

EB233

COPY

Ref. 913/620/14.

28th January, 1954.

Gentlemen,

Town & Country Planning Act, 1947.  
Appeal by the Potters Clay & Coal Co. Ltd.  
Land at Brownhills, Staffordshire.

I am directed by the Minister of Housing and Local Government to say that he has considered the Report of his Inspector, held Mr. S.T. Roberts, M.I.Mun.E., following the local Inquiry held on 28th January, 1953, into the appeal by the above-mentioned Company against the conditions imposed by the Brownhills Urban District Council, acting on behalf of the Staffordshire County Council, in granting permission for clay and coal working on land at Brownhills, and against the exclusion from the permission of certain other land at Brownhills in which the Company hold rights to work minerals.

2. The conditions attached to the permission were imposed with the object of minimising nuisance and injury to amenity during the course of working and of ensuring that the land when worked-out would not be left derelict, but would be restored in such a way as to make it capable of further beneficial use. The Minister approves the Council's objectives, but he considers that some of the conditions imposed are too restrictive having regard to the nature of the Company's activities, that others merely reinforce Common Law obligations and that certain conditions go beyond what can reasonably be required of the Company.

3. The other land in which the Company claim to have secured mineral working rights either by lease or purchase, but which was not included in the conditional permission, was defined by the Company at the Inquiry and is shown edged with a broken black line on the accompanying plan. On behalf of the Company it was claimed that permission to work in this land was necessary for the economic working of the several clay seams in which they hold interests and that it was essential that the area available for working should be large enough to enable the producers to foresee continuous output for at least 20 years ahead. The local planning authority were opposed to an extension of the working area because the land in question as in part Common Land and their Development Plan proposes that it should be used, together with the rest of the 170 acres of Common Land, as public open space. The Minister is informed that Brownhills Common is subject to a scheme of regulation made by the Brownhills Urban District Council in 1931 under the Commons Act, 1899, that the right to remove minerals was expressly reserved by the scheme and that the scheme also contains protection for the rights of way of the tenant of Coppice Side Farm and the right of access to the pool adjoining the farm.

4. The Minister notes that the clay produced by the Company is supplied to firms, within reasonably short haulage distances, who manufacture, among other things, tiles and sanitary ware for use in house-building and pottery for export, and that there is processing plant for the clay on the site. He is satisfied, therefore, that there are good economic reasons for permitting some further exploitation of the minerals underlying the appeal site. He does not consider, however, that the Company's proposals for the working of land beyond that required in the next 25 years are sufficiently well defined to justify the grant of permission at this stage for more than about 25 years' working. His decision to refuse consent in respect of the remaining land will not, however, prejudice the Company's right to submit a further application at a later date.

5. The Minister sympathises with the views expressed at the

be:

Inquiry on behalf of the local planning authority that the method of working south of Coppice Lane seemed to have been carried out so far without much regard to the subsequent appearance of the area and he has decided that in future the programme of working and restoration must be tightly controlled. He takes the view that such working as is to be permitted should be subject to strict compliance with conditions designed to ensure the minimum interference with the rights of others to use the Common and designed also to ensure that the land worked by the Company is restored as soon as possible to the fullest degree practicable. The evidence given on behalf of the Company has not, however, method, given him sufficient details of their future programmes, the extent and depth of working, the quantity of waste for back-filling and other important factors to enable him to frame precise conditions. He has accordingly decided to make the permission to work minerals subject to the approval of programmes of working and restoration and to strict compliance with the restoration provisions included in them. It will therefore be necessary for the Company to prepare and submit from time to time details of their future working operations and their restoration programme. The Minister recognises that it may not be possible for the Company to plan their operations in detail for more than a few years ahead, but he thinks it should be possible for them to indicate in general terms their working programme for the whole of the permission area and then to supplement these general proposals by more detailed programmes for, say, periods of five years ahead. He suggests, therefore, that the first programme should show the following particulars:-

#### 1. General Programme.

- (a) A general indication of the land that is likely to be excavated within the permission area, and the approximate order of working.
- (b) A general indication of the quantity of waste likely to be available for back-filling, the depth of working likely to need filling, the extent to which lagoons may have to be left and an indication of the time and rate of restoration which the Company think it possible to aim at.

#### 2. Detailed Short-term Programme.

- (a) The land expected to be worked for minerals in, say, the next five year period, and the method of working.
- (b) The land required for the stocking of clay, the deposit of waste and for other purposes ancillary to the working of minerals.
- (c) The method proposed by the Company for the disposal of waste water.
- (d) The steps proposed by the Company for restoring the land, planting trees, or otherwise improving the appearance of the land after working, and the time within which such steps will be taken.
- (e) The steps proposed by the Company for restoring the whole or part of the land that has already been worked and the time within which such steps will be taken.
- (f) Any other proposals affecting the appearance of the area or the access to it.

The Minister has decided to allow a period of eight months for the preparation, submission and approval of a programme on the lines suggested above and to make the permission to work minerals

beyond that period subject to compliance with approved working and restoration arrangements. It will be open to the local planning authority (in consultation with the district council, for as they think necessary) to consider the Company's proposals unless the initial stage and for subsequent stages of working and, unless they are able to accept them as they stand, to negotiate agreed programmes with the Company. In the event of failure to agree, application can be made to have the programmes determined by the Minister.

6. The Minister has decided to exercise the power conferred on him by sub-section (2) of section 16 of the Town and Country Planning Act, 1947, and to deal with the application as if it had been made to him in the first instance. He hereby grants permission for the winning and working of clay and coal by a bold underground and surface mining in the two areas shown with a bold dot edging on the accompanying plan, subject to the following conditions:-

(1) The land shall be restored in compliance with the provisions of condition (2) below.

(2) After the 30th September, 1954, the winning and working of minerals and the restoration of the land shall proceed in accordance with such arrangements as may be agreed from time to time with the local planning authority or, in default of agreement, as shall be determined by the Minister.

(3) All plant and machinery installed in connection with the working or restoration of the land in pursuance of this permission shall be removed at such time or times as may be agreed with the local planning authority, or, that they are no longer required for these purposes, or, in default of agreement, as shall be determined by the Minister.

(4) Permission shall be obtained under the Town and Country Planning Act, 1947, for the erection of any buildings in connection with the winning and working of minerals under this permission, and in dealing with applications for such permission the local planning authority shall not be bound by the limitations imposed in the proviso to paragraph 2 of Class XIX of the First Schedule to Part I of the Town and Country Planning (General Development) Order, 1950.

The Minister hereby refuses permission for the remainder of the land comprised in the Company's application.

7. This letter is issued by the Minister as his formal decision on your client's appeal and does not purport to convey any approval or consent which may be required under byelaws or Acts other than the Town and Country Planning Act, 1947.

8. Copies of the letter have been sent to the Staffordshire County Council, Brownhills Urban District Council, and interested Government Departments.

I am, Gentlemen, Your obedient Servant

F. SCHAEFER

Authorised by the Minister  
to sign in that behalf.

Messrs. T. F. Fisher, ~~Wingate~~ Nightingale & Son,  
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LALSALL.