

MULCIBER LIMITED

APPLICATION FOR A CERTIFICATE OF LAWFUL DEVELOPMENT  
FOR AN EXISTING USE OR OPERATION OF ACTIVITY  
PLANNING STATEMENT REPORT

October 2015

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## 1 INTRODUCTION

This Planning Statement forms part of an application for a Lawful Development Certificate (LDC) relating to the continuing use of Pendrethen Quarry, St. Mary's, as an inert and excavation waste transfer facility for the production of sustainable and economically viable aggregates and soils for use on the Isles of Scilly.

The LDC application has been prepared by Stephens Scown LLP (the Agent) on behalf of Mulciber Limited (the Applicant). The location and boundaries of the site are as per the Site Plan submitted with the application and as illustrated in Drawings BB3508LE/A001/DWG01 and BB3508LE/A001/DWG02, Appendix 1.

### 1.1 Existing Activities

Aggregates are being produced at Pendrethen via the processing of inert locally derived materials, both imported from other island sites, and arising from the Pendrethen. The aggregates are sold into the local market.

Inert non-hazardous building rubble, stone, sand, soil, 'ram' and similar construction and demolition waste streams are hauled to the site, stockpiled, screened, crushed, graded and resold to the local market for construction and civil engineering projects. Historic deposits of building rubble, principally concrete, at the site have been processed (crushed and screened) to produce aggregates suitable for engineering and construction uses on the island.

The site also produces aggregate from superficial overburden deposits and granite sourced from within the site boundary. The granite is obtained from existing quarried blocks and rock obtained during improvement works, including the battering back the quarry edges to a safe angle of repose, which is conducted in accordance with the requirements of the Lease Agreement and associated Management Plan.

All recycled aggregate produced has been used in local infrastructure developments and/or improvement works, since there is a clear ongoing demand for such suitable and affordable on-island products recycled from continually arising island inert non-hazardous waste streams.

Testing and sampling of recycled aggregates has been conducted by recognised independent laboratories, and cube testing of concrete mixes made from the aggregates has provided excellent results.

## 1.2 Reason for Application

The Applicant wishes to continue, improve and regularise activities at Pendrethen Quarry, namely the processing of inert locally derived materials to produce and promote a sustainable source of aggregates and soils that can be used for construction and maintenance purposes on the Isles of Scilly (IoS). The Applicant believes that this operation is in accordance with the objectives of the IoS Council Sustainable Economic Development Strategy 1995 and in line with the waste management and sustainable development aspirations of the IoS Local Plan (2005) and the emerging Local Plan (2015 to 2030). It is also the intention of the Applicant to provide a facility which can be used to assist in the delivery of an environmentally and economically sound solution to the wider waste management solution for the islands, without detriment to the environment in which the site is located.

As part of the regularisation process, discussions have been undertaken and pre-application advice has been sought from the Council of the Isles of Scilly Planning and Development Management department regarding this application. In addition, in accordance with the Environmental Permitting (England and Wales) Regulations 2010 (EP Regs 2010) a bespoke Environmental Permit (EP) has been obtained from the Environment Agency (permit number EPR/BB3508LE, dated 11th May 2015) to enable the continued use of the site as an inert and excavation waste transfer facility. Section 2.2.2 provides more information regarding permitted activities and Appendix 2 contains a copy of the permit and supporting management plans.

When making such an application it is necessary to demonstrate that the relevant activity is lawful in Planning terms. The evidence is set out in this Statement and its appendices and the legal position is set out in a separate document by Stephens Scown.

As discussed in Section 3.2, the working and processing of materials, including the importation of inert non-hazardous construction rubble, sand, soil, road surfaces and similar materials for processing at site and resale to local markets at Pendrethen Quarry has occurred for more than 40 years and, although an established use, is not fully recorded in Planning terms. The land and mineral rights constituting the site is owned by the Duchy of

Cornwall (DoC) and currently leased by the Applicant, under the terms of an Agreement which expires in 2031. Historically, leases have been granted by the Duchy to previous operators.

It has been concluded that, for the avoidance of doubt, a LDC is desirable and the Applicant has therefore instructed Stephens Scown LLP to submit an application to the Council of the Isles of Scilly (CIOS) Planning & Development Management Department.

### 1.3 Use for which the LDC is applied for

As discussed in Section 3.2 below, activities at Pendrethen Quarry have been carried out since approximately 1944, when the site was recorded as operated by the CIOS. The activities at the site are not well recorded in Planning terms.

Therefore it is considered appropriate to apply for the LDC to:

Establish the area over which the waste management activities occur and to confirm that the use of the land for waste management activities, including (but not limited to) the following activities is lawful within that area:

- i Importation, stockpiling and storage of inert construction and demolition and other wastes
- i Processing of abovementioned materials by crushing and screening;
- i Production of secondary aggregates and soils, or soil substitutes, for supply back to the island's markets;

## 2 SITE SETTING AND DESCRIPTION

### 2.1 Location

Pendrethen Quarry is located on the north of the island of St Mary's, Isles of Scilly at nominal Grid Ref: SV91280 12590. It is situated near to the coast between Halangy Point, to the west, and Bar Point, to the northeast. The site is accessed via an unmade track from an unclassified road (MacFarland's Down) which joins the A3110 to the south. The nearest dwelling is 'Standing Stone Terrace' located approximately 65metres to the west and is a farmstead. The dwellings along MacFarland's Down are situated to the south of the site Hugh Town is located approximately 1.8 kilometres to the south-southwest.

The former quarry is cut into the coastal slope, which affords a degree of natural screening and noise attenuation. The surrounding land to the north, east and west comprises small field parcels of agricultural land. Features of archaeological interest are present in this area, but not within the immediate vicinity of the site boundaries.

The location and setting of the site is illustrated by Drawing BB3508LE/A001/DWG01, Appendix 1a. Drawing BB3508LE/A001/DWG02, Appendix 1b shows the boundary of the site (edged green). This is defined by the current lease agreement and which is consistent with historic, existing and proposed activities as well as the Environmental Permit boundary.

## 2.2 Description of Activities

### 2.2.1 Existing Activities

The site produces aggregate from several sources:

1. Inert non-hazardous Construction and Demolition waste, being mainly rubble, stone, sand, 'ram' and similar materials sourced from the local markets, imported to the site, and processed as necessary to include crushing and screening to produce good quality recycled aggregate on a 'sustainable' basis for resale back into the local markets.
2. Superficial overburden deposits and granite sourced from within the application boundary. The granite is obtained from existing quarried blocks and rock obtained during improvement works, including the battering back the former quarry edges to a safe angle of repose, which is conducted in accordance with the requirements of the Lease Agreement and associated Management Plan.
3. Historic deposits of building rubble, principally concrete, at the site.

All aggregate produced has been used in local infrastructure developments and/or improvement works, since there is a clear demand for such suitable and affordable on-island products.

### 2.2.2 Activities for which an EA Permit are Required

A copy of the bespoke Environmental Permit (permit number EPR/BB3508LE, dated 11<sup>th</sup> May 2015) is included within Appendix 2. It allows the operator (Mulciber Ltd) to run an inert and excavation waste transfer facility and permits the operator to accept and store inert, non-hazardous wastes and treat it to produce soil, soil substitutes and aggregate. The

permit allows the operator to treat waste by sorting, separation, screening, blending and crushing. The total quantity of waste that can be accepted on the site under the permit will not exceed 8,000 tonnes per year.

Permitted wastes do not include hazardous wastes, liquid, sludge or paste forms or any waste likely to produce odour. The full listed of permitted wastes are contained with the permit (Appendix 2), as specified by the EU Waste Framework Directive. The permit does not cover burning of any wastes at the site.

As with all environmental permits, operations are required to limit emissions and/or effects to within acceptable limits. The permit is therefore conditional and the operator is required to implement various measures to achieve this and comply with the permit.

### 3 EVIDENCE FOR LAWFUL DEVELOPMENT CERTIFICATE

#### 3.1 Introduction

The evidence submitted in support of the application comprises:

- i This statement (and particularly Section 3.2 Former Activities and Planning History Summary and Appendix 4).
- i Drawing BB3508LE/A001/DWG01 - Site Location Plan;
- i Sworn Statements or Letters from Mr Ben Hicks (customer and worker), Mr John Eyre (Duchy of Cornwall Mineral Agent); and Mr Brian Sandford, former site manager

#### 3.2 Former Activities and Planning History

The site was first operated by CIOS in the 1940s; however, activities at Pendrethen Quarry over the past 70 years or so are not fully recorded in Planning terms. A detailed summary of the history of activities of the site, where records are available, is contained within Appendices 3 and 4 and summarised in the following section.

The quarry was opened and operated for mineral extraction (apparently by the Council of the Isles of Scilly) in or around 1944, subject to the terms of the Lease Agreement with the DoC. In 1949 the Lease was transferred to Messrs Perring, Guy and Guy, including a Licence to extract sand and gravel from Bar Point (granted in 1949) and process the material at the site to produce aggregate. The Lease was renewed for the period 1955 to 1964. In 1964 Mr Roy Mitchell was operating the site and a Lease was agreed variously until 1987. Activities

remained predominantly the same, although there were considerable investments and expansions of activity including, the reprocessing of rubble to produce secondary aggregate, as a statement from Mr Bryan Parr, the then foreman, will demonstrate. In 1987 a Lease was granted for a period to Mr Brian Sandford who continued the aforementioned activities at Pendrethen Quarry, including the production of secondary aggregate from building rubble. The Lease was surrendered in 2003. A statement from Mr Sandford is attached.

In 2004 Mulciber Limited (the Applicant) was engaged by the Duchy to undertake a programme of site works, including cleaning and recycling. Materials derived from these activities continues to be processed into aggregate and sold to the local market in addition to materials imported, processed, and sold from the site as recycled aggregate. A formal Lease Agreement between Mulciber Ltd and the DoC is in place for the period 2011 until 2031. As such, the applicant has direct knowledge of the use of the site for more than 10 years.

The available planning records do not include an 'originating' consent for the operation of the site for the production of aggregates from locally derived primary or secondary materials. However, the records that exist demonstrate that the site was so used since 1944 until present day. Fluctuations in activities over the years are normal in such sites and there are no significant periods of disuse recorded. Since 1944 the activities outlined have been carried out to the knowledge of the CIOS and no formal Planning Permission exists or has been sought. Furthermore, in recent years, the CIOS has directly supplied extensive volumes of materials from different CIOS sources (including its own Moor Well waste facility, and its building and development projects including the Porthcressa Regeneration scheme) to the Operator for processing and has directly and indirectly contracted with the Operator and purchased the processed product back for use in island infrastructure projects, including development of the airport on St Mary's.

High-quality recycled aggregates and fill material from imported and existing sources have been produced by the current operator at the site for more than ten years and have been used in almost every significant construction project on St Mary's including but not limited to:

- i The power station
- i Various parts of Airport development
- Off-island quays redevelopment



- i New riding centre
- Water mains works
- Sewage system maintenance works
- Works at the Desalination Plant
- Works at various reservoirs
- Hugh Town Hall extension
- Local Housing projects
- The School Redevelopments
- Porthloo Slipway reconstruction
- Porthcressa redevelopment
- Numerous roads and tracks
- i Numerous private houses
  - i Wholesalers redevelopment into Innovation Centre
- Sea defences

Since 2004 the applicant has diligently processed many thousands of tonnes of inert non-hazardous construction and demolition waste into high-quality recycled aggregate and fill material, and alleviated a very significant load on the Council's Moor Well facility.

### 3.3 Statements

Appendix 5 contains a Sworn Statement by Mr John Eyre, Mineral Agent for the Duchy of Cornwall (the land owner). This confirms that, during the occasions when Mr Eyre visited the site, he witnessed, or had been made aware of, the receipt of sand, gravel, stone and cobbles for processing at the site in order to produce aggregates; the receipt and/or recovery and treatment of inert construction and demolition waste at the site; the production of recycled aggregates, as well as the sale of granite and recycled aggregates from the site. The full statement is contained within Appendix 5.

A sworn statement from Mr Ben Hicks, worker at the site and customer of its recycled aggregate products, is also provided. This corroborates the statement of Mr Eyre and confirms the activities which have taken place as listed above.

A statement from Mr Brian Sandford, former operator of the Quarry, is also provided. This records the historical activities of the site from 1987 onwards and demonstrates the

continuity of the receipt and/or recovery and treatment of inert construction and demolition waste at the site; the production of recycled aggregates, as well as the sale of granite and recycled aggregates from the site. Mr Sandford's statement also corroborates the relevant section in table of historical dates given in appendices 3 and 4.

In addition, it is anticipated that a statement from Mr Bryan Parr, foreman of the Quarry when operated by Mr Roy Mitchell from the late 1960s until 1987, will also be provided in due course as a matter of historical record, demonstrating the length of time in which the receipt and/or recovery and treatment of inert construction and demolition waste at the site and the production of recycled aggregates, as well as the sale of granite and recycled aggregates from the site has been established as island practice at the site.

It can be demonstrated by the Statements that activities at Pendrethen are within living memory and are widely known and are lawful.

#### 4 SUMMARY AND CONCLUSIONS

Pendrethen Quarry has supplied a local, sustainable source of aggregates to the island for the last 70 years. This application does not seek to change the types of activities undertaken, nor the area within which they are conducted. The latter is clearly defined by the terms of the Lease Agreement with the land owner, whom supports the continued use of the site and has authorised this application.

In order that the lawfulness of the use of the site in planning terms can be conclusively presumed the Applicant has applied to the LPA for an LDC confirming the lawfulness of the use within the site, which supports the responsible production of high quality, sustainable, affordable and sought after aggregate for the development and maintenance needs of the islands and provides a sustainable recycling of waste streams

Therefore the Applicant respectfully requests that the Local Planning Authority issue a Lawful Development Certificate to clarify the use and extent of the site (as set out in Section 1) and thus conclusively confirm the lawfulness of the existing operations continuing.

APPENDIX 1  
Site Plans

APPENDIX 2  
Environmental Permit & Supporting Documents

## APPENDIX 3

### A Brief Operational History Of Pendrethen Quarry 1944- 2004

APPENDIX 4  
Detailed Site History

APPENDIX 5  
Statements