

David Love
Area Team Leader – Bute and Cowal
Development Management
Planning Services
Argyll & Bute Council
Municipal Buildings
Albany Street
OBAN PA34 4AW



16 June 2017

Dear Mr Love

**HARVEY AND LESLEY WOLFINGER
OBJECTION TO APPLICATION REFERENCE 16/02911/MIN
GLASDRUM, FASNACLOICH, APPIN, ARGYLL AND BUTE**

On 15 December 2016 we submitted detailed objections on behalf of Harvey and Lesley Wolfinger, of Invercreran House, Glen Creran, Appin, Argyll, PA38 4BJ, to Application Reference 16/02911/MIN by A & L MacRae which seeks full planning permission for development of a quarry allowing for the extraction and processing of sand and gravel and the final restoration of the land at Glasdrum, Fasnacloch, Appin.

A key concern for our clients and other objectors, including SEPA, was the deficiency of the Environmental Statement and the Council sought additional information from the applicants in support of the development. This additional information was advertised in the Edinburgh Gazette on 25 May 2017, with comments to be submitted by 22 June 2017. This letter responds to the additional information, but it requires to be read in conjunction with our clients' original objections and subsequent correspondence with you as Planning Officer. All of our clients' submissions require to be taken into account in the determination of the applications.

This letter responds to the additional information submitted by the applicants on need and flooding and pollution. It also comments on the lack of further information on protected species, road safety and noise, all of which are concerns for our clients.

Aberdeen Edinburgh Glasgow

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Live: 38196450 v 2

Need

As highlighted in our clients' original objection, SG LDP MIN 2- Mineral Extraction within the adopted Argyll and Bute Local Development Plan 2015 contains "*a presumption against the re-opening of abandoned works, new or extended quarry development, where adequate permitted reserves already exist.*" An exception to that presumption is where an exceptional local need for the specific mineral type and quality to be extracted can be demonstrated.

The Environmental Statement submitted in support of the application makes no reference to a specific local need, relying instead on an alleged shortage of building sand within the market. Our clients appointed Johnson Poole and Bloomer (JPB), engineering consultants with specialist mineral and quarrying expertise, to carry out a review of the need for sand and gravel in the vicinity of the application site. Their review, which was submitted as Appendix 2 of our clients' objection, concluded that "*the demand for sand and gravel in the area is currently being met by existing sources with proven extensive reserves at several quarries with the benefit of long term planning permission*".

The conclusions of the JPB report are supported by the responses which you received to your independent enquiries of quarry operators in the area. All confirmed that they have extensive supplies.

These independent responses contradict the claims of the applicants in their Response to Appendix 2 of our clients' objection.

Our clients instructed JPB to review the additional information submitted by the applicants to try to overcome the policy presumption against the development. Their updated position is included as Appendix 1 to this letter. It reconfirms that the "*limited demand for building sand can currently and for the foreseeable future be met by existing quarries.*"

Without any evidence to justify an exception to the presumption against the development, the applicants have had to admit that no more than a third of the annual aggregate extraction will be building sand and that the quarry is primarily to serve their own requirements as a contractor and for their ready-mix concrete plant (see page 6 of their Response to Appendix 2 of our clients' original objection). No weight can be attached to the correspondence from the applicants' customers supporting the application. Their needs can all be met by the existing permitted quarries in the area.

The terms of SG LDP MIN 2- Mineral Extraction do not permit exceptions to the presumption against new quarry development based on an individual applicants' own use.

It remains our clients' position that approving this application would be contrary to policy and no material considerations have been put forward which would entitle the Council to set aside the policy presumption.

Flooding and pollution

Our clients appointed Envirocentre to review the Environmental Statement submitted in support of the application and their report forms Appendix 1 of our clients' original objection letter. The only

issue in respect of which additional information has been submitted is flood risk. None of our clients' other environmental concerns have been addressed.

In relation to flooding, Envirocentre highlighted the lack of a flood risk assessment, a concern which was echoed by SEPA. Envirocentre expressed concerns with the proposed mitigation should flooding occur and risk of significant adverse impacts on water quality in the River Creran and thus the SAC qualifying features of reefs which are sensitive to smothering. Pollution of a European protected site carries potential criminal liabilities.

A flood risk assessment has subsequently been submitted, but SEPA has reviewed the assessment and advised that it remains opposed to the development *"on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy"*. SEPA has indicated that it *"remains somewhat uncertain as to whether this is the most appropriate location for the quarry given the identified flooding issues"*.

The failure to consider alternative sites was identified by our clients as a major deficiency of the Environmental Statement, putting it in breach of the EIA Regulations and the specific requirement of the Council in its Scoping Opinion. We note that under the 2017 EIA Regulations, Scoping Opinions are expressly binding on applicants. The new Regulations also require a developer to include a comparison of the environmental effects of all reasonable alternative sites.

Based on the information presented in support of the application, the development clearly conflicts with the terms of Policy LDP3 – Supporting the Protection, Conservation and Enhancement of Our Environment.

Protected species

We note that no additional protected species surveys appear to have been submitted in support of the application despite concerns which were identified by our clients' environmental consultants when reviewing the Environmental Statement.

Roads

In our clients' original objection letter, we highlighted concerns with the ability of the existing road network to support the heavy vehicle traffic which would be generated by the quarry. The roads are narrow with steep drop offs, blind bends, no passing places and no pavements.

The potential conflict with recreational pedestrians and cyclists was identified by the Council as an issue in its Scoping Opinion. The Roads Department suggested the creation of passing places.

No drawings have been submitted by the applicant showing the proposed location/construction of any passing places. It is submitted that this is because there are simply no suitable locations for any passing places, as would have been apparent to you on your site visit. Approving the development in the absence of clear evidence that the traffic from the quarry can be safely accommodated on the road network without detriment to other users would not only be contrary to Policy LDP 11 and SG LDP TRAN 1, but would also be placing lives at risk.

Noise

The Envirocentre Report submitted by our clients highlighted concerns with the noise assessment which forms part of the ES, particularly the failure to measure background noise at the closest noise sensitive receptors. Envirocentre highlighted that the quarry operations would stand out clearly from the background noise.

We are not aware of any additional noise assessment work which has been carried out by the applicant to address these concerns.

Conclusion

Our clients' original objection identified many deficiencies in the Environmental Statement and drew your attention to the considerable detrimental impacts which the development would have on the natural environment. These concerns remain outstanding.

Rather than addressing the impacts of the development, the applicant appears to be wanting the Council to overlook the impacts, claiming that there is an exceptional need for the quarry to meet local demand.

Independent evidence from quarry operators in the local area has demonstrated that no such need exists.

The proposal conflicts with the presumption in the LDP against new quarry developments, as well as all the relevant environmental policies which seek to protect Glen Creran from inappropriate development. There are no material considerations which would entitle the Council to depart from the policies in the LDP.

We would reiterate our clients' respectful request that the application be refused.

Yours faithfully


For and on behalf of Burness Paull LLP

T: +44 (0)1224 618531

E: efb@burnesspaull.com

Cc Pippa Milne

Angus Gilmour

Jim Smith

Our Ref: QG266-09/PJL/LS

Elaine Farquharson-Black
Partner
Burness and Paull
1 Union Wynd
Aberdeen, Scotland
AB10 1SL

8th June 2017

Dear Ms Farquharson-Black

**Application Reference 16/02911/MIN
Harvey and Lesley Wolfinger**

Introduction

In December 2016, we were instructed by Harvey and Lesley Wolfinger to prepare a report which addressed the issue of the need for sand and gravel within the market area likely to be supplied if the development at Glasdrum was to be granted planning permission.

Our report was included as Appendix 2 to the detailed objection to Application reference 16/02911/MIN which was submitted on behalf of Mr and Mrs Wolfinger by Burness Paull. The applicant has since responded to the objection and we have been instructed to review those responses and our report in light thereof.

Review

We have reviewed the following representations made on behalf of the applicant:

- **Document 1**
A letter from DAL of 29 March reference 765/03 which details the applicant's response to a number of queries raised by Argyll and Bute Council.
- **Document 2**
An undated and unsigned document which appears on the Argyll & Bute Council planning portal with reference 21571440 entitled "Response to Appendix 2 (Need Section) of Representation prepared by Burness Paull for Harvey and Lesley Wolfinger"

Having considered these documents we would offer the following comments which will hopefully assist the Planning Authority in its assessment of the application. We do not propose to revisit all aspects of our original report to rebut each point raised by the applicant's agents, but we do wish to draw attention to a number of the most salient points.

Comments

It is clear that the applicant's primary purpose in seeking to develop this quarry is to produce concrete sand and aggregate for its own use in its own concrete products business and this is in fact confirmed within Document 2 page 6 paragraph 6.

This being the case and having acknowledged within Document 1 page 2 paragraph 2 that “*It is clearly accepted that the proposal does not make a significant contribution to the overall supply of sand and gravel in the area...*” it seems as though the applicant is seeking to place the emphasis on the requirement for building sand in the local area and indeed goes as far as to claim that “*The predominant need for the Glasdrum development relates to building sand*”...Document 2, page 6, paragraph 6.

Given the very limited requirement for building sand locally as is clearly evidenced in the responses provided to the Council by a number of quarry operators via independent enquiry, this claim is obviously not correct.

No doubt the applicant recognises that it would not be possible to demonstrate that there is “*exceptional local need*” for the great majority of the minerals to be excavated from the site and hence the emphasis on the apparent need for building sand locally. In our view this is an attempt to draw the Council’s attention away from the fact that the applicant’s primary purpose in seeking to develop this quarry is to produce concrete sand and aggregate for its own use in its own concrete products business and this is in fact confirmed within Document 2 page 6 paragraph 6.

Notwithstanding the above we have considered the applicant’s claim that building sand is in short supply and we remain of the view, as expressed in our original report, that there are a number of existing operational quarries with proven extensive reserves, with the benefit of long term planning permission, which can more than meet the demand for sand and gravel in the area. These include North Connell (Breedon), Dornie (Leiths), Kilmartin (MacLeod) and Clachan (Bonnar) and in this connection and for ease of reference we attach the responses of each of these companies to the Council’s request for information. We have distilled the following facts from our own research and from each of the operators’ responses;

1 North Connell (Breedon)

On current rate of sales, reserves are considered sufficient to last for 10 years

When the latest planning application for this quarry was submitted by Breedon in 2016 the proposed rate of output of 2,000 tonnes per annum wasn’t chosen for any reason other than this level of demand was anticipated by the Company, which is an experienced and established operator within the market. It would be far easier for Breedon to make more money if sand from this site could be sold in greater quantities than 2,000 tonnes per annum but this is the level of sales it anticipated.

If in fact the demand was substantially higher, Breedon would install the appropriate plant to produce building sand from the deposit at Benderloch Quarry. The fact that Breedon has chosen not to do this is simply a reflection of the fact that the limited level of demand does not justify the financial outlay.

2. Kilmartin Quarry (MacLeod)

Reserves are extensive and building sand is produced. Previous attempts to sell into local builders merchants have been thwarted by national purchasing agreements. Such agreements would not prevent the applicant from purchasing sand from this source.

3. Dornie Quarry (Leiths)

Reserves are extensive and a new sand plant has been installed which will be producing building sand.

4. Clachan Quarry (Bonnar)

Building sand is produced in response to customers’ needs. A pertinent comment is made that modern building construction requires less sand product.

In an attempt to demonstrate support for the development of Glasdrum, the applicant has made reference to a number of major projects namely (i) Carraig Gheal Windfarm and (ii) Mossfield Park (sports field) both of which the Planning Authority is invited to believe would have benefited from the availability of Glasdrum materials.

It is the case however that the materials required to construct the windfarm were surely concrete sand and aggregate and not building sand and Mossfield Park required sports sand which is a very specialised product only produced by a limited number of quarries throughout Scotland. Accordingly, neither of these projects have anything to do with the requirement for building sand locally.

Conclusion

In summary, we contend that it is clearly the case that by far greatest proportion of output from this site would be required for the applicant's own internal use, whether in concrete products or the use of sand and aggregates in the contracting business, and as such the development of this site is proposed to meet the company's own internal need and not that of the wider economy.

We maintain that the applicant's claim that the "*primary product for Glasdrum*" is the building sand is an attempt to demonstrate to the Council that there is an "*exceptional local need*" for this site to be developed. However, it is our contention that this is not the case as such limited demand for building sand as there is, can currently and for the foreseeable future be met by existing quarries.

Yours sincerely



Phillip J Lea
Director

E-Mail: enquiries@jpbScotland.co.uk
Website: www.jpb.co.uk

McCabe, Charles

From: Love, David
Sent: 24 March 2017 15:56
To: bandc, planning
Subject: FW: Production of Sand at Benderloch Quarry

Please attach to 16/02911/MIN as correspondence, thanks.

Kind regards,

David Love
Tel: 01369 707 320
Mob: 07833 675 347
e-mail david.love@argyll-bute.gov.uk



From: Kris Bremner ([REDACTED])
Sent: 24 March 2017 11:27
To: Love, David <David.Love@argyll-bute.gov.uk>
Subject: RE: Production of Sand at Benderloch Quarry

Hi David

I can confirm that Benderloch supplies a concrete sand together gravel of varies sizes both as dug and crushed. North Connel Quarry provides a building sand which is imported into Benderloch quarry for processing and sale. All products produced at both Benderloch and North Connel are available for public sale which is the predominant market for the building sand.

Please contact me if I can be of any further assistance.

Kind regards

Kris Bremner
Estates Surveyor



Head Office - Northern, Monifieth, Angus, DD5 3RB



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Philip Lea

From: Love, David <David.Love@argyll-bute.gov.uk>
Sent: Wednesday, May 17, 2017 3:30 PM
To: Philip Lea
Subject: FW: Proposed Sand and Gravel Quarry - Glasdrum

Philip,

This is the response I received from Breedon's. I believe it's on the website.

Kind regards,

David Love
Tel: 01369 707 320
Mob: 07833 675 347
e-mail david.love@argyll-bute.gov.uk

From: Donald Hunter [mailto:donald.hunter@breedongroup.com]
Sent: 09 May 2017 07:55
To: Love, David <David.Love@argyll-bute.gov.uk>
Cc: david.morrow@breedongroup.com
Subject: FW: Proposed Sand and Gravel Quarry - Glasdrum

David
Just for your records Adrian no longer works with the Breedon Group and his replacement is David Morrow who can be contacted in future at david.morrow@breedongroup.com. To answer your question we currently sell building sand which is taken from North Connel and screened at our Benderloch quarry, this is then sold locally to both contractors and to the general public with deliveries and collections available. On the current rate of extraction and sales we would foresee that we would have enough reserve to last approx. ten years.

I hope this helps

Kind regards

Donald Hunter
Commercial Manager West

donald.hunter@breedongroup.com
Tel: 01631 567728



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Message Key: 000313E7631104C21DC6B2BE0F2FADE466A224B34



From: Greg MacLeod
To: "Love, David"
Subject: RE: Production of Building Sand at Kilmartin Quarry
Date: Wednesday, March 22, 2017 10:02 GMT

Attachments:

| File Name | Message Key |
|---------------------------------------|----------------------------------|
| image001.jpg (3.2 KB) | A58FD0FA34855C93CEC968D969E1AE1E |

Good morning David

I can confirm we supply the following from our Kilmartin Quarry

- Building Sand
- Concrete Sand
- 25mm Gravel Round
- 40mm Gravel Round
- 75-100mm Decorative Stones

We supply to the public (open market)

Link below to our quarry section of our web page if it is of use

Just for your information, we have approached local suppliers previously to try and provide locally sourced building sand, gravel etc. we even looked into bulk-bag and 25kg bag loading machines to provide the full product, however they are tied with national agreements and therefore import from other areas
Let me know if you need anything further

Regards

Greg MacLeod
Business Development Manager
MacLeod Construction Ltd
Tel: 01542 822222



MacLeod Construction Ltd
Kilmory Industrial Estate,
Lochgilphed, PA31 8RR
Co. Reg. No. 165362 (Scotland)

M&K MacLeod Ltd.
Kilmory Industrial Estate
Lochgilphed, PA31 8RR
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Directors: Murdo MacLeod (Holder of the Queen's Award for Enterprise Promotion), Kenneth MacLeod.

M&K MacLeod and MacLeod Construction Ltd (hereafter "the Company")

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From: Love, David [mailto:David.Love@argyll-bute.gov.uk]
Sent: 22 March 2017 08:51
To: Gr [redacted]
Subject: Production of Building Sand at Kilmartin Quarry

Good morning,

I hope this email finds you well

As you may be aware Argyll and Bute Council are processing a planning application for the extraction of 83,000 tonnes of sand and gravel at Glasdrum, Fasnacloch, near Appin (reference 16/02911/MIN). As part of the determination process I am keen to gain a better understanding of the products currently available within the Lorn market area (i.e. 30mile radius from the Glen Creran as per the parameters set out within the Local Development Plan). The applicant is specifically proposing to produce high quality building sand. Therefore, I am trying to determine what products are produced at Kilmartin Quarry and if they are available for sale to the general public.

Cameron, Zara

From: Love, David
Sent: 09 May 2017 07:22
To: centralvalidationteam
Subject: FW: Proposed Sand and Gravel Extraction - Glasdrum

Please attach to 16/02911/MIN as correspondence Dornie Quarry, thanks.

Kind regards,

David Love
Tel: 01369 707 320
Mob: 07833 675 347
e-mail david.love@argyll-bute.gov.uk

From: Grant Milne [mailto:gmlne@Leiths-Group.co.uk]
Sent: 09 May 2017 06:15
To: Love, David <David.Love@argyll-bute.gov.uk>
Cc: Phil Leith <PLeith@Leiths-Group.co.uk>
Subject: FW: Proposed Sand and Gravel Extraction - Glasdrum

Morning David,

Further to your email below we would comment as follows.

Leiths operate Highland Lime Quarry (Dornie) by Fort William, PH33 6SQ.

The site has significant reserves of both hard rock and sand and gravel with current planning permission running to 2045.

The reserves of sand and gravel are estimated at + 875,000t.

Our estimate of the maximum building sand demand within a 30 mile radius is circa 3,000t per year which Highland Lime are more than capable of supplying.

We have recently installed a new sand plant at Highland Lime Quarry which is capable of producing 500t of sand per day.

If you require any further clarification please don't hesitate to call.

Regards,

Grant Milne
Managing Director
Quarries Division

Leiths (Scotland) Ltd
Rigifa
Cove
Aberdeen
AB12 3LR

Tel. 01224 293255
Fax. 01224 876332
Mob. 07824 594210
Email. gmlne@leiths-group.co.uk
Web: www.leiths-group.co.uk

Cameron, Zara

From: Love, David
Sent: 23 May 2017 10:30
To: centralvalidationteam
Subject: FW: Extraction of Sand and Gravel

Please attach to 16/02911/MIN as correspondence from Bonnar S&G, thanks.

Kind regards,

David Love
Tel: 01369 707 320
Mob: 07833 675 347
e-mail david.love@argyll-bute.gov.uk

From: Bonnar Sand and Gravel [REDACTED]
Sent: 22 May 2017 10:54
To: Love, David <David.Love@argyll-bute.gov.uk>
Subject: RE: Extraction of Sand and Gravel

We are happy to respond to your information request David

Bonnar have been extracting from our quarries for over 30 years to service customers throughout Argyll and the west coast with aggregates, sands and ready mix concrete products. These clients range from large public works contractors to general building firms to individual house builders. The demand historically for fine building sand was approx 10 tonnes per week. We do produce stock of this as required for our customers however the demand has in fact declined over the years to less than 10 tonnes per month. Modern building construction i.e. system building, kit building etc simply requires less sand product and so fine sands now account for less than 1% of our business.

Yes, we do have planning consent to extract at the current site until 2022. Dependant on the geological surveys and commercial prospects for our current quarry nearer that time, appropriate consent to extend the time and / or volume will be applied for. However yes, we do also already have adjoining / nearby sites under review should the current quarry deplete. Bonnar will certainly remain in the aggregates industry for as long as it is commercially viable to do so.

We have concern that this is a limited industry for any location. These are specialist skills, the workforce is finite and so we have worked hard to train and keep our staff. It is important to us that we provide local jobs but it would be a difficult situation should a new enterprise reduce the employment pool further.

If there is any other information we can assist with, please let us know.

Andrea on behalf of Daniel Bonnar
Bonnar Sand and Gravel Co Ltd; Bonnar Ready Mix Concrete Ltd; Bonnar Plant & Haulage Co Ltd
Tel: 01499 600268

From: Love, David [<mailto:David.Love@argyll-bute.gov.uk>]
Sent: 28 April 2017 12:25
To: [REDACTED]
Subject: Extraction of Sand and Gravel

Good afternoon,