Agenda Item	6.6
Report No	PLN/026/23

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 7 March 2023

Report Title: 22/05679/FUL: EE Ltd

Forest Land, Millbuie Forest, Avoch

Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Installation of 40m communications mast, antennas, ground-based

apparatus and ancillary development

Ward: 09 - Black Isle

Development category: Local development

Reason referred to Committee: Community Council objection

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** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 Planning permission is sought for a new telecommunications mast. The proposals consist of a 40m tall telecommunications tower, to support two antennae and a dish, along with a support compound at the foot of the mast, consisting of a generator and equipment cabinet. The mast and compound equipment are to be painted in RAL 6009 (Fir Green). The lower compound will be screened with a 2m high close boarded timber fence, with a 3m wide double access gate fronting the forest track. At present it is proposed the mast will be powered by a diesel generator.
- 1.2 The application site is an area of undeveloped forest ground. It is accessed directly from a rough track, which also forms the route of Core Path RC08.01, Mount High / Military Road. The site currently has no other infrastructure connections present.
- 1.3 Pre-Application Consultation: the applicant was provided with pre application advice under reference 22/02607/PREAPP. It was communicated to the applicant that the proposed mast would be assessed principally in terms of Highland wide Local Development Plan (HwLDP), Policies 45 and 46. Justification for the proposals should be provided in terms of need, location and siting and appropriateness of design, particularly explaining why existing masts cannot be utilised to accommodate the proposed equipment.
- 1.4 Supporting Information: Covering Letter, Coverage Plot, ICNIRP Certificate, Planning Statement and Addendum for NPF 4, Policy Excerpts, Tree Reports
- 1.5 Variations: Revised elevations 10 January 2023

SITE DESCRIPTION

2.

2.1 The application site is located within the Findon Forest, approximately 2.7 km northeast of the village of Killen, which is the nearest settlement. The wider forest is designated as Inventory Ancient Woodland Long Established (of plantation origin), with pockets of woodland of semi-natural origin. The site is adjacent to a track that is also the route of Core Path RC08.01, Mount High / Military Road.

3. PLANNING HISTORY

3.1 None found

4. PUBLIC PARTICIPATION

4.1 Advertised: Ross-shire Journal - Schedule 3 development (14 days)

Date Advertised: 30 December 2022

Representation deadline: 24 January 2023

Timeous representations: 5 from 5 households

Late representations: None

- 4.2 Material considerations raised are summarised as follows:
 - Questions over the principle of development and failure to share existing infrastructure.
 - Concerns over the potential for damage and disruption to the surrounding habitat and protected species and the amenity value of the forest.
 - Concerns over the length of the consultation period.
 - Concerns over the impact on archaeological assets.

Two timeous letters of support were also received, based on the potential of the proposals to lead to better local mobile network connectivity.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- Resolis Community Council (RCC): objects to the proposals on the basis of the scale of the proposed mast as well as the foreseen impact on the environment due to the operation of the generator and its servicing.
- 5.2 **The Access Officer:** raised no objections to the proposals regarding the impact on the adjacent Core Path network.
- 5.3 **The Forestry Officer:** did not object to the proposals subject to a condition being attached to secure the approved tree protection plan.
- 5.4 National Air Traffic Services (NATS), Highlands and Islands Airport Authority (HIAL) and MOD Defence Estates: raised no objections as the proposals do not conflict with their respective safeguarding criteria.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 National Planning Framework 4

- 1. Tackling the climate and nature crises
- 2. Climate mitigation and adaptation
- 3. Biodiversity
- 24. Digital infrastructure productive places

6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design

- 29 Design Quality & Place-making
- 45 Communications Infrastructure
- 46 Siting and Design of Communications Infrastructure
- 51 Trees and Development
- 52 Principle of Development in Woodland
- 58 Protected Species
- 77 Public Access

6.2 Inner Moray Firth Local Development Plan (2015)

No site-specific policies apply

6.3 Inner Moray Firth Draft Local Development Plan (2022)

No site-specific policies apply

6.5 Highland Council Supplementary Planning Policy Guidance

Highland's Statutorily Protected Species (March 2013) Sustainable Design Guide (Jan 2013) Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

None relevant

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, design and visual amenity
 - c) access and servicing
 - d) natural heritage and forestry
 - e) any other material considerations.

Development plan/other planning policy

8.4 Under National Planning Framework 4 (NPF 4) Policy 24, development proposals that are aligned with and support the delivery of local or national programmes for the roll-out of digital infrastructure will be supported. Proposals will only be supported where the visual and amenity impacts of the proposed development have been minimised through careful siting, design, height, materials and, landscaping, taking into account cumulative impacts and relevant technical constraints, it has been demonstrated that, before erecting a new ground based mast, the possibility of erecting antennas on an existing building, mast or other structure, replacing an existing mast and/or site sharing has been explored and there is no physical obstruction to aerodrome operations, technical sites, or existing transmitter/receiver facilities. Highland wide Local Development Plan (HwLDP) Policy 28 requires sensitive siting and high-quality design of all development, in keeping with local character and historic and natural environments, and the use of appropriate materials. This Policy also requires proposed developments to be assessed on the extent to which they are compatible with service provision, as well as their impact on individual and community residential amenity. Policy 29 repeats the emphasis on good design in terms of compatibility with the local landscape setting and in terms of place making. Under HwLDP Policies 45 and 46, the Council will generally support proposals that lead to the expansion of the electronic communications network across Highland. Projects will be supported where equipment and any associated access are sited and designed sensitively to avoid adverse impacts on natural. built and cultural heritage, including landscape character and views; existing masts or other structures cannot be shared and existing services are not interfered with. Under Policies 51, and 52 the Council will support development which protects existing trees and woodland. Where a protected species is likely to be present on a site, or may be affected by a proposed development, the Council will require a survey under Policy 58 to be carried out to establish any such presence and if necessary, a mitigation plan to avoid or minimise any impacts on the species, before determining the application.

Principle of development

8.5 It is understood that the proposed mast is sought in connection with the Shared Rural Network programme, to improve 4G coverage in remote locations. The programme is associated with the transfer of emergency communications from the existing Airwave network to the 4G network, of which the applicant is the provider. The applicant has submitted a supporting statement and existing and proposed network coverage maps that justify the chosen location. It is understood that existing communications apparatus to the west cannot be shared and there are no other suitable tall structures nearby on which to mount the equipment. Several adjacent locations within the area were tested sequentially but would not provide the required coverage. As such, it is considered that the principle of the proposals accords with NPF 4 Policy 24 and HwLPD Policies 45 and 46, subject to consideration of the details of siting, design, access and servicing and the natural heritage impacts.

Siting, design and amenity

- 8.6 The application site is located on a central ridge of elevated land that runs from approximately southwest to northeast along the Black Isle. While the mast, at 40m, is a significantly tall structure, the location within dense woodland will minimise public views of the mast to immediate users of the forest track network, where the structure will be seen at close range. The proposal is not located in the vicinity of other existing infrastructure, such as overhead power lines and wider views will most likely be limited to receptors across the Cromarty and Moray Firths, respectively to the north and south. At these distances, the mast structure will be unlikely to be highly visible and if viewed, will be seen in association with existing communications equipment, including the significantly taller Mount Eagle transmitter to the west. The proposed green colouring will also help to reduce the visual impact of the proposals against the backdrop of the plantation woodland.
- 8.7 While the representation comments regarding the more general loss of amenity, in terms of disturbance are acknowledged, the proposals are located in plantation woodland which at any time, could potentially be felled and restocked. It is acknowledged that the construction period will lead to some short-term disruption and that there will be further amenity impacts from the use of a diesel generator to power the proposals. However, given the density of the surrounding forest, the isolated site location, away from residential properties and that the mast is sought in connection with a programme to increase mobile coverage to support the emergency services, it is considered that on balance, the amenity impacts are justified in this case. The experience of any impacts on amenity, in terms of noise, considering the location adjacent a walking and cycle route, will likely be transitory for most users. The Environmental Health Service also has additional enforcement powers under the relevant Acts on noise emissions.

Access and servicing

8.8 No direct public road access to the application site is available, although a route has been indicated using the B9160 to Culbokie, the unclassified U2506 Wood of Brae Road and thereafter on forestry tracks. It is anticipated that post construction, maintenance will take place on a quarterly basis. The mast will be powered via an underground spur of an overhead line to the south. A condition is also attached to prevent the obstruction of the core path during construction. Access rights will also remain over the core path route following completion, as defined by the Land Reform (Scotland) Act 2003 and as such, it is considered that the proposal meets the requirements of HwLDP Policy 77.

Natural heritage and forestry

8.9 The site lies within a forestry plantation and there are no nature conservation designations in place. The applicant has submitted an Arboricultural Impact Assessment and Tree Protection Plan. The development will involve the loss of some plantation woodland however, the Forestry Officer raised no objections provided development takes place according to the approved tree protection and constraints plans, as secured via condition. Due to the monoculture present in the plantation woodland, the impacts of the tree loss on wildlife are considered

limited. An informative note is included to make the applicant aware of their responsibilities and procedures should any protected species be encountered, in accordance with HwLDP Policy 58.

Other material considerations

8.10 The applicant has submitted additional supporting information detailing how the proposal addresses the climate and nature crises outcomes as expressed in NPF 4 Policies 1-3

Non-material considerations

8.11 None.

9. CONCLUSION

9.1 The proposed mast will provide necessary telecommunications coverage in a remote part of the Black Isle and in support of the national Shared Rural Network programme. The siting and design of the proposals complies with the considerations of NPF 4 Policy 24 and HwLDP Policies 45 and 46.

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

Notification to Scottish Ministers N

Conclusion of Section 75 N

Obligation

Revocation of previous permission N

Subject to the above actions, it is recommended to **GRANT** the application subject to the following conditions and reasons

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.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No development or ground excavation shall commence until tree protection barriers have been installed in accordance with the approved Tree Protection Plan and Tree Constraints Plan. Barriers are to be inspected and approved in writing by the Planning Authority and must remain in place throughout the construction period.

Reason: To secure the successful implementation of the approved tree protection measures.

Public access to any Core Path within, or adjacent to, the application site shall at no time be obstructed or deterred by construction-related activities, unless otherwise approved in writing by the Council's Access Officer as a temporary measure required for health and safety or operational purposes. Under such circumstances, any temporary obstruction or determent shall cover only the smallest area practicable and for the shortest duration possible, with waymarked diversions provided as necessary.

Reason: In order to safeguard public access during the construction phase of the development.

REASON FOR DECISION

The proposed mast will provide necessary telecommunications coverage in a remote part of the Black Isle and in support of the national Shared Rural Network programme. The siting and design of the proposals complies with the considerations of NPF 4 Policy 24 and HwLDP Policies 45 and 46.

INFORMATIVES

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.
- 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.

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.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: http://www.highland.gov.uk/yourenvironment/roadsandtransport

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads and pavements/101/per mits for working on public roads/2

Mud & Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

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 NatureScot 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 and developer responsibilities available from NatureScot: is https://www.nature.scot/professional-advice/protected-areas-andspecies/protected-species

Area Planning Manager - North Designation:

Author: Michael Kordas

Background Papers: Documents referred to in report and in case file.

Relevant Plans:

Document Type	Document No.	Version No.	Date Received
Location Plan	1673793_NA_95299_NA_M003	REV D	10 January 2023
Site Layout Plan	1673793_NA_95299_NA_M003	REV D	10 January 2023
Access Layout Plan	1673793_NA_95299_NA_M003	REV D	10 January 2023
Elevation A	1673793_NA_95299_NA_M003	REV D	10 January 2023
Elevation B	1673793_NA_95299_NA_M003	REV D	10 January 2023
Elevation C	1673793_NA_95299_NA_M003	REV D	10 January 2023
Elevation D	1673793_NA_95299_NA_M003	REV D	10 January 2023
	1673793 NA 95299 NA M003	REV D	10 January 2023

NOTES:

1. ALL DIMENSIONS IN MM UNLESS OTHERWISE NOTED.

DIRECTIONS TO SITE:

Head north on High St/A832 toward Mill Rd for 1.5 mile. Turn left onto B9160 for 3.0 mile. Turn left for 0.46 mile. Turn left for 1.47 mile and destination will be on the left.

Existing Access Route: Proposed Access Route:

Master:	MBNL / EE / H3G:	Project:	Purpose of Issue:	Issue:
M001	EE	SRN-PNS	Planning	D
Date:	04/01/2022	Revision / Upgrade Description:	•	
Drawn:	Keerthana.R	Fourth Issue: Comments Re	vised	
Checked:	Karthick			
Approved:	MITIE DA			
Master:	MBNL / EE / H3G:	Project:	Purpose of Issue:	Issue:
M001	EE	SRN-PNS	Planning	С
Date:	29/09/2022	Revision / Upgrade Description:		
Drawn:	D.Vivek	Third Issue: Four Side Eleva	tion Added	
Checked:	Karthick			
Approved:	MITIE DA			
Master:	MBNL / EE / H3G:	Project:	Purpose of Issue:	Issue:
M001	EE	SRN-PNS	Planning	В
Date:	15/06/2022	Revision / Upgrade Description:		
Drawn:	D.Vivek	Second Issue: Comments Re	evised	
Checked:	Karthick			
Approved:	MITIE DA			
Master:	MBNL / EE / H3G:	Project:	Purpose of Issue:	Issue:
M001	EE	SRN-PNS	Planning	Α
Date:	13/05/2022	Revision / Upgrade Description:		
Drawn:	D.Vivek	First Issue: Planning		
Observation	1/41-1-1-	1		





Site Name:
OLD MILITARY ROAD A MOUNTHIGH

1673793

MOUNTHIGH KILLEN AVOCH HIGHLAND IV9 8RH

002B HIGHWAY TO SITE ACCESS

SRN-PNS

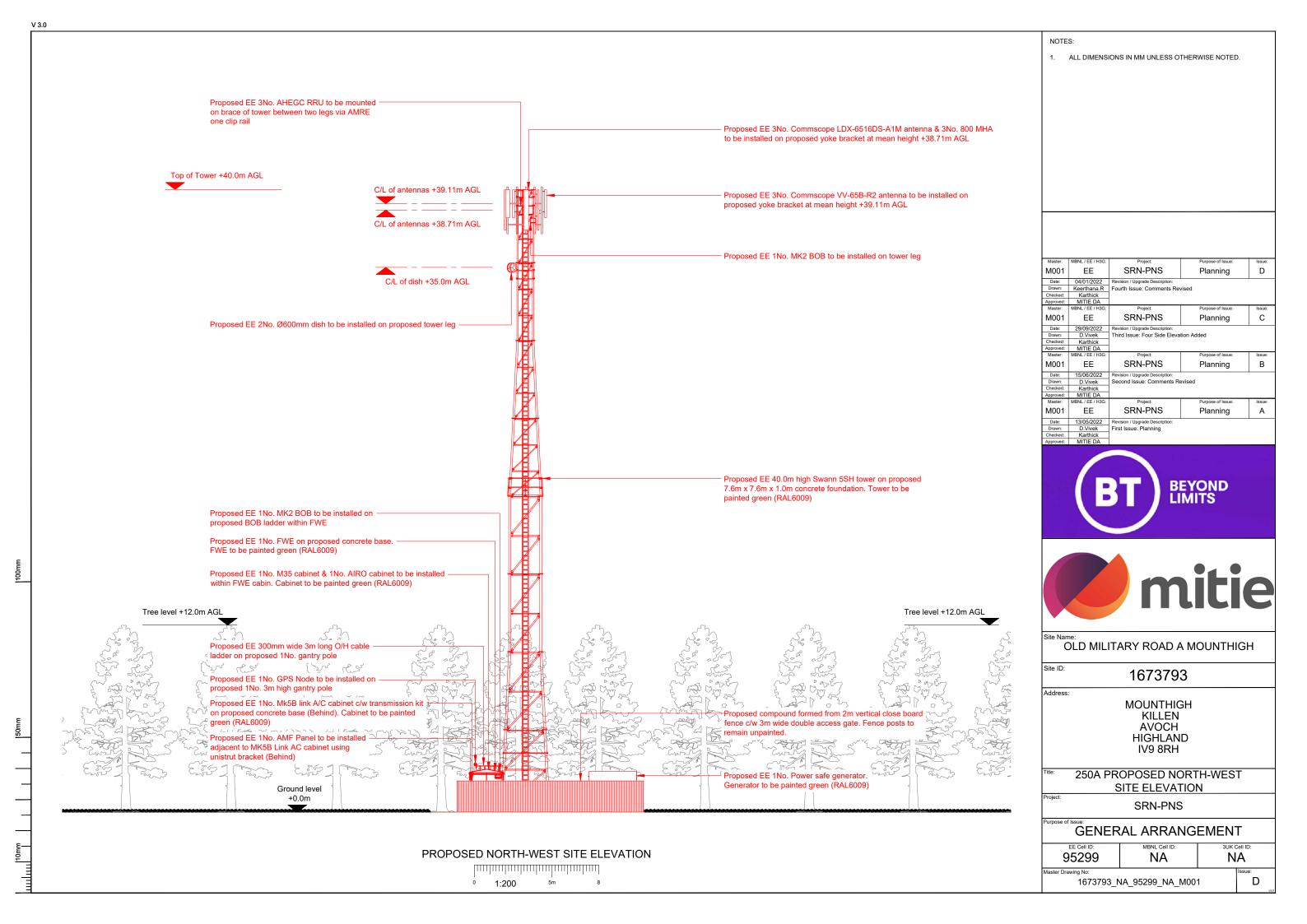
GENERAL ARRANGEMENT

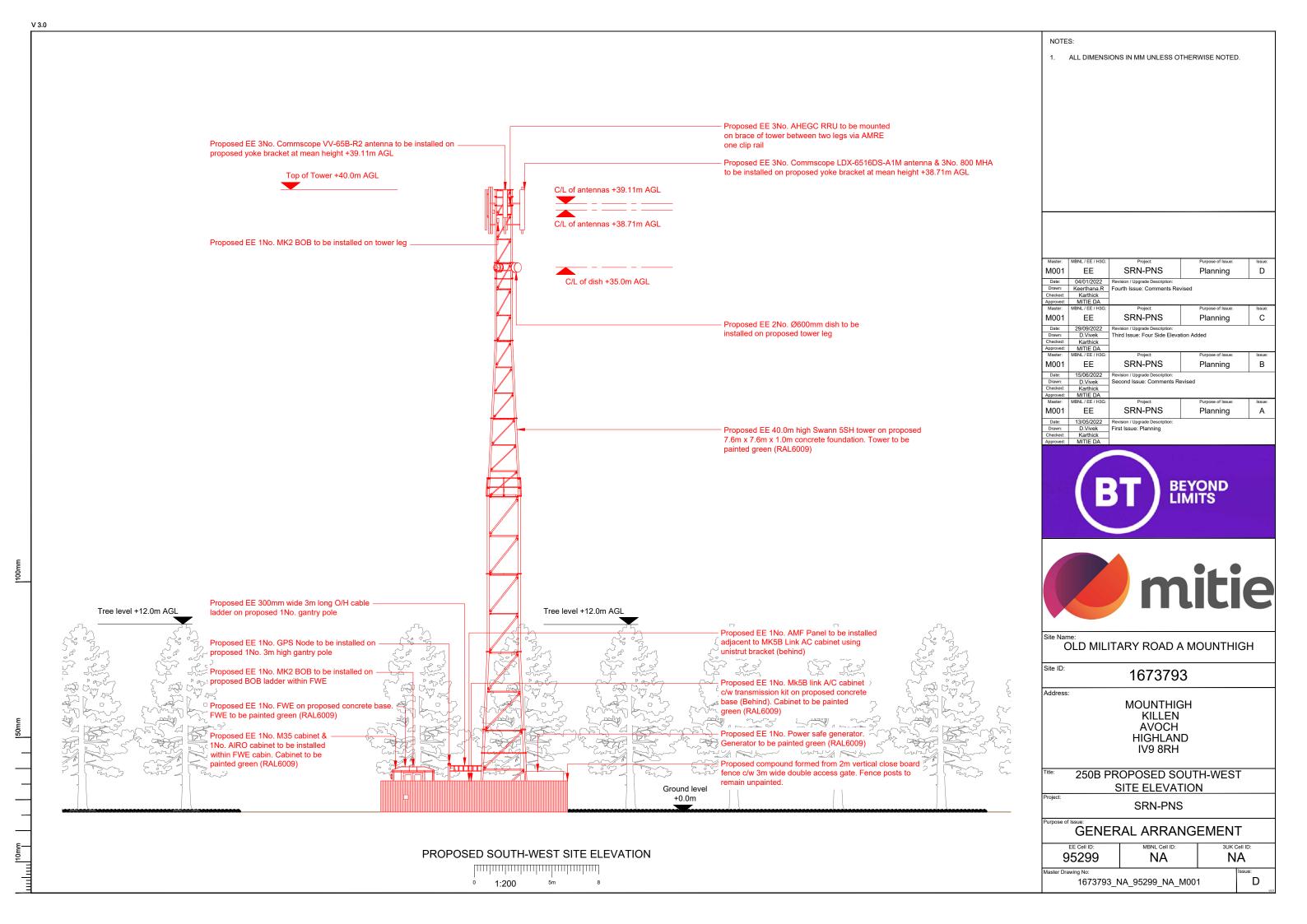
95299 NA NA

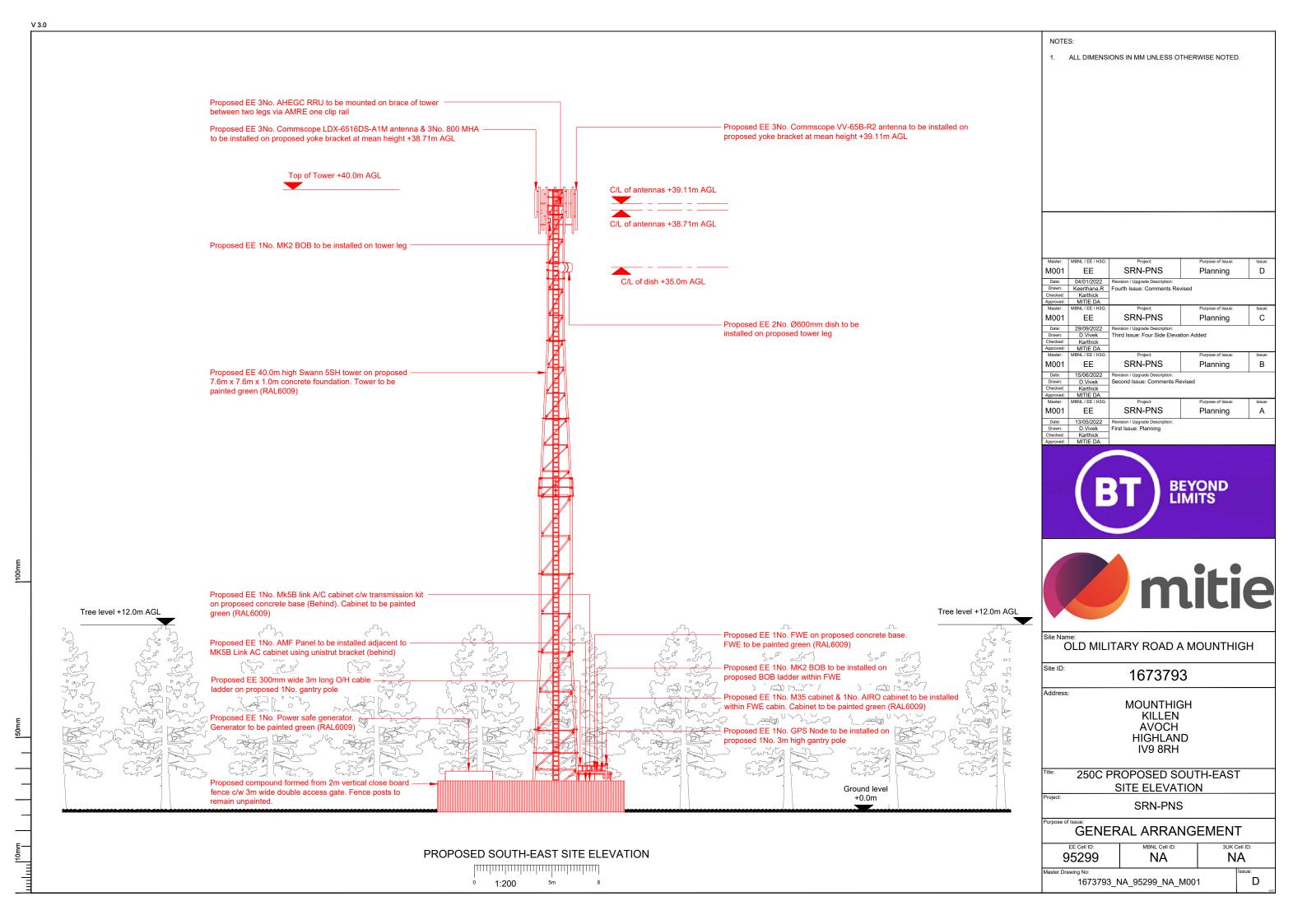
1673793_NA_95299_NA_M001

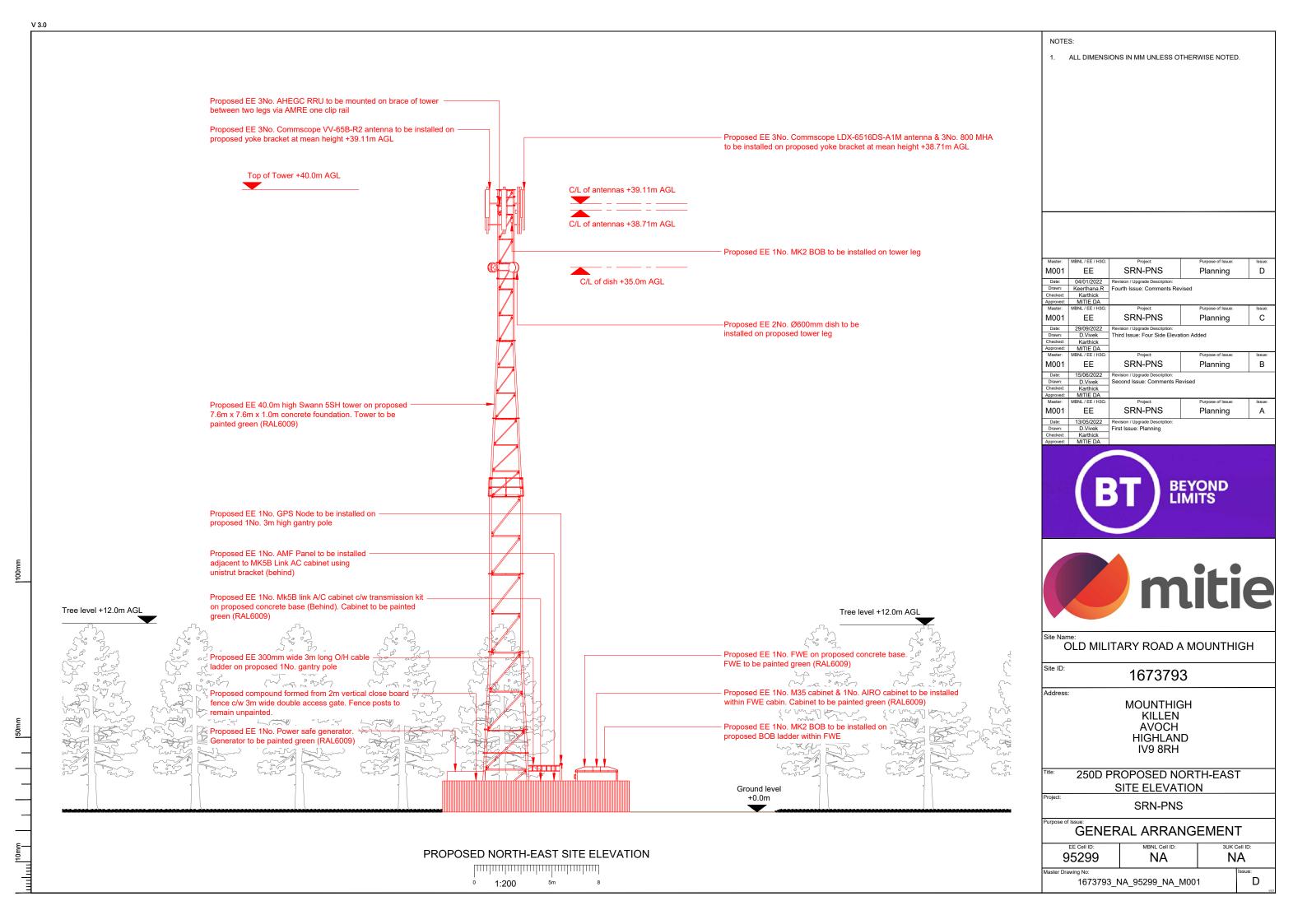
HIGHWAY TO SITE ACCESS

⁰ 1:15,000 ^{0.3km}







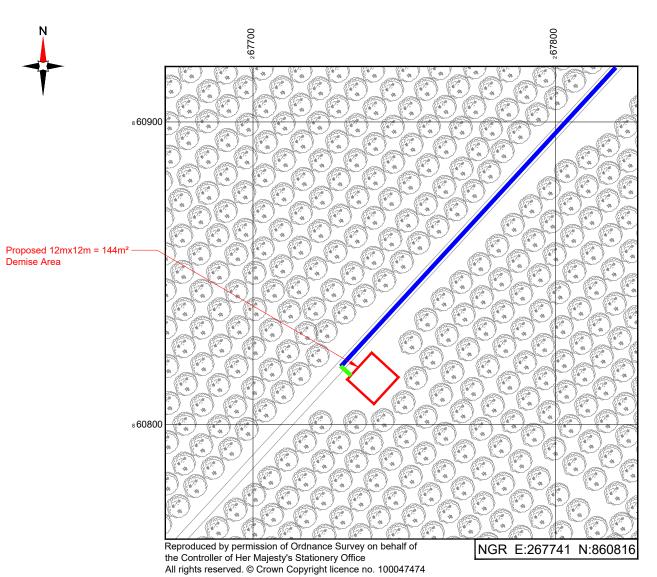


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SITE AREA PLAN



SITE PHOTOGRAPH



SITE LOCATION PLAN

0 1:1250 ^{25m} 5



GOOGLE MAPS QR CODE

GOOGLE MAPS - https://goo.gl/maps/rmQ3cbcmQCWr5KmT9

GOOGLE STREET VIEW -https://goo.gl/maps/1uocVcE8JJ1N2FEn8

NOTES:

1. ALL DIMENSIONS IN MM UNLESS OTHERWISE NOTED.

DIRECTIONS TO SITE:

Proposed Access Route

Head north on High St/A632 toward Mill Rd for 1.5 mile. Turn left onto B9160 for 3.0 mile. Turn left for 0.46 mile. Turn left for 1.47 mile and destination will be on the left

Demise:

Access Route To Site:

Existing Access Route:





OLD MILITARY ROAD A MOUNTHIGH

Site ID: 1673793

Address:

MOUNTHIGH KILLEN AVOCH HIGHLAND IV9 8RH

002A SITE LOCATION PLAN

SRN-PNS

GENERAL ARRANGEMENT

EE Cell ID: MBNL Cell ID: 3UK Cell ID: NA NA NA Master Drawing No: | Issue:

1673793_NA_95299_NA_M001

