ii) of the Land Registration Act 1964 and Rule 22 of the Land Registration Rules 1993)
- Burdens (may not be exhaustive)
- Right of Way —
 - Turbary —
 - Pipeline —
 - Well ○
 - Pump ●
 - Septic Tank ■
 - Soak Pit ▽

A full list of burdens and other rights affecting the land can be found at: www.landregistry.gov.uk

The registry operates a non-conclusive map. The map identifies properties not bound by the map.

