

An
Bord
Pleanála

Board Order
ABP-309192-21

Planning and Development Acts 2000 to 2020

Planning Authority: Cavan County Council

Planning Register Reference Number: 20/48

Appeal by R. Lee of 10 Blessington Street, Dublin against the decision made on the 10th day of December 2020 by Cavan County Council to grant subject to conditions a permission to Breedon Brick Limited care of Quarryplan Limited of 10 Saintfield Road, Crossgar, Downpatrick, County Down in accordance with plans and particulars lodged with the said Council.

Proposed Development: The continued use of the existing clay pit and ancillary works permitted under planning register reference number 17/75 and a lateral extension to the clay pit over an area of circa 4.2 hectares to a final depth of 14 metres Ordnance Datum over a period of up to 20 years, with restoration to biodiverse habitat after uses following completion of extraction, within an overall application area of circa 14.99 hectares. The application is accompanied by an Environmental Impact Assessment Report. The application site forms part of Environmental Protection Agency Integrated Pollution Control Licence Reference P0528-01 for Breedon Brick Ltd. All at Cormey Clay Pit, Cormey, Kingscourt, County Cavan. Further public notices were received by the planning authority on the 21st day of October 2020.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Dundalk Bay Special Area of Conservation (Site Code: 000455), Dundalk Bay Special Protection Area (Site Code: 004026) and Stabannan-Braganstown Special

Protection Area (Site Code: 004091) or any other European site, in view of the sites' conservation objectives.

Environmental Impact Assessment

In accordance with the requirements of Section 172 of the Planning and Development Act 2000, as amended, the Board completed an Environmental Impact Assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on the site,
- (b) the Environmental Impact Assessment Report (EIAR) and the associated documentation submitted in support of the planning application,
- (c) the submissions received from the observers and prescribed bodies, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant including the response to the further information request, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application for approval.

Reasoned Conclusion on Significant Effects on the Environment

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- (i) positive significant impacts on the local economy and the building industry nationally, would arise as a result of making the clay available for brick manufacturing,
- (ii) impact on surface water, which can be mitigated by the management of site drainage,
- (iii) impact on roads and traffic, which can be mitigated by the use of six wheeled lorries for haulage, the carrying out of a bridge inspection, the provision of road markings and signage and cleaning of the public road, when necessary, and
- (iv) impact on archaeology, which can be mitigated by test trenching, at the appropriate stage of development, under the supervision of a licensed archaeologist.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking the decision.



Proper Planning and Sustainable Development

Having regard to the locational requirement that aggregates can only be worked where they occur, the location at an established clay extraction pit, the need to provide clay for the associated brick manufacturing facility, the design of the proposed extraction and the environmental controls in place and proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development, would not unduly impact on the archaeological potential of the site, would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 7th day of October, 2020, and by the further plans and particulars received by An Bord Pleanála on the 17th day of February, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.



2. Quarrying shall cease not later than 20 years from the date of this Order. Progressive landscape restoration shall occur at each development phase and following decommissioning of the quarry.

Reason: In the interest of clarity.

3. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, the Ecological Impact Assessment, and other plans and particulars submitted with the planning application shall be carried out in full, except as may otherwise be required in order to comply with other conditions.

Reason: In the interests of clarity and protection of the environment.

4. The proposed extraction of mineral from the clay pit shall be limited to an output of 50,000 tonnes of clay per year.

Reason: In the interest of clarity.

5. The hours of operation of the site shall be limited to between the hours of 0800 to 1930 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.



6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall, following the removal of the existing tip/stockpile to a depth approaching the former topography of the site, employ a licensed archaeologist to carry out a phased programme of archaeological evaluation through test trenching to identify any previously unrecorded archaeological remains which may survive in situ and to provide an assessment of the likely impact of proposed extension of quarrying works on any such remains.



Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

7. The developer shall monitor water levels at the piezometers fortnightly and record the volume of water pumped. These records shall be routinely submitted to the planning authority throughout the life of the proposed development.

Reason: In the interest of orderly development.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



John Connolly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 6th day of AUGUST 2021.