Agenda Item	6.7
Report No	PLS/072/19

HIGHLAND COUNCIL

- **Committee:** South Planning Applications Committee
- Date: 17 September 2019
- **Report Title:** 19/02579/FUL: The Secretary of State for the Home Office
 - Land 320m NE of Branault House, Achateny, Acharacle
- **Report By:** Area Planning Manager South

Purpose/Executive Summary

- **Description:** Installation of 17.5m high (18.8m to antennae tips) telecommunications mast with associated antennae and dishes. Installation of foul weather enclosure with equipment cabinets; generator and 1200mm dia. satellite dish within 1.8m high, mesh fenced compound
- Ward: 21 Fort William and Ardnamurchan

Development category: Local

Reason referred to Committee: Objections received from 5 households

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **Grant** planning permission as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The development comprises the installation of a 17.5m high lattice mast with 3 antennas and 2 transmission dishes (overall structure height 18.8m) and associated foul weather enclosure accommodating equipment cabinets, generator and satellite dish on a 2.6m high support pole. The compound is proposed to be enclosed by a 1.8m high fence. Construction and maintenance access is to be taken via an ATV route across the hill. This mast is proposed as part of a nationwide Government programme to replace the existing Airwave blue-light communications system with a 4G platform to extend and improve emergency services mobile communications.
- 1.2 An ATV route has been identified from the existing private access spur which serves six properties to the north west of the mast site. An overhead power line runs between the public road and rising ground to the east serving properties in Branault.
- 1.3 Pre Application Consultation: 17/05090/PREAPP SNH advised that the site would be located within the Morar, Moidart and Ardnamurchan National Scenic Area and views to the small isles from the B8007 should be maintained and the mast should not detract from the distinctive backdrop of the Small Isles. THC Landscape Officer advised that while the Special Qualities of 'A landscape of outstanding coastal scenery' and 'The distinctive backdrop of the Small Isles' are relevant in this location, there may be an argument that there are few locations from which the tower would significantly detract from those qualities. The application must demonstrate that these qualities are not significantly affected.
- 1.4 The response noted particularly important views to the Small Isles from the B8007 would need to be maintained and the site would be in close proximity of Branault Standing Stones SAM. Views to and from the SAM should not be impacted. Future application would need to demonstrate this via an assessment and consideration of alternative locations.
- 1.5 A previous application for a mast site in closer proximity to the access spur was withdrawn following concerns raised by the local Community. An assessment of alternative locations was undertaken with the Community and this application for the revised site now made.
- 1.6 A set of photomontages were submitted to SNH at pre-application stage. SNH confirmed that the photomontages demonstrated that the option subject of this application would not be highly visible in the landscape and in their opinion the mast would not impact on the special qualities of the National Scenic Area.
- 1.7 Supporting Information: Supporting statement detailing pre-application advice, site selection and design choice. Technical justification. ICNIRP Certificate, Photomontages, Photomontage report (uncompressed), response to objection/representations from neighbours.
- 1.8 Variations: None

2. SITE DESCRIPTION

2.1 The site would be located on an elevated site to the east side of the public road at Branault. Branault is a small settlement which loosely follows the line of the public road with six properties set along a spur above the public road as it drops down towards Kilmory. The mast would be sited above the settlement set against rising ground to the east.

3. PLANNING HISTORY

3.1 20.09.2018 18/01363/FUL: Erection of 15m high lattice Application mast with 3No antennas and 2No 600mm Withdrawn transmission dishes. Installation of a foul weather enclosure; 1No electrical meter cabinet; 1No generator and 1No 1200mm satellite dish on a 2.6m high support pole within a fenced enclosure. Formation of a 3m wide by 80m long, compacted stone access track

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour / Schedule 3 Development Date Advertised: 20.06.2019

Representation deadline: 04.07.2019

Timeous representations: 5 (5 Households)

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- a) Accept the need for a mast but concerned about impact on NSA designation.
- b) Adverse impact on scenery and concerns that this will affect tourism, one of the local area's chief sources of income and employment.
- c) Applicant appears to have consulted the Community but a less intrusive location was rejected.
- d) If the mast is erected at this location attempts should be made to lessen the impact avoiding barbed wire and tree/shrub planting should be used to camouflage the compound.
- e) Photomontages poor quality and additional locations should have been included.
- f) Lack of detail regarding treatment of surface water displaced by the ATV parking area
- g) Development will be carried out directly over the soakaway of the septic tank which serves Ardan

- h) Query the reasons given by the applicant for discounting the preferred site identified by the Community. A longer ATV route could avoid boggy ground and avoid landscape scarring. Interference with the local Community broadband transmissions could be overcome by mounting a pole on the outside of the Home Office Compound or by rerouting the broadband signal around the preferred site.
- i) Site identified by the Community would sit in a natural dip which would shield the majority of the compound from residents/the road.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <u>www.wam.highland.gov.uk/wam</u>.

5. CONSULTATIONS

- 5.1 **Acharacle Community Council**: No response received.
- 5.2 **SNH** is unable to comment on the landscape and visual impacts of the proposal. Landscape and visual advice is currently only provided for highest priority circumstances, where development:
 - 1. Is likely to have a significant adverse effect on the integrity and objectives of designation of a National Scenic Area.
 - 2. Is likely to have a significant adverse effect on Special Landscape Qualities of a National Park
 - 3. Is likely to have significant adverse effects on the qualities of a Wild Land Area.
 - 4. Raises landscape issues of national interest in the wider countryside
 - 5. Contributes to selected place-based priorities.

SNH confirmed that from its previous comments it had concluded that there was unlikely to be a significant impact on the special qualities for which the National Scenic Area had been designated and would not provide any further advice on landscape and visual impacts where it has been concluded that there is unlikely to be a significant impact.

5.3 **Historic Environment Team (Archaeology)** was not consulted on this application but was on the previous application where it was advised that although the proposal would be visible from the scheduled Standing Stone at Branault, the impact on the setting is not such that the application cannot be supported. The potential for direct impacts on unrecorded buried remains is considered to be low. It confirms that there is little historic environment sensitivity and no mitigation is recommended. This site is located further from the Branault Standing Stones and no further consultation on this revised application has been requested.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

- 28 Sustainable Design
- 45 Communications Infrastructure
- 46 Siting and Design of Communications Infrastructure

57 - Natural, Built and Cultural Heritage 66 - Surface Water Drainage

6.2 West Highland and Islands Local Plan 2010

No specific policies apply

6.3 **Proposed West Highland and Island Local Development Plan**

No specific policies apply

6.4 **Highland Council Supplementary Planning Policy Guidance** Not applicable

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (The Scottish Government, June 2014)

Para 298. "Consideration should be given to how proposals for infrastructure to deliver new services or infrastructure to improve existing services will contribute to fulfilling the objectives for digital connectivity set out in the Scottish Government's World Class 2020 document. For developments that will deliver entirely new connectivity - for example, mobile connectivity for in a "not spot" - consideration should be given to the benefits of this connectivity for communities and the local economy."

Para 299. "All components of equipment should be considered together and designed and positioned as sensitively as possible, though technical requirements and constraints may limit the possibilities. Developments should not physically obstruct aerodrome operations, technical sites or existing transmitter/receiver facilities. The cumulative visual effects of equipment should be taken into account."

Para 300. "Planning Authorities should not question the need for the service to be provided nor seek to prevent competition between operators. The planning system should not be used to secure objectives that are more properly achieved under other legislation. Emissions of radiofrequency radiation are controlled and regulated under other legislation and it is therefore not necessary for planning authorities to treat radio frequency radiation as a material consideration".

PAN 62 Radio Telecommunications

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:
 - a) compliance with the development plan and other planning policy
 - b) siting and design
 - c) impact on the National Scenic Area designation
 - d) drainage
 - e) any other material considerations.

Development plan/other planning policy

- 8.4 Policies 45 and 46 of the Highland wide Local Development Plan support the provision of electronic communications infrastructure, to help achieve economic growth, and in the interests of public safety, subject to ensuring that the equipment is sited and designed sensitively, to avoid adverse impacts on natural, built and cultural heritage, including landscape character and views. Other key policies that need to be considered in this case are outlined within paragraph 6.1 above including Policy 28 that requires proposals to be assessed against the impact on individual and community residential amenity, landscape and scenery, the environment and existing infrastructure.
- 8.5 The requirement for a mast in this area is to cover a current 'hole' in the Emergency Services Network. The improvement of mobile telecommunications will therefore benefit the local community and visitors in terms of safety, convenience and improvements to the communications network can help to achieve economic growth.
- 8.6 Subject to the proposal not adversely impacting upon the individual and community residential amenity, landscape and scenery, the environment and existing infrastructure the proposal would comply with the development plan.

Siting and design

- 8.7 The proposal will introduce a new and prominent man made structure to a rural area that is characterised by small scale housing set against rising bare ground. The concerns of members of the local Community, in terms of visual impact are understood and prompted the withdrawal of a previous application and further work by the applicant to explore alternative options for the mast site.
- 8.8 The supporting statement outlines the site selection process which has been undertaken for a mast to serve the target area along a section of the B8007 and C1192, Kilmory, Branault and the surrounding area. An application was made in 2018 for an alternative site, closer to the access spur from the B8007. This

application was withdrawn in response to Community concerns and to allow further, detailed site selection process in consultation with the Community. Seven further sites were considered in the Branault/Kilmory area, two were discounted due to insufficient coverage and three were discounted due to greater impact on views towards the Small Isles and Branault Standing Stones. Two options were identified which met the operational coverage and which were considered to have less visual impact on the surrounding area. Option D (the current application site) approximately 350m NE of Ross Cottage and Option E (the local Community preferred site) approximately 500m east of Rose Cottage.

- 8.9 Design surveys were carried out for both sites and the sites twin tracked prior to application submission. Site E (the Community preferred site) was discounted due to the requirement for a longer access route, across boggy ground which would increase the likelihood of landscape scarring during construction and maintenance visits and interference with community broadband links. There is a suggestion from the local Community that an alternative access could be pursued to Site E to avoid boggy ground and landscape scarring.
- 8.10 The applicant was asked to clarify why Site E was discounted. The applicant explored option E and found that the route is in a different landownership to the mast site. The Home Office's preferred approach is to enter a single lease agreement for each mast site and avoid the uncertainty, costs and delay associated with entering two separate legal agreements with different landowners. The applicant has confirmed that the Community broadband network could install their equipment next to the mast site to avoid interference. The Home Office have confirmed that a legal agreement would be required between the two parties, which again raises unacceptable risk of additional costs and delays to the Emergency Services Network switch on.
- 8.11 Site E was put forward as the Community preferred site as the compound would be partially screened by the landform from the public road and houses within the settlement. This potential benefit has been considered by the applicant but not progressed by the Home Office due to the potential additional costs, risks and delays. The Planning Authority must assess the current application on its own merits.
- 8.12 The applicant has demonstrated that a thorough site search has been undertaken to minimise impacts that may arise from the development.

Impact on the National Scenic Area

8.13 Photomontages were submitted by the agent during the processing of the application to help demonstrate the visual impact of development on the National Scenic Area. These photomontages were supplied in a compressed form to meet file size restrictions for upload to the online planning file. Uncompressed photomontages were supplied to Scottish Natural Heritage and were subsequently uploaded to the planning file (following complaints regarding the quality of the images used in the photomontages).

- 8.14 The photomontages have demonstrated that the mast will be set on elevated ground, above Branault House and the public road, in a relatively open setting. The development will occupy a central position in a number of important public views. The assessments have shown that the visual impact of development would be mitigated to an extent by the rising ground to the east, would gradually diminish over distance and the development would be viewed in conjunction with existing built development including the road, properties at Branault and overhead line poles.
- 8.15 The use of a lattice style mast is sought, to allow light to pass through the structure, minimising contrast with the skyline when viewed from wider view points. Appropriate native planting and the erection of simple deer fencing in keeping with the rural setting would help to reduce the visual impact of the compound area which will be more prominent in local views. The applicant has agreed to provide landscape planting and deer fencing. These matters can be secured by planning condition.
- 8.16 It is accepted that the proposed development will have a visual impact when viewed from the surrounding area and there will be localised impact on the landscape setting. The visual impact of development and impact on the landscape setting will diminish over distance and the development will be viewed in the context of the surrounding rising hillside and existing development in medium and long distance views. The impact on the wider National Scenic Area has been assessed and the proposed mast is not considered to have a significant adverse impact on the wider NSA designation.

Drainage

8.17 The supporting information states that all new areas of hardstanding installed as part of the nationwide project will include drainage where necessary. Details have not been provided in support of this application and given the sloping site will be sought through planning condition.

Other material considerations

8.18 Construction and maintenance access is proposed via an ATV route to minimise the visual impact of development. The start of the proposed ATV route will be taken from the existing spur with the B8007 at Branault. The route will run east for approximately 150m uphill, then south east for approximately 200m. The route is through a grassy field and the ground condition has been assessed as good. No development is proposed to form an access track. The agent has confirmed that subject to ground conditions, some sections of temporary trackway may be required for construction purposes only. An informative note is proposed to ensure any temporary measures employed are completely cleared from site following completion of construction.

- 8.19 Underground services ducting protrude through a low area of ground at the start of the proposed access route. Works are proposed to identify these ducts and cover services properly to avoid damage from future vehicle access. Higher ground around the area will be used to fill this in and level this area. This area will be used for parking and offloading ATV.
- 8.20 An informative note is proposed regarding the developer's responsibilities should damage to neighbouring private property/land occur as a result of this development.
- 8.21 There are no other material considerations.

Non-material considerations

8.22 The issue of SNH's involvement and consultation response is not a material planning consideration.

Matters to be secured by Section 75 Agreement

8.23 None

9. CONCLUSION

- 9.1 Taking the history and supporting information into account it is considered that due consideration has been given to the siting of development to limit impact on the landscape setting and National Scenic Area designation. While development will result in the introduction of a new man made feature into an open, rural setting, the mast is of a relatively open, lightweight design and benefits being seen within the context of existing development including overhead power lines. This context together with landscaping and boundary treatment appropriate to this rural site will lessen the visual impact within the landscape. The development is not considered to significantly adversely impact the National Scenic Area designation and can be supported given the importance of providing a high quality emergency services communications network to a remote area.
- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. **RECOMMENDATION**

Action required before decision issued N

Subject to the above, it is recommended that planning permission be **Granted**, subject to the following:

Conditions and Reasons

1. No development, site excavation or groundwork shall commence until a Landscaping and Planting Plan and Maintenance Programme has been submitted to, and approved in writing by, the Planning Authority. The approved Landscaping Plan shall include native planting sufficient to screen the compound of the development along the east, west and south boundaries. The planting plan shall be implemented in full during the first planting season following commencement of development.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to help to integrate the development into the landscape setting; in accordance with policies 28, 46 and 57 of the Highland wide Local Development Plan, 2012.

2. Notwithstanding the details shown on the approved plans attached hereto, the boundary treatment shall comprise 1.8m high post and wire deer fencing; unless otherwise first agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity; in accordance with policies 28, 46 and 57 of the Highland wide Local Development Plan, 2012.

3. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: To ensure that all flood mitigation infrastructure, required in order to reduce the risk of surface water flooding occurring both within and outwith the application site, is provided timeously; in accordance with policy 66 of the Highland wide Local Development Plan, 2012.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- 1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans and Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any preconditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Shared Access

Appropriate legal provision should be made regarding the right to use and the future maintenance of the existing shared access track. Please note that any damage to land, services or property as a result of construction may result in civil action being taken against you in order to secure compensation.

Access Route

Please note that this planning permission relates solely to the construction of the mast and compound. The construction of a temporary or permanent access track has not been proposed, considered or approved under this planning consent. Any sections of temporary trackway laid on site during construction must be completely removed from site upon completion of the mast and compound.

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

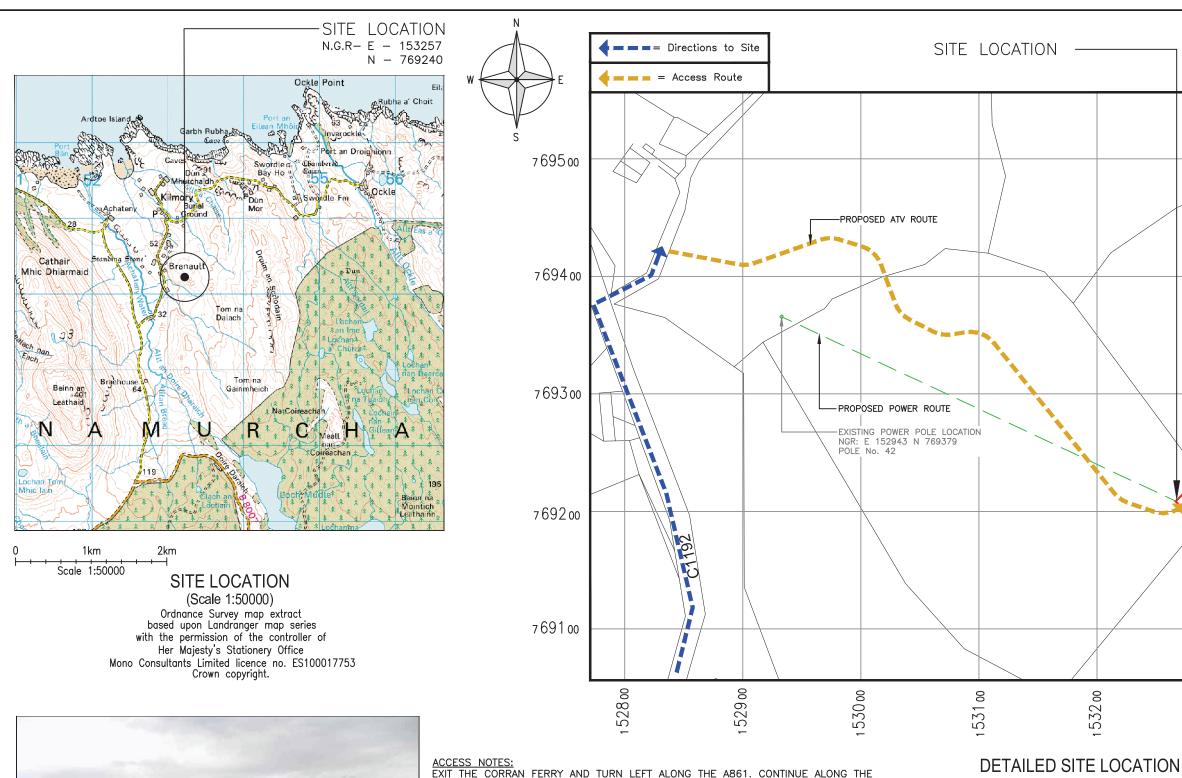
Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species responsibilities and developer is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Designation:	Area Planning Manager – South	
Author:	Christine Millard	
Background Papers:	Documents referred to in report and in case file.	
Relevant Plans:	Plan 1	- EAS0561-101 Rev A Location Plan
	Plan 2	- EAS0561-103 Rev B Site Layout Plan
	Plan 3	- EAS0561-105 Rev B Elevation Plan



EXIT THE CORRAN FERRY AND TURN LEFT ALONG THE A861. CONTINUE ALONG THE A861 FOR 24 MILES UNTIL YOU REACH SALEN, TURN LEFT ONTO THE B8007. CONTINUE ON THIS ROAD FOR APPROX. 18 MILES UNTIL YOU REACH A RIGHT TURN SIGNPOSTED FOR KILMORY, OCKLE AND FASCADALE. FOLLOW THIS ROAD UNTIL YOU REACH A FORK AND TURN RIGHT TOWARDS BRANAULT. THE SITE IS LOCATED ON ELEVATED LAND TO THE NORTH EAST OF ROSE COTTAGE WHICH IS APPROXIMATELY 650m PASSED THE FORK IN THE ROAD. TURN RIGHT AFTER ROSE COTTAGE AND ATV ACCESS ROUTE BEGINS AFTER 90m ON THE RIGHT HAND SIDE.

CONSTRUCTION ACCESS:

ACCESS TO PROPOSED SITE LOCATION IS ATV ONLY. THE START OF THE PROPOSED ATV ROUTE IS LOCATED AT NGR: E 152942, N 769422 OFF UNNAMED ROAD WHICH CONNECTS TO B8007, APPROX 3.2KM AWAY. ATV TRACK RUNS EAST FOR APPROX 150m UPHILL, THEN SOUTH EAST FOR APPROX. 200m. ACCESS ROUTE IS THROUGH GRASSY FIELD AND GROUND IS IN GOOD CONDITION.

THERE IS UNDERGROUND SERVICES DUCTING PROTRUDING THROUGH DIPPED AREA IN THE GROUND AT START OF PROPOSED ATV ACCESS ROUTE. THESE SERVICES SHOULD BE IDENTIFIED AND DUCTS COVERED PROPERLY TO AVOID DAMAGE FROM FUTURE VEHICLE ACCESS. HIGHER GROUND AROUND THIS AREA CAN BE USED TO FILL THIS AREA IN AND MAKE LEVEL. ONCE LEVEL, THIS AREA CAN BE USED FOR PARKING AND OFFLOADING ATV.

(Scale 1:2500) Based upon Ordnance Survey map extract with the permission of the Controller of Her Majesty's Stationery Office. Crown copyright. Mono Consultants Limited licence no. ES100017753 Promap licence no. A152065A0001

0 10 20 30 40 50

SCALE 1:2500



SITE PHOTOGRAPH

MAINTENANCE ACCESS: TO FOLLOW THE SAME ROUTE AS ACCESS NOTES.

