

Agenda – Climate Change, Environment, and Infrastructure Committee

Meeting Venue:

Committee room 4 Tŷ Hywel
and video Conference via Zoom

Meeting date: 9 May 2024

Meeting time: 09.30

For further information contact:

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Hybrid

Private pre-meeting (09.15–09.30)

Public meeting (09.30–14.25)

1 Introductions, apologies, substitutions, and declarations of interest

(09.30)

2 Restoration of opencast mining sites – evidence session 4

(09.30–10.40)

(Pages 1 – 252)

Alyson Austin, resident, United Valleys Action Group – Merthyr Tydfil

Chris Austin, resident, United Valleys Action Group – Merthyr Tydfil

Sue Jordan, resident, former Cross-Valleys Group – Swansea

Owen Jordan, resident, former Cross-Valleys Group – Swansea

Gaynor Ball, resident, former Protecting and Conserving Together (PACT) – Margam

Suzanne De Celis, resident, former Protecting and Conserving Together (PACT) – Margam

Attached Documents:

Research brief – Restoration of opencast mining sites

Research brief – Scottish opencast mine restoration



Paper – Merthyr residents
Paper – Swansea residents
Paper – Margam residents
Appendix A – Merthyr residents
Appendix B – Merthyr residents
Appendix C – Merthyr residents
Appendix A – Swansea residents
Appendix B – Swansea residents
Appendix C – Swansea residents

Break (10.40–10.50)

3 Restoration of opencast mining sites – evidence session 5

(10.50–11.30)

Hugh Towns, Senior Manager Development & Enforcement – Carmarthenshire County Council

Break (11.30–11.40)

4 Roadmap to Bus Reform – Technical briefing

(11.40–12.40)

(Pages 253 – 262)

Lee Robinson, Executive Director for Regional Transport and Integration – Transport for Wales

Robbie Thomas, Head of Bus Legislation – Welsh Government

Joseph Dooher, Head of Bus and Community Transport – Welsh Government

- [Welsh Government road map to bus franchising](#)

Attached Documents:

Research brief – Bus Franchising

Lunch break (12.40–13.25)

5 Roadmap to Bus Reform – evidence session with transport networks

(13.25–14.25)

(Pages 263 – 281)

Stephen Rhodes, Director of Bus – Transport for Greater Manchester

Jason Prince, Director – Urban Transport Group

Attached Documents:

Paper – Urban Transport Group

Annex 1 – Urban Transport Group

Paper – Transport for Greater Manchester

6 Papers to note (14.25)

6.1 Restoration of opencast mining sites

(Pages 282 – 284)

Attached Documents:

Letter from the Chair to the Leader and the Chief Executive for Merthyr Tydfil County Borough Council in relation to the Restoration of opencast mining sites

Letter from Merthyr Tydfil Heritage Trust to the Chair in relation to the Ffos y Fran opencast aftercare

6.2 Inter-Institutional Relations Agreement

(Pages 285 – 286)

Attached Documents:

Letter from the Cabinet Secretary for Climate Change and Rural Affairs to the Chair in relation to the Phytosanitary Conditions (Amendment) Regulations 2024 (“The Regulations”)

6.3 Retained EU Law (Revocation and Reform) Act 2023

(Pages 287 – 288)

Attached Documents:

Letter from the Chair to the Cabinet Secretary for Climate Change and Rural Affairs in relation to Retained EU Law (REUL)

- 7 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of today's meeting (14.25)**

Private meeting (14.25–14.45)

- 8 Consideration of evidence received under items 2 and 3**

- 9 Consideration of evidence received under items 4 and 5**

- 10 Consideration of draft letter on Committee remits**

(Pages 289 – 290)

Attached Documents:

Draft letter on Committee remits

Document is Restricted

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Ffos-y-fran - Failure to Restore

Statement and Evidence from Chris and Alyson Austin Residents - Merthyr Tydfil

Preamble:

Firstly, we do want you to get a feeling for the relationship we have experienced with the Local Planning Authority (LPA), and other public bodies in Merthyr Tydfil over the years. We do feel that we need to set the context, but I will try and keep to the salient points. We do need to include the run up to the restoration issues we are now experiencing. We are quite conscious of the time constraints and we won't be able to present orally all that we have here, but you can peruse this document at your leisure (!), after the event.

The fundamental message that we are trying to convey in our submission is that we are not wholly convinced that introducing further legislation will solve the problem. The public bodies, or agencies, that have responsibility in these cases are not using the powers that they already hold, so we wonder what would further legislation achieve? For us, it would be clarity of responsibilities and a means to hold the public bodies to account. There may be legislation and guidance that needs amending, but having a clear path to challenge a public body and ensure that they exercise their responsibilities. We have tried many ombudsmen over the years and have never had a successful outcome, even though we thought that our case was strong.

The MTCBC LPA, as the principle controlling authority of the Ffos-y-fran operation, along with the other associated public bodies, has presided over a blatant flaunting of planning law, and failed to act effectively, or even do anything at all at all, to remedy the almost 18 months of unlawful coal mining at Ffos-y-fran. The LPA are now repeating that act with their intransigence and inaction over the mining company's failure to provide the final restoration of the mine, and the subsequent flooding of the mining void with probably contaminated water.

From what we can determine, the legislation required to enforce and remedy this issue is already in place; but the mining company is ignoring it and the LPA, and other agencies, are refusing to action it.

Our story is 20 years long, and we can only provide a taste of the challenge we've faced trying to work with the MTCBC LPA. We will try to keep it to recent experiences as far as possible, but with reference to a few key historic events.

The relationship between ourselves and the Local Authority was sour prior to this latest fiasco, and we need to demonstrate this to you so that you can understand why their recent actions came as no surprise to us in any way. In reality, we expected it.

We have always been prepared to sit down and have a rational and professional discussion with anyone, at any level, on any issue that we have been involved in, and always start off with this approach, but our relationship with our LPA has always been acrimonious, and regrettably, has continued to be so. Campaign groups in place prior to us joining the fray said that this is typical of the way that they were, and still are, treated by the LPA here in Merthyr Tydfil.

We have always been treated by them as 'the opposition', or even 'the enemy', and we have been ignored, dismissed, marginalised, lied to, and misdirected in our time.

Meaningful public involvement on planning applications is not just discouraged by the MTCBC LPA, it's actively avoided, even planned out.

Our latest campaign against the extension of the Ffos-y-fran mining operation has (unusually) attracted a lot of media interest, and the behaviour of the MTCBC LPA has, to a degree, been exposed to a wider audience. Amazingly, this has not perturbed them in any way, and they carried on regardless even with public scrutiny of their actions. We cannot understand how they haven't been held to account for their actions and we even dare to think that it is because they are supported in these actions by the Welsh Government. But, again, who holds them to account for their actions? These actions have been performed in recent times and they cannot use the excuse '*all the officers involved in this case no longer work for the MTCBC LA*', (many of the officers from the start of this sorry affair are still in place though...) and as I said earlier, most of transgressions we are discussing occurred under their watch, and over the last 18 months.

My wife, Alyson, and I are both Merthyr born-and-bred, but we moved out in 1989 for ease of access to work in Cardiff. We returned to Merthyr in 2003 with our, then, young family, and fell straight into a resident's campaign against the proposal to build the massive Ffos-y-fran land reclamation scheme/opencast coalmine; a 17.5 year proposal. The impact on our densely populated community, immediately in the firing line of the mine (just 40 Metres at the nearest), was obvious. Noise, dust and light pollution for 16 Hours a day right up to the edge of our community.

We campaigned for a Health Impact Assessment (HIA) as the LPA refused to order the implementation of one saying it wasn't needed, so we commissioned our own via the Wales Health Impact Assessment Support Unit (WHIASU). Despite their findings being quite negative towards the proposed mine, and included WHIASU's call for the implementation of a 500 Metre buffer zone, the HIA was dismissed as having no weight by the LPA and the subsequently the WG because the HIA didn't include submissions from the MTCBC LA nor the mining company/applicant, even though it was them who refused to take part in the assessment when approached by WHIASU!

We then campaigned for, and took part in the consultation of the Minerals Technical Advice Note, MTAN2: Coal, along with its 500 Metre buffer zone. After quite some time in consultation, which then took it beyond the implementation of the Ffos-y-

fran proposal, it was passed, but the Welsh Government refused to apply it retrospectively. In addition, in its final form the technical advice note was fundamentally flawed as it still contained all the exclusion clauses ('exceptional circumstances') that we had argued strongly would make it ineffective.

The promises by the LPA of tight regulation and strong Section 106 agreements vaporised as soon as the mining operation started and the LA immediately gave the mining company 'self regulation'. A planning application to move the mined coal by road immediately followed (and was granted) despite '*all coal will be moved by rail*' being a key argument for the winning of planning consent. The only 'win' was that they constrained the company to 50,000 Tonnes per annum, but of course, we had no evidence of regulation by the LPA on this.

We had word (in September 2022) that a Section 73 (S73) planning application¹ had been submitted to extend the length of the coal mining operation at Ffos-y-fran. Again, we had to take a stand against this proposal as it was an operation that our community had already suffered, physically and mentally, for 15 years; far, far too long. The affected residents were looking forward to seeing the end of the mining operation, not a further 9 months, then possibly another 3 years, of coal mining. *[n.b. the applicant stated that they would be applying for 9 months, then a further 3 years, and then another amendment was submitted to vary the planning application to further extend the coal mining operation until March 2024; another 10 months of coal mining on top of their original application].* They argued that they needed this extension to make up for lost money that would be going towards paying for the final restoration of the mine.

In all instances we've found battle lines drawn from the start. At best, the LPA being extremely reluctant to talk to us, or work with us. At worst, we experienced the withholding of information, denial of access to the public register on several occasions, misinformation, and so on.

Transgressions, such as we have seen here with Ffos-y-fran, need to be dealt with strongly, quickly and visibly as they were evidentially unlawful and possibly even illegal. Our advice from planning and legal experts indicated that quick and effective enforcement action was possible within the planning system, but the LPA has baldly denied this throughout.

If our advice is accurate, and it came from the most reliable sources, then the LPA, for whatever reason, has failed to act in our interest and in accordance with planning law. If this transpires to not be the case, then we can only conclude that the planning system, as it is applied in Wales, is not fit for purpose.

In our most recent campaign; the extension of the coal mining operation at Ffos-y-fran, and now the mining company's failure to provide the final restoration of the

¹ MTCBC Planning Reference - **P/22/0237** (*Variation of conditions 3 (Coal Extraction) and 4 (Final Restoration) of planning permission APP/U6925/A/10/2129921*)

mine as contracted, the LPA has failed in its duty of care to the people of Merthyr, failed to apply the powers it holds, and is failing to protect the public purse.

[nb - It has to be borne in mind that, because the LPA are so insular and do not work openly with the local residents, this is how we perceive things to be. Our allegations here are, as far as we are concerned, factual in their statements, but how and why they came to be, and where they are going is largely a mystery to us. There may be a perfectly acceptable explanation for some of it (!), but the LPA have proffered none and we have no way of discerning them. We have to construct our understanding in some cases by reading between the lines and extrapolating from the information available].

Statement:

Unlawful Coal Mining by Merthyr (South Wales) Ltd. over 18 months beyond their planning consent, and outside of their licensed mine boundary:

This is not specifically within the remit of what we have been asked to present, but the restoration issue has rolled out of this last 18 months of unlawful coal mining; the reasons why they needed to continue mining; and the LPA's refusal to enforce planning conditions.

I've bullet pointed the issues for ease of reference, clarity, and brevity (!). Points can get lost in the middle of large chunks of text.

Unlawful Coal Mining:

- The MTCBC LPA refused to accept the evidence of continued coal mining presented to them by local residents
- The LPA failed to visit the mining operation to confirm the allegations of continued coal mining made by the local residents, despite frequent requests to substantiate the allegations. *(The coal mining operations are carried out in full view of a public road and is just 1.5 miles from the MTCBC Planning office)*
- The LPA failed to respond swiftly and effectively when presented with regularly supplied evidence from local residents. *(Good quality photographic evidence accompanied by detailed supporting information)*
- The LPA didn't inspect the spoil tip #3 (Overburden Mound 3, OB3) to confirm the allegations made by the local residents of ongoing works to construct a Motocross track, with supporting public infrastructure, on top of that tip
- The LPA didn't accept, nor confirm, that coal mining was still in progress until March of 2023; 6 months after the end of the mining company's planning consent, and 6 months of unlawful coal extraction at 1,000 to 1,500 Tonnes per day. *(This was only accepted when they were backed into a corner when presented with the Coal Authority(CA) figures for the mine's coal output for the end of 2022 by the Coal Action Network (CAN))*
- The LPA didn't accept (nor investigate, nor act) that coal mining was being carried out beyond the contracted boundary of the mine despite the work being readily visible from several vantage points and public roads

- The LPA refused to issue enforcement action and said that stopping the mining company from working whilst the LPA determined the planning application was '*... not something that they normally do*', and that if they refused planning consent in the future that they'd '*...look to implement legal/enforcement action retrospectively*'. We pointed out that this may work with an unauthorised house extension, but not with a coalmine. How can you recover the mined coal, relieve the local populace of its noise and dust impact, take the greenhouse gasses out of the atmosphere, and recover the money made by the mine ownerretrospectively? Utter nonsense!
- The MTCBC planning committee met to process the Section 73 (S73) planning application on April 26th 2023 where it was roundly, and unanimously rejected by the planning committee formed of duly elected MTCBC councillors. (*Ironically, even bizarrely, the LPA officer also recommended rejection of the planning application!*).
- The LPA promised the planning committee to act promptly to implement enforcement action/issue a stop notice to stop the unlawful mining activities, but subsequently failed to do so
- The LPA has now been seen to capitulate on all the mining company's requests within the Section 73 planning application and its subsequent amendment, (and more), despite the application being formally and unanimously rejected. In this instance, at least, the LPA could be perceived as subverting due process and consequently, bringing the planning system into disrepute
- The LPA have refused to issue enforcement action over the Motocross track, (*built as a permanent fixture to national and international standard along with public facilities and overnight camping for 2 day events*). The LPA said that the company was claiming it fell under Permitted Development (PD) despite it meeting few, (if any!), of Permitted Development conditions required under planning law
- The LPA have since accepted that the motocross track development doesn't meet PD conditions, but still refuse to issue enforcement action, despite much representation on the issue by local residents. The LPA are now in talks with the mining company negotiating retrospective planning consent for the Motocross track instead of implementing enforcement action for their planning transgressions
- To add insult to injury; the spoil tip, Overburden Mound #3 is/was planned to be the first spoil tip to be backfilled into the mining void as part of the final restoration of the mine
- It has been reported that the mining company have now sold the land under Overburden Mound #3 (*uncorroborated by us as yet, and to whom we are unsure*) and are abrogating responsibility for the Motocross track. This land is subject to current planning conditions, but yet again we have seen no action from the MTCBC LPA
- The LPA are now in talks with the mining company renegotiating a greatly reduced (inferior and cheaper!) final restoration scheme despite the mining company patently having the finances to fund the original scheme (*the mining company's finances have been tracked through Companies House by several organisations*)

- The outcome of the restoration renegotiation talks has been pre-empted, or maybe even predetermined by the LPA by its tacit acceptance of the Motocross track on top of Overburden Mound 3 (OB3), the first spoil heap scheduled to be returned to the mine during the final restoration phase within the existing, and currently only planning conditions/consent
- We asked the LPA for access to the Public Register during this period to view all documents that applied to the original restoration agreement with the mining company; and we still haven't been granted access. There is no longer a public front office to the planning department in Merthyr and access can only come by appointment from an LPA officer. Chasing permission and the appropriate officers is onerous, and obviously, in our experience, unproductive. The LPA's web portal is sparsely populated with planning documentation and we need to see the public register to get the full and original details. When asked to upload all documentation, the LPA said that there is no legal requirement to fully populate the web portal so it has but an incomplete, LPA chosen selection of the available documentation

The Coal Action Network (CAN) campaign group instructed legal counsel [*James Maurici, KC and barrister, Toby Fisher²*] to analyse the situation and provide legal opinion on the LPA's power to enforce the planning conditions. This confirmed that we, and other campaign groups were correct in what we had been asserting all along; that a *Stop Notice* could be deployed by the LPA at any time to halt coal mining whilst the planning applications and appeals were being determined. They went further and said that by not implementing this action the LPA could be considered to be acting unlawfully. Unfortunately, it is virtually impossible, financially, for the common man to challenge a public body in court.

In addition, Friends of the Earth (FoE) employ a planning expert who provided several guidance statements to the MTCBC LPA, the Welsh Government (WG), and the Coal Authority (CA). Again, supporting our claims by indicating that the LPA and WG have the power to implement a stop notice with little notice, and the CA had the power to enforce their license conditions, (the mining company were mining coal beyond their CA licensed boundary, and this has been confirmed by the CA with a statement and subsequent enforcement action).

The MTCBC LPA just replied to these assertions by saying that they take a '*...contrary legal position*' on the matter and have continued to avoid implementing a Stop Notice. Contrary to one of the most esteemed planning Barristers in the country? A rather arrogant and dismissive attitude.

² <https://www.coalaction.org.uk/wp-content/uploads/2023/06/Ffos-y-Fran-joint-opinion-MauriciFisher.pdf> - PDF of the Statement by James Maurici, KC and barrister, Toby Fisher

Failure by Merthyr (South Wales) Ltd. to Provide the Final Restoration of the Mine as contractually obligated:

We have feared for the future of the restoration of this mine for many years; most certainly since the announcement that the Ffos-y-fran operation was to be sold. The very thing that was used as leverage to get the planning consent, and from our/the residents point of view, the only benefit of the mining operation, is now to be denied us. This is a scenario that we anticipated, worked vigorously to avoid, (and it was avoidable), but now looks inevitable. It has to be remembered that Ffos-y-fran is Land Reclamation by Coal Extraction, not an opencast coalmine. I can assure you that we have been shouted down at meetings by LA and LPA members and even Councillors for calling it an opencast coalmine. This, despite the fact that it was demonstrably obvious to all that coal mining was its primary objective, and history has proven this to be correct.

Ffos-y-fran is a land reclamation scheme and the primary goal of this scheme is to reclaim and restore the (allegedly) 'severely derelict and dangerous' land on the Merthyr Common above Ffos-y-fran. The operator who accepted this task was to pay for this by the mining, and the subsequent sale of the extracted coal. Any coal sales profits that went over and above the funding of that primary objective was to go to the operator; but only then. The planning consent was granted on that basis. The making of a profit after their commitment/obligation to reclaim and restore the land was a risk that the operator had to accept; i.e. they had to accept the responsibility of the restoration and then the risk of not making enough profit. Unfortunately, but not unsurprisingly, this operation has been run with reversed objectives.

Our opinion of the LPA is not just confined to us. Other campaign groups, and the legal and planning experts that we've worked alongside have all said that they've not come across a Local Planning Authority the likes of Merthyr Tydfil's. They spoke of their stubborn reluctance to engage, their intransigence when asked to act or provide information, and their closed-shop, hostile and acerbic attitude amongst many other uncomplimentary descriptors.

1. The original mining company, owners of Ffos-y-fran scheme were Miller-Argent (South Wales) Ltd. (M-A) and this conglomerate was formed out of Miller group, a civil engineering firm from the midlands and who bought Wimpy Mining to get into the business, and Argent, the money side of the team who were funded by the British Telecom (BT) Pension Scheme money. Both were 'blue chip' companies and were 'good for the money' so to speak, and had a reputation to lose.
2. They had an agreement by Guarantee, to supply £15 Million to the MTCBC LPA if they failed to meet their obligations to restore the mine as per their contractual obligations
3. We argued that this was far too small an amount and that the final restoration and aftercare of the mine would be greater than this, and that the mining company could take this bargain payoff and walk away from their

obligations saving themselves many millions. But, our argument fell on deaf ears. At that point we hoped that the mining company had too good a reputation to renege on their obligations

4. We weren't so concerned about the restoration at this point, because the impact of the mining operation on the local residents was awful and took precedent. The restoration issue fell onto the back-burner for a while
5. Our concerns became major worries when the mining company (M-A) decided to sell the operation in late 2015
6. The Ffos-y-fran operation was sold to a local firm that didn't have the financial credentials of the existing mining company, (or the good name to lose!), and we contacted the LPA to advise them that they couldn't just transfer the existing 'guarantee' to the new operator and needed to demonstrate due diligence
7. Emails bounced back and forth between us and the CEO, Head of Legal and the Head of LPA in MTCBC with us arguing the case for a water tight 'guarantee' or 'bond' of a value more commensurate with the real world costs of the final restoration of the mine (*£50 Million estimated by the Welsh Government at that time*)
8. Our argument was dismissed, and the LPA applied the same £15 Million 'bond', but to be paid in instalments into an escrow account instead of providing a guarantee
9. The mining company offered no concerns about the cost of the final restoration of the mine at this point and ratified the existing contract and the 'bond' instalments
10. The mining company subsequently reneged on its obligations and withheld payment into the escrow account. The LPA had to take the mining company to court to get them to pay the remaining instalments when MSW decided to take a payment holiday. I believe they had to do this twice, but at least the once with much arguing to get the full amount paid
11. We observed that the mining company was 'short tipping' spoil from the mining operation but not bringing in spoil from offsite. This was the cheapest and easiest way for them to operate, but of course it heavily back-loaded the final restoration in work and costs
12. The only spoil brought into the mine was from the first, and nearest spoil tip but this was not just for restoration purposes, it was to afford the mining company access to the rich coal seams underneath the tip that they had no planning consent to mine
13. The mining company, Merthyr (South Wales) Ltd. (MSW), continued to mine coal unlawfully, and also outside of their licensed boundary for almost 18 months beyond the expiration of their planning consent so the start of the final restoration was delayed by that time. They could not restore the mining void whilst they were still working in that void
14. As soon as the mining company ceased coal extraction, they pulled out of the operation and switched off the drainage pumps These pumps were keeping the mining void dry and free from flooding whilst they mined the coal seams in there. This callous act ensures that the mining void will fill with water

15. The mine has not been surveyed to verify that it can safely contain a large body of water. There would be many millions of gallons of water in the void when full and it will exert a significant force on the surrounding walls and will force its way into any natural, or man-made, drainage channels and escape the mine
16. The mine cannot be surveyed fully and effectively when it is full of water! the mining void needs to be drained to afford a proper survey
17. MSW have told the LPA that they are looking to have the mine checked by civil engineers, hydrologists, and hydro-geologists, but there was no schedule or start time included in the statement and, as the mine is rapidly filling with water, the survey would be impossible to perform. Surveyors cannot realistically, nor effectively work underwater!
18. MSW have now patently reneged on their contractual obligation (as ratified in Dec. 2015) to provide the full and final restoration of the mine.
19. MSW said that it would be submitting a revised, but much reduced, final restoration plan/strategy. This was expected by all to be presented as a planning proposal in early 2024, but they are now saying late Autumn of this year at the earliest. This would ensure that, without intervention, the mining void would be flooded by that time, and the LPA has confirmed this
20. The LPA has stated that it is content to wait until the late Autumn (2024) and review the mining company's revised restoration planning proposal at that time
21. The LPA has said that by that time the mine would most likely be full of water and restoration could not be performed as previously envisaged and contracted
22. The LPA is failing to act on this transgression, despite the mining company reneging on its contractual obligation to fully restore the mine. They have the power to hold the mining company to account, but are choosing not to do so
23. The LPA has stated that any new and reduced restoration plan will, in all likelihood, include a flooded mining void
24. I have written to the MTCBC LPA asking them to look to use the escrow account money (the £15 Million should now be available to them) to reinstate the pumps as a matter of urgency and reminded them that they have a duty of care for the health and safety of the local populace.
25. The remaining mining void is at a height of 100 to 200 Metres above the town centre and the river Taff. A significant fall to the town centre via some of the most densely populated areas of Merthyr between it and the river Taff
26. If the mine's walls were to fail catastrophically millions of gallons of water would flood through the populace into Merthyr town, or through historic waterways into Dowlais or Penydarren. Lives could be at risk and property could be damaged or destroyed
27. In actuality, the consequences of flooding the mine with water are unknown, and what the consequence of such a catastrophic failure would be, nor how likely it is to happen, as the mining void hasn't been independently surveyed by experts
28. The flooded mine would pose a significant danger to children as all 'dangerous' structures will be a magnet for the young. The site cannot

successfully be secured and they will have ready access the mine. The steep, loose sides will pose a hazard to those who climb down and enter the water, by accident or design. They will not be able to climb out easily, nor exit the mine readily

29. The water in the mine will contain natural toxins leaching out from the surrounding strata and possibly from any contaminants left in the mining void by the retreating mining company when they abandoned it [*i.e. stopped work; pulled out all the machines; switched of the drainage pumps; and left the void fill with water*]. These toxins could escape the mine by leaking out, or 'overtopping' the lowest wall (nearest the dual-carriageway) and would then enter the local watercourse, the river Taff, and into the water table. They will also pose a hazard to anyone who enters that water
30. Sulphuric Acid from the oxidation of Iron Pyrites is one of the nastier contaminants/pollutants and this is hazardous to life and could erode the foundations of buildings if it leaked into the water table around the built up areas. Toxic metals, like Nickel, can also leach out into the water and the contaminants could escape the mine into the local watercourses and the water table. High-Sulphur coal seams will also add to the toxic load
31. Even with this evident risk, and the danger that it could present, none of the public bodies or agencies (LPA, CA, NRW, HSE) that could make this mine or reservoir safe is acting with any urgency. They are all content to sit back and watch it fill with water. They have to be proactive here; not just reactive to the mining company's actions, (or inactions!)
32. Frustratingly, there is absolutely no need for this situation to occur. The mining company has made a vast amount of money out of mining the coal at Ffos-y-fran. 7 years of legal mining with a further 18 months of unlawful mining has made an obscene amount of money for MSW. £200 Million at least has been reported by external agencies (*such as the Good Law Foundation, just by scrutinising the Companies House accounts records*) to have been drawn-down from the operation over the years. More will be revealed by further accounts that are yet to be submitted
33. Coal sales prices have been at 'windfall' prices over the last 3 years and profits have increased by at least 5 fold. The company was making very good money at the standard prices, so anything over and above that would have been straight profit
34. The estimates being used for the cost of the final restoration of the mine by MSW, the LPA, and Welsh Government (WG), and other agencies is, in our opinion, vastly overinflated. The £125 Million figure currently being circulated wasn't arrived at by industry or civil engineering estimates of the remaining works, it came out of a desk exercise performed by one of the officers in the MTCBC LPA. Not exactly a dependable figure to base all future decisions upon. This figure begs a survey of the mine by industry specialists and civil engineers
35. This figure of £125 Million is being used to argue that MSW cannot possibly afford the final restoration costs and therefore is driving the renegotiation of the final restoration plan/strategy, despite it being an unverified, unsubstantiated and inherently untrustworthy figure

36. The estimated figure prior to this was £50+ Million, produced for the WG, and even this figure has been described by some as overinflated. This was produced by the Welsh Government in 2014, and was updated in 2018 to £50-£60 Million
37. This massive increase in the cost of restoration is being cited by the mining company as the increase in the cost of fuel, and their loss of access to discounted 'red' diesel since April 2022 and along with rising vehicle maintenance costs. But, that increase could only be explained by just multiplying up their fuel costs whilst running a full coal mining operation; restoration fuel usage and overheads would be significantly less because of the much reduced vehicle usage. This is a complex calculation that needs to be driven back from the actual restoration method to be employed, not just estimated from existing operational figures
38. The estimate depends on large digger and truck usage, similar to the existing usage which they appear to have just scaled up, but the more likely, best practice industry solution would use conveyor belts, chutes, and feed hoppers being loaded by a relatively small number of diggers and bulldozers. There would be significantly less fuel used, and much reduced vehicle maintenance costs
39. With this solution, there would be no further coal lorries running up and out of the mining void, and back and forth across the long haul road to the railhead/Coal Disposal point (CDP) at Cwmbargoed. There would be no lorries bringing spoil to the void from the CDP coal washery, and none taking spoil to the spoil tips. The giant Komatsu Super Shovel diggers would be overkill for the restoration works and their massive fuel use could be avoided. There would be a saving on the cost of the expensive daily coal train as no coal will be exported from the site, along with the cost of running the coal washery, and the CDP itself. Staff costs would also be reduced as with much reduced machinery use the number of operators needed would reduce significantly.
40. There would be far fewer machines and operators needed, and the fuel costs that they claim have massively inflated the restoration cost would be kept low as there would be no longer any need for lorries driving back and forth between the railhead, mining void and spoil tips heavily laden with coal and spoil.
41. In reality, we believe strongly that the full and final restoration of Ffos-y-fran could be completed at a fraction of the estimated costs currently being used and this has been confirmed by speaking to engineers
42. We have asked the MTCBC LPA to look again at using the escrow account money (£15 Million) to reinstate the pumps as a matter of urgency and reminded them that they have a duty-of-care for the health and safety of the local populace. This money was lodged in that account for this very purpose; to make the mine safe and secure in the event of the mining company reneging on their contractual obligation to fully restore the mine. They have not replied, despite prompting
43. National Resources Wales (NRW) have the power to classify a structure as a reservoir, and we have asked them to do so for the mining void. This classification would trigger a formal, mandatory inspection of the mining void

- by civil engineers, hydrologists, and hydro-geologists to verify that it can safely hold a large body of water
44. Unfortunately, NRW have declined to classify the mining void as a reservoir. With them taking the literal description of a reservoir within the Reservoirs Act 1975 it is unlikely that the flooded void would attract such a description. We feel that this is against the fundamental ethos/core principles of the Act, but we cannot change this in the time allotted to us
 45. We have contacted NRW informing them of the milky blue/green colour of the water in the void and asked them to investigate the water quality for pollutants. I took the opportunity to explain what could happen if the polluted water were to escape the confines of the mining void.
 46. NRW have replied stating that they haven't, and won't be testing the water in the void. They said that the responsibility for the water lay with the mine/land owner. We asked them about verification and enforcement, and yet again, as with the Coal Authority, that power cannot be surrendered. It becomes a fox in the henhouse scenario!
 47. The LPA have stated recently (to a 'Wales Online' reporter) that the water levels are decreasing [*uncorroborated by us, as we cannot see into the mine without a drone*]. If this is true, then this raises further concerns as to where that water, and any polluted content, is escaping to. The weather here has been extremely wet, so the void should be continuing to fill with water at a pace
 48. We believe that the Coal Authority (CA) has the power in these cases, (mine-water handling), to enforce agreements or step in and sanction a safety inspection and appropriate remediation action if the owner does not act themselves
 49. The CA have not acted, as yet, and they are denying that they are responsible for the water filled void. They said that the responsibility lies with the LPA or the mine/land owner
 50. We have written to NRW and the CA urging them to act on our behalf, the affected local residents, as a matter of urgency and ensure the future safety of the local populace, but to no avail so far
 51. Our MP, Mr Gerald Jones, has added his name to our request for action from the CA and forwarded our concerns to the CA and asked for all communication between us to be copied to him
 52. We have written to the CA, again, and asked them to revisit their decision and provided them with detailed argument as to why they are responsible for this situation and suggesting what they need to do now as a matter of urgency i.e switch the pumps back on and drain the mining void. They replied reiterating their initial assertion - nothing to do with them
 53. MSW has now clearly demonstrated that they have no inclination to meet their contractual obligations as defined in the original (2007) planning consent for the Ffos-y-fran Land Reclamation Scheme. With the mining company, MSW, now clearly reneging on its legal obligation to fully restore the mine as it ratified in their agreement with the MTCBC LPA of 2015, the money lodged in the escrow account (£15 Million) can now be released into the hands of the MTCBC LPA.

54. This money would go a long way to make the mine safe, and it can even be argued that using the suggested industry standard 'muck shifting' solution that there was a good chance that the bulk of the work could be completed for this sum. Certainly the most important task of backfilling of the mining void and re-profiling of the surrounding land and spoil tips
55. The mine has now become a blot on the landscape, a scar on the hillside clearly visible above the Eastern heights of Merthyr Tydfil for the foreseeable future, or even in perpetuity. The remediation of Ffos-y-fran for safety, and to make it visually acceptable was the main driver for this scheme, and now we will be left with a more dangerous and visually tarnished result. 17 years of opencast coal mining to deliver a worse landscape than we started with!
56. In our opinion, with the mining company clearly demonstrating its intransigence towards providing the final restoration works, and certainly with no commitment to solving the rapidly ongoing flooding of the mining void (they have stated that they have no intention of switching the pumps back on), the LPA should cut them loose and take on the final restoration themselves using the £15 Million. The coming reduced restoration plan would, in all probability, be unacceptable to us and just a mere sop compared to what needs to be done, and if the LPA agrees to a reduced scheme, the £15 Million surety would revert to the mining company. The LPA would be left with nothing and would have to accept whatever work the mining company provides. With the LPA's track record for not holding the mining company to account, we expect very little expenditure and a very poor restoration - minimal work for maximum money!
57. Some of this escrow £15 Million could be used, in the first instance, to put drainage pumps back into the mining void and clear the water
58. If the MTCBC LPA decided that the mine was to be flooded in the future, (certainly not our first choice!) the money could be further used for an inspection and survey by independent civil engineers, hydrologists and hydro-geologists to give the local populace a guarantee of the mining void's future safety to hold a large body of water, and to implement any remediation needed to ensure this
59. If the MTCBC LPA accept the responsibility for the restoration of the mine with the £15 Million 'bond' in their control, (even if it is just the infilling of the mining void to make it safe, and re-profiling the tips and the hillside), the work could start once the mining void is cleared of water
60. The MTCBC LPA have never shown any conviction to hold the mining company to account against their planning conditions. Under intense pressure from residents and environmental organisations they failed to put effective enforcement in place to stop the unlawful mining of coal at Ffos-y-fran for almost 18 months beyond the expiration of their planning consent. We feel that we are witnessing yet a further extension of their intransigence
61. To add insult to injury, the spoil tip near the railhead, Overburden Mound 3 (OB3), was planned (under the existing planning consent) to be the first spoil tip back into the mining void. This tip now has an operational Motocross track on top of it which is being operated without planning consent. The mine owner is claiming 'permitted development (PD)' to use the track, but it meets

none of the criteria that PD requires. This Motocross track has been built as a permanent fixture to national motocross standards and with spectator parking and overnight sleeping facilities. They held many fixtures there last season, most of them held over a 2 day weekend with loud entertainment and music blaring out late into Saturday night

62. The LPA has declined to challenge the company on its use of the motocross track without planning consent and is now currently negotiating with the mining company to grant them 'retrospective planning consent'. This cannot be allowed
63. We believe that the planning consent for this Motocross track will form part of the new planning application by the mining company, or will at least run in parallel with it. This planning application will be presented as a take-it-or-leave-it offer that the planning committee (our elected representatives - councillors) will feel that they are unable to refuse. A shotgun planning meeting, per se. it will be bundled in with a last chance offer to restore the mine in a very much reduced form, along with the flooded mining void
64. This scheme is primarily Land Reclamation, and was termed Land Reclamation by Coal Extraction. The coal was to be mined, and then its subsequent sale was to pay for the land reclamation works. Any profits over and above this expenditure was to go to the mining company as profit. The mining company has operated it as a coal mine and is now keeping the majority of those profits. They are now claiming that they cannot afford to complete the remaining land restoration because of rising costs, but they have not submitted any financial evidence to support this statement, and the LPA has refused to investigate their financial status/claims. All other found evidence points to this being an exaggeration at best
65. We, the local residents, did not want this mine - it was forced upon us. The only benefit to the scheme was the reclamation of the alleged 'dangerous' and 'derelict' land. We have suffered the impact of 17 years of opencast coal mining on our doorstep, and we now face not getting the only benefit (to us) of the scheme.

Key Points for any Further Legislation or Action on Restoration:

The main point that we need to make here is that we are not convinced that new legislation will attend to the restoration issues unless all the agencies involved could be made to apply the powers that they hold. We strongly believe that, generally, the powers that are required to hold errant mining companies to account are already in place. Not having the will to use these powers is where the system has failed. A review of the legislation would have to be performed to confirm this, of course.

We have made forceful representation from the beginning, 20 years ago, to try and ensure that we got the final restoration of the site as we were promised, and we failed on all counts. The planning proposal, and then the planning consent for Ffos-y-fran was on rails, and nothing we said or did could affect it. 20 years on we now find ourselves in the exact position that we warned about from the start, and more frustratingly, since the sale of the operation to the current owner/operator, Merthyr (South Wales) Ltd., when restructuring of their legal obligations could have been readily implemented.

Points to be considered:

- Clarification of the responsibilities of each of the public agencies in these cases needs to be provided so that we will know who does what, who has responsibility for what, who can apply enforcement action, when and how? This would at least include the Coal Authority, National Resources Wales, the Local Planning Authority, the Welsh Government, and the Health and Safety Executive public bodies. Other agencies with involvement in these cases also need to be identified and have their responsibilities clarified. We have found this one of the most difficult things to overcome; getting anyone to accept responsibility for anything when the legislation and Acts appear to clearly state that they are responsible has been extremely frustrating and mostly fruitless. Nebulous and ambiguous statements in the Acts, along with exclusion clauses/exceptional circumstances ensure that legislation/Acts/Statements can be interpreted to the LPA's end. These need to be eliminated and/or firmed-up and clarified
- The public bodies involved have all responded to our pleas for intervention with the same reply; the responsibility for action doesn't lie with them, it lies with the mine owner and land owner. This abrogation of responsibility and granting the operator 'self regulation' as such cuts to the heart of my previous statement. The LPA promised us tight regulation and that the company would be constrained by the most comprehensive Section 106 conditions that they'd issued, but as soon as planning consent was granted, they gave the mining company self-regulation, even to the degree that we had to report all noise and dust issues to the company, not the council. The mining company didn't set up any formal telephone reporting service, and all calls went through to the security guard who had no formal training in handling public complaints, and had no formalised call logging and recording system in place. NRW and the CA have just

replied with the same response. CA - we don't own the land, and the mining company is no longer mining coal, so the onus is on them to rectify issues; not us. NRW - the water in the void, and the responsibility for any pollution/contaminant checks lies with the mine owner, land owner, and we leave it to them to check it. We haven't had any pollution issues logged, *[by the operator - ChrisA]*, so all is OK.

- The scope of the Acts/legislation needs to be defined clearly. In particular the new Coal Tips Act must include responsibility for the water filled voids that so many opencast coalmines have left their communities with. It may also need to include the water filled levels that can break free and flood communities with large volumes of contaminated water, (such as Skewen, Swansea³ *"The Coal Authority is still not accepting liability, they say it's not their water," Mr Thomas said. "But it was their mine shaft!"*), or the responsibility for these needs to be clearly identified. The Coal Authority's responsibilities have been almost impossible to define, but as a Westminster reporting agency they are 'untouchable'. We honestly do not know what the Coal Authority does beyond their issuing of a license to mine, despite what the Act⁴ defines. They have denied responsibility for anything, throughout. They even charged us £48 to see a copy of the map defining the boundary of the mine! Surely such information should be on the public register?
- Who polices the police? As we discussed here; we feel that most of the powers needed to act are already with these agencies, but in our experience they fail to apply them, (or even acknowledge them!), and hold the mining company to account when they transgress. But, who holds these agencies to account? Our attempts at petitioning the ombudsman in the past have just resulted in them supporting the LPA's actions, or have pointed me back to the council's internal system, which also supported the LPA's actions
- Sums of money to be lodged in escrow accounts to be of a 'realistic' value that will cover the restoration cost of the mines when/if the mining company fails to deliver on its contractual obligations. Again, the question of who ensures that this sum is realistic? We tried our very best to highlight this issue and were ignored. We have been shouted down in meetings containing LPA and councillors when we've called for representative 'bonds', with them saying *'these people don't know what they are talking about; we wouldn't get anybody to mine if we asked for such large sums of money'*
- These planning proposals must be driven with more bias towards the impact on the local populace. Our experience is that they have been wholly dependent on ensuring that the work is allowed to carry on and the applicant supported by any means to ensure that this happens. The residents concerns are secondary, at best; dismissed, at worst

³ <https://www.bbc.co.uk/news/uk-wales-60069085> - BBC News 21 January 2022 - Skewen Flood

⁴ <https://www.legislation.gov.uk/ukpga/1994/21/section/4> - Coal Industry Act 1994

- The funding of work prior to 1998, and arguably after this date, should fall to the Coal Authority as it was Westminster that decided on coal mines prior to devolution. Post devolution, and certainly in the case of Ffos-y-fran, we have had sight of letters, under Fol requests, from a DTI minister (*Mike O'Brian - Minister of State for Trade and Minister of State for Energy and e-Commerce - - 14th December 2004*) urging the then Welsh First Minister, Rhodri Morgan to act swiftly on the planning consent for this opencast coal mine as the coal is needed for Aberthaw power station. A fall back position from this would lead to the Welsh government paying for the works as they were the authority who finally gave permissions for the Ffos-y-fran operation to go ahead after the proposal was called-in with a public inquiry and the minister passing the decision. This is all from the public purse though; it should be from the mining company who really are cash rich. No-one is investigating the financial status of the mining company, which we think is critical to the restoration argument; the LPA have refused to do so.
- Mine owners and companies that have reneged on their contractual obligations must not be given lucrative government contracts in the future. Written into legislation this may go some way to deter companies from transgressing. It is looking very likely that the mining company working Ffos-y-fran, and who are reneging on their contractual obligations to restore the site, will be given the contract for the reduced restoration of the site. This would then result in the LPA giving back to the mining company the £15 Million 'bond' money to do the work as it would be tied to the new agreement, not the existing one, so they wouldn't be reneging on their contract. As an example, we believe that there is a huge contract for the Global Centre for Rail Excellence (GCRE) at Onllwyn, at the head of the Dulais and Tawe valleys may go, in part, to the Walters Group⁵, who were involved in 2 transgressions at Parc Slip and East Pit leaving the sites un-restored with water filled mining voids⁶ and resulted in (failed) legal action from the Serious Fraud Office
- The LPA was warned of the most probable outcome for the restoration at Ffos-y-fran (by ourselves, campaign organisations, and even the Welsh Government). but failed completely to put anything in place to stop it, manage it, or build in contingency for managing that outcome. The mining company walking away from their responsibilities to restore was inevitable, but the LPA failed to put in place a new legal agreement for a larger 'bond' to be lodged, and allowed the mining company to continue mining in a manner that heavily back-loaded the restoration works. Under the circumstances, a water filled void was also inevitable, but again, mitigation was not put in place and we now have the development of a dangerous structure that will blight the Merthyr town in perpetuity. This has happened under legislation and guidance that could readily

⁵ <https://nation.cymru/news/full-steam-ahead-as-new-250m-global-rail-centre-project-buys-former-opencast-mine-site/> Nation Cymru Report

⁶ <https://www.sfo.gov.uk/2013/01/24/five-charged-south-wales-mining-sites-fraud-case/> Serious Fraud Office Report

manage these issues; what further controls could be put in place to manage this unprofessional conduct?

- The LPA has brought the planning system in Wales into disrepute by presiding over the mismanagement of the situation at Ffos-y-fran. Whether this was by incompetence or design we cannot say, but the mining company were allowed to mine coal well beyond the end of their planning consent by a series of actions made by the LPA that contrived to hold the wolves at bay on the mining company's behalf. It ranged from allowing them time to work without issuing enforcement action, then not issuing a stop notice, then issuing enforcement action incorrectly so it became null-and-void, to allowing them to work until the end of their contract with TATA, then working further because the weather was bad (!), and then a rolling weekly planning review and consent to allow them further time well into the New Year (2024). They then allowed for further coal extraction by allowing the processing of coal from the overburden mounds and calling them 'coal stockpiles' despite the spoil having to be processed to achieve a 15% return of coal. All these decisions were made independently by the LPA, without the benefit of scrutiny by our elected representatives sitting on the planning committee, or public consultation. Such patent manipulation of the planning system appears to be performed with impunity. Who holds LPA's to account under circumstances such as this?
- The future of coal in Wales is not dead, unfortunately, despite statements made in the Coal Policy 2021. The new, under-the-table Welsh coal policy is being revealed by proposals to process the so called dangerous historic coal tips. The 'Bedwas Tips' proposal to remediate the coal tips looming over Bedwas, lower Rhymney Valley has highlighted issues that are very concerning. Private finance is looking to remediate the (Category D) coal tips there with the recovered coal paying for the work, (hmmm....sounds familiar?!). It sounds, superficially to be 'a good thing' but, this proposal could become opencast coal mining dressed as a safety issue! The company will be allowed to mine virgin coal from the un-worked seams at the top of the mountain via the 'Incidental Coal' agreement. If *(and I'm sure that it will be arranged to be quite certainly so...! All coal seam details are very well recorded)* the company uncovers a coal seam with their workings, or constructions they can mine that coal legally with authorisation from the Coal Authority⁷. The operation then becomes an opencast coalmine despite never having been through the planning process as such. A much easier ride for the applicant! The timescales will also be extended, and this is being built in to the planning applications, to accommodate the extra work. This really needs to be investigated and controlled as this will probably be a test case for the other 80+ Category D tips across Wales (350+ tips in all categories) and will set a precedent that will allow for the maladministration of the planning system going forward

⁷ <https://www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-for-applicants-for-incidental-coal-agreements> - Guidance notes for applicants for incidental coal agreements; Coal Authority

**Key Statements by the Public Bodies Involved -
Regarding the Final Restoration of the Site and the
Water Filled Mining Void:**

National Resources Wales (NRW):

- **Filling of the void (with water):** ...as described previously, the void does not fall under the Reservoirs Act 1975, so at this time it does not fall under our remit.
- **Water sampling & quality:** at this time, we are not undertaking water samples from within the void. The operator, MSW (Ltd), do have permits in place, **including regarding discharge of water (effluents)**. Previous to the pumps being switched off, the water would've have been pumped and discharged via the agreed discharge points from the site. The monitoring requirements for the operation are outlined in the permits, which require the operator to monitor for suspended solids, pH, iron and visible oil and grease from their discharge points.

As such, we've had no concerns regarding permitted discharges over the last year and we've not had any water quality/pollution events logged over the past 12 months *[ChrisA EDIT - it wouldn't hurt for you to check that the rather untrustworthy mining company is actually giving you correct information?]*

Ideally *[?! ChrisA - so NRW have no power to enforce the wider monitoring of water?]*, we would like to see MSW(Ltd) take up our suggestion around wider water quality monitoring in and around their operation, which would be outside the requirements of a NRW permit

- **Is it a Reservoir?:** The void has been purposefully excavated below natural ground level and we are not aware of any dam which retains water in the Ffos-y-Fran void, other than the exposed, but natural, rock faces.
- **On the matter of the void**, we provide the following advice which in summary is that in its current state, even though it may fill with water, the void does not form a large raised reservoir within the meaning given by the 1975 Act. There are some very limited, pre-planned circumstances which could result in a large raised reservoir being formed, but simple filling of the void is not one of them.
- **The void at Ffos-y-Fran** is an "area created by artificial means" but is not designed or used for collecting and storing water. In fact, the opposite is true – it's desirable that water is pumped away from the void to prevent storage and a cessation of pumping should not infer a "use". For clarity, we do not consider other dictionary definitions of reservoir because it is defined within the law for a specific purpose.

Whilst the void itself is created by artificial means, any water in the void is retained by the internal faces made of natural ground.

We do not dismiss your concerns, but it would be improper and beyond our powers to regulate the void under the Reservoirs Act 1975

The Coal Authority (CA):

- Ffos-y-Fran surface mine has a current coal mining licence but the site has ceased coaling so we have very limited powers or involvement with the site other than ensuring that the remaining lease and licence conditions are met. *[ChrisA - EDIT - this is a 'Catch 22' scenario - the mining void would be pumped dry to facilitate mining coal in there and would only be allowed to contain water when the mining company finished coal extraction!]*
- With regards to the sections, you have quoted from the Coal Industry Act 1994 these responsibilities pass to the operator when a lease and licence is in place. **Water management and site safety is therefore the responsibility of the operator with oversight from the environmental regulator and the local authority.**
- Following the **closure** of a surface mine the **restoration and associated public safety is a matter for the landowner and local authority.**
- In your latest email, you refer to sections of the Coal Industry Act 1994 to demonstrate our responsibilities including section 4A (2) which states that these sections only apply to coal mines vested in **(owned by) the Coal Authority**. In our previous response we explained that **we transferred ownership of this mine from the Coal Authority via the lease we granted to the Operator in 1998**. This ownership does not revert to us when the Operator ceases to extract coal at the site. *[ChrisA - Edit - they have abnegated responsibility for the coal mine, but I was asking about enforcement, which we thought clearly sat with the CA]*
- Our enforcement powers would only apply to a circumstance where an Operator was breaching the terms of their licence.
- For surface mines, local authorities are the primary authority for their regulation, through planning permission and enforcement through the planning regime.

**The Merthyr Tydfil County Borough Council (MTCBC)
Local Planning authority (LPA):**

- The Council are very much alive to the concern you have raised regarding the rising water levels within the mining void, which is no longer being pumped out by Merthyr South Wales Ltd (MSW). This issue has been under constant review by the Council and MSW are actively monitoring the water levels. **At present the Council is satisfied that the water body is well contained within the mining void and it does not currently present a significant concern.** The water levels would have to rise considerably higher before there would be any concern with the water over topping the land around the void
- There have been discussions between the Council and Natural Resources Wales (NRW) to determine whether the water body would fall within the remit of the Reservoirs Act 1975. **NRW has advised the Council that Ffos Y Fran does not meet the test for being a large raised reservoir**
- **MSW are currently in the process of appointing hydro-geologists, hydrologists and water quality consultants to assist in the assessment of the water body within the void and the wider restoration of the mine.** This will form part of the on-going discussions between MSW and the Council, as well as other regulatory bodies
- **There are currently no plans for MSW to reintroduce pumps on site to remove the water from the mining void. This would likely have a significant impact on the viability of any restoration scheme and would likely present concerns with regard to the rate at which water could be discharged from the void into nearby water courses without causing flood risks downstream**
- **MSW has informed the Council that a planning application for a revised restoration scheme is scheduled to be submitted in late Autumn 2024. The revised restoration scheme is likely to include the retention of the water body within the mining void with the surrounding land being appropriately re-profiled**
- In regards to the restoration proposals, the Council has been in discussions with **MSW who have appointed consultants to prepare a revised restoration scheme.** There are also ongoing discussions with MSW to establish what interim restorations could take place ahead of any revised scheme
- ...it would be usual [*unusual?* - Chris Austin] **for the planning department to seek to investigate the financial position of any developer.** Whilst some information can no doubt be obtained, this may not always be accurate or complete

- In the event that a revised restoration strategy is submitted **it would be for the applicant to set out their case as to the reasons why an alternative scheme is being presented.**
- I have noted your comments on the initial anticipated costs for the restoration work, which were previously estimated to be in the region of £50m - £60m. **I am not aware as to whether Miller Argent (former mine operator) or Merthyr (South Wales) Ltd (MSW) have set aside funds for the restoration works based on these previous estimates, nor has the Council had sight of any financial records to demonstrate otherwise.** Nonetheless, the restoration of the site remains the responsibility MSW to ensure they comply with the relevant planning conditions. **To date MSW has not indicated that they have any other funds in addition to the £15M secured in the Escrow accounts**
- The present situation is that a restoration strategy was granted as part of the planning permission **and further details are required**, which sets out the final details and aftercare
- However, this **approach may involve changes to the approved scheme, particularly if it deviates from what has been granted permission.** In this regard **MSW have indicated that they intend to submit a revised restoration scheme and the Council remains open-minded to a possible alternative scheme.** This would likely involve a review of **how the existing overburden mounds are restored and any other cost effective methods that can be utilised to improve the viability of the restoration works**

The Merthyr Tydfil County Borough Council (MTCBC) Local Authority (LA):

- Gareth Chapman, CEO - The document to which you refer issued in February 2016 is "Best Practice" and not legislation, however, much of what is suggested in the good practice was considered by the Council when negotiating the bond back in 2004/2005. The Agreement covering the bonding arrangements was entered into on the 30th March 2005
- Gareth Chapman, CEO - As I advised on the 23rd February, the restoration of the site has begun, regular monitoring, progression and compliance with conditions in accordance with the relevant legislation is ongoing.
- Gareth Chapman, CEO - There are no concerns with the site operation or restoration at this time, but we will of course keep this under constant review and take action if and when necessary and appropriate.
- Gareth Chapman, CEO - Much of what you raise is clearly your own opinion and analysis of the acquisition of the respective shareholding and "what could happen" (which I respect) upon which we will have to beg to differ.
- Huw Lewis, AM - Mr. [Gareth] Chapman confirms that the £15 million surety in respect of the Ffos Y Fran site remains in place. **The council has also secured that by January 2022, a cash deposit of £15 million will also be available for restoration costs.** *[Chris Austin - EDIT - there has been no talk of the further £15 Million since then - we are chasing it, but don't expect them to answer or be open about it]*
- Jo Smith - Planning Directorate - Merthyr Tydfil CBC would be in a better position to know about the future intentions of the company as they deal with them on a regular basis and **we do not generally interfere in matters that are related to day to day planning control**
- Jo Smith - Planning Directorate - **In terms of restoration, the local planning authority would be responsible for controlling and enforcing the terms and conditions of any Section 106 agreement.** I do not have any information on the section 106 agreement so these questions would be best asked of the Council
- Jo Smith - Planning Directorate - ... I can confirm that as a matter of principle **planning permission is registered with the land (the site) and so any existing constraints, such as operating hours, would still apply should a transfer of land to another company take place**

Restoration of opencast mining sites

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Adfer safleoedd glo brig | Restoration of opencast mining sites

Ymateb gan Sue Jordan a Owen Jordan | Evidence from Sue Jordan and Owen Jordan

The **Climate Change, Environment and Infrastructure Committee** ('the Committee') has agreed to undertake a short piece of work to explore the restoration of former opencast mining sites in south Wales.

This work will focus on:

- the financial and practical arrangements for the restoration of the Ffos y Fran opencast site;
 - how restoration of opencast sites can be secured, and contingency planning in the event of insufficient funds being available; and
 - the findings and recommendations from the Welsh Government report on **Research into the failure to restore opencast coal sites in south Wales (April 2014)** and whether these still apply.
-

Background

Never again

Opencast mining reduced our home to an insurance write off.

These events are narrated to warn the executive, residents, and others, that homes are vulnerable to opencast mining, and no effective duty of care is afforded by the Coal Authority, the planning authorities, mine owners and operators or the civil service.

We moved to Ochr y Waun, Cwmllynfell in 1978. In 1995, the coal industry was privatised, and the common and opencast workings were bought by Celtic Energy. Celtic Energy's 2004 planning consent for opencast mining expired in

2012, but Neath Port Talbot (NPT) local planning authority (LPA) took no action, and mining continued. The 2004 consent was conditional on full restoration of the common. Celtic Energy applied for extension in 2012. The CA's 2012 Groundsure report indicated a 'high potential for natural ground instability', vulnerability of adjacent residents and very high risk of flooding. By 2012, we were the only 'adjacent residents' (attached). The LPA sought an alternative report, and did not share the Groundsure report with 'adjacent residents', elected councillors or, to our knowledge, anyone else. The extension in 2015 was approved without provision for restoration. The Senedd declined to 'call in' the application, despite common land being removed from the commoners' use, and Carl Sargeant signed it days after the Senedd elections.

Our home began to crack in 2017 (photographs below), and we contacted the LPA and the Coal Authority (CA); both denied any association with the opencast. Report (31.3.17) from the CA indicate their awareness of slippage close to our home and the possibility of fault activation affecting our road. It took 2 years and a top solicitor (from AXA insurance company) before Celtic Energy agreed to settle. Photographs are appended.

These events suggest institutional failings: our difficulties would have been avoided had the CA or the LPA shared the Groundsure report with us in 2012, as we believe they were obliged to do under the Coal Mining Subsidence Act of 1991, the Coal Industry Act 1994 and the Planning Act 1990. These failures to discharge a duty of care cost us years of stress, and time, energy and resources to bring the mine operator to a legal settlement. This narrative could provide valuable learning for those seeking to build better institutions around Wales' natural resources, but has gone unremarked, to date.

What procedures are in place to ensure that such failures will never occur again?

How many other homes must crack and crumble – or worse – before a meaningful lesson is learned?

The financial and practical arrangements in place for the restoration of the Ffos y Fran opencast site;

This has been addressed by Chris Austin and Coal Action Network, and we urge this enquiry to take their statements into consideration.

We urge this enquiry not to treat Ffos y Fran in isolation. Opencast mining across South Wales has left sites in potentially dangerous conditions as currently exists at East Pit: this must be addressed. At all sites, it is unsafe to leave millions of cubic

metres of water several hundred feet above the valley floor, with no constructed dam to retain water should the sides of the void slip.

How restoration of opencast sites can be secured, and contingency planning in the event of insufficient funds being available to restore sites;

Public safety must be prioritised.

The volumes of water held in former opencast mine voids are sufficient to pose real risks to the public should discharge or breaches occur. The residents of the Llynfell, Twrch and Swansea valleys are owed a duty of care.

In its present state, the former East pit site offers a point of meaningful comparison: it currently constitutes an unplanned reservoir of 40 million cubic metres of water, on an active earthquake fault and some 150m above the valley floor, with unstable sides and no constructed dam to retain water. Yet, in his reply to Gwaun Cae Gurwen community council (25.3.21), Steve Ball from NPT planning dept. refused a request to engage an indemnified, chartered engineer from the 'Reservoirs panel' to assess any dangers associated with the site. Since then, the level of water in the void has risen to within a few metres of the sill, and the A4069 has collapsed due to mine workings; we, and Gwaun Cae Gurwen Community Council are now also requesting a hydrology assessment.

Only restoration, as promised in the 2004 planning application, can remove dangers of serious flooding should another earthquake occur on the site of the February 2018 earthquake (4.6 on Richter scale).

Costs of restoration of abandoned opencast sites have been an agenda exclusively in the control of the site owner/operator (not always the same company). This has allowed Escrow funds to be returned to the mine operator with very little to show for it. Restoration, particularly backfill costs, may be disproportionate to the actual competitive cost per cubic metre for large civil engineering works.

Where does responsibility lie?

We have seen a letter from the UK (Westminster) government Dept of Energy and Commerce encouraging Rhodri Morgan to proceed with East Pit (attached). There is no mention of the inevitable environmental destruction and carbon dioxide emissions associated with opencast. The UK government profited from opencast mining by selling opencast licences; they made the decision not to insist on escrow accounts during the first decade of privatised opencast.

Discussion of the findings and recommendations from the Welsh Government report on *Research into the failure to restore opencast coal sites in south Wales (April 2014)* and whether these are still applicable.

We agree that ground stability, public hazards and water management may need to be funded by tax payers. The report does not indicate whether this should be from the UK or Wales' budget.

Our experience is incongruent with the statement in 5.2.2 p.45 that the LPA and CA have clearly defined roles and responsibilities: we were tirelessly referred from one to the other, and, on occasions to NRW. The failure of the CA to engage with our concerns in any substantive way, share reports, and fulfil any duty of care negates any suggestion that the CA might act as an 'honest broker' (p.81). Greater transparency is needed regarding the roles, responsibilities and power of the Westminster civil service, particularly the Department for Business. A single authority, publicly accountable, accessing the expertise of indemnified, chartered engineers, and accepting full responsibility might be more effective than the present arrangement.

The risks now posed from unrestored opencast coal sites (East Pit, Margam, Ffos y Fran), are, in the main, attributable to the statutory authorities' failure, either severally or in co-operatively, to use the legislation available to them (The Coal Industry Act 1994, Coal Mining subsidence Act 1991, Mines and Quarries (Tips) Act 1969, Reservoirs Act 1975, Planning Act 1990) to effectively control both the site operations and the restoration. Care must be taken that any new legislation does not eviscerate existing statutory provision. Failure to hold the multiple, publicly funded agencies to account when statutory provision is not followed appears to be more problematic than the statutory provision itself.

Despite public opprobrium regarding Celtic Energy's sequestration of resources to offshore accounts (Private Eye 2014, attached), NPT, the CA and WG approved further opencast extensions in 2015.

The climate change emergency indicates that further opencast must not be considered (5.3.1 p.46): the environmental, climate and public health costs are prohibitive. There has been no gain for local communities - only losses.

The Coal Action Network produced [an update report](#) to the 2014 Welsh Government report at the end of 2022. This illustrates the problems, for which the solutions are full restoration, as promised in initial planning consents.

We are disappointed that there is no discussion of the health impacts of surface mining, opencast, coal, pollution and landfill, including the increased risk of birth

defects, and consider these to be **incompatible with the Wellbeing of Future Generations**. (Bibliography below)

SJ/OJ 20.4.24

Photographs

Plate boundary on the common November 2018



Road cracks outside house November 2018



Photographs of house

Dec 2018 Hearth arch pulls off bearing. 2 inch crack

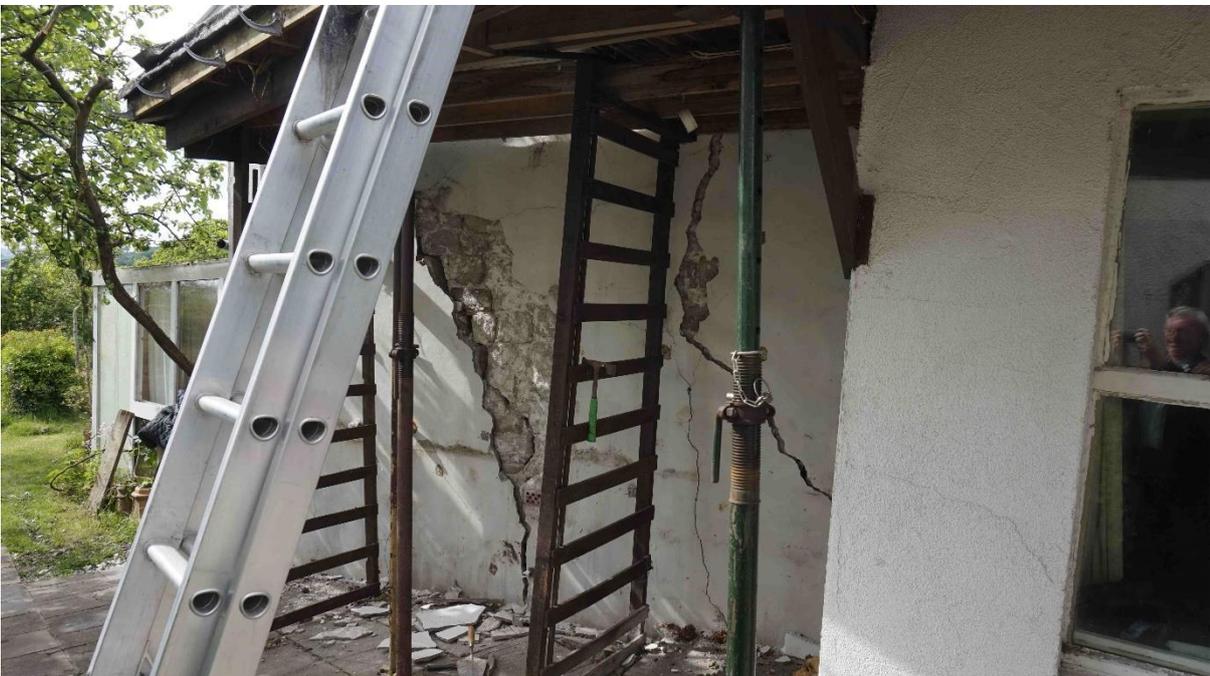


Small bedroom

August 2019



NE end of house May 2020 (jack in position to prevent roof fall)



Glazing panel explodes December 2018



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Restoration of opencast mining sites

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Adfer safleoedd glo brig | Restoration of opencast mining sites

Ymateb gan Protecting and Conserving Together (PACT) | Evidence from Protecting and Conserving Together (PACT)

The **Climate Change, Environment and Infrastructure Committee** ('the Committee') has agreed to undertake a short piece of work to explore the restoration of former opencast mining sites in south Wales.

This work will focus on:

- the financial and practical arrangements for the restoration of the Ffos y Fran opencast site;
 - how restoration of opencast sites can be secured, and contingency planning in the event of insufficient funds being available; and
 - the findings and recommendations from the Welsh Government report on **Research into the failure to restore opencast coal sites in south Wales (April 2014)** and whether these still apply.
-

1. At Margam/ Parc Slip Opencast Site, the promised enhanced restoration plans never happened. Instead the local communities were forced to accept an alternative restoration which in fact, was no restoration. The so called alternative restoration of the site used £5.7 million of money - instead of the £40 million needed to restore the site properly as was promised.

There needs to be a much more rigid, enforcement by councils and the Welsh Government to ensure that opencast companies (or any other invasive industries) cannot leach away monies meant for the restoration of sites.

The definition of Restoration is: 'the process of returning something to its former good condition, a restitution of something taken away or lost'.

There was nothing 'restored' at Margam / Parc Slip!

We now have mountains where there were no mountains, a deep, dangerous water filled void where there was a pretty farmhouse and good farmland, rough tracks where there were two good cross valley roads. We have concrete car parks that should have been removed at the end of opencast activities. We have lost numerous footpaths across the valley, a village that was demolished, lost oak woodlands, species and habitats.

The soil is poor and stony, water drainage slow. Grass seed was sprayed on it in places but growth is sparse and often unsuccessful, and is also marred by scrambling bikes that go wherever they like off track. They are tearing up everything that's been done and returning it to an un-vegetated, dusty coal tip, destroying the nature that has not been given a chance to recover. Also, hikers, dog walkers, horse riders and cyclists are using the site at the same time as motorbikes are racing around. The area was meant to 'be returned to nature and with access to the local communities.'

There needs to be regular monitoring of abandoned sites to ensure that recovery is happening and safety is of paramount importance.

We have been told that Celtic Energy's responsibility for the site ceased in September 2023, so who is now responsible?

Problems are arising. The void is very full after all the recent rain. The channel and sluice gate are overflowing because the sluice grid into the river is blocked. Around the flooded void there are inadequate life buoys, and the ones that are there are either damaged or missing.

So called Alternative Restoration was meant to include safety around the deep water.

This is not happening.

In our community, we have lost faith in both councils and the Welsh Government who failed to protect us against abandonment, even though all the warning signs were there, and then claimed impotence at properly providing and enforcing genuine restoration.

We are still being failed as the site is not being cared for now.

The only positive is that the site is now open for access, albeit years later than it should have been. It allows people to exercise away from cars and traffic.

The flooded void is being used too. It is dangerous as it is far too deep and cold and yet it is a magnet for some. It is so deep that the Meridian tower in Swansea would disappear at its centre! Yet swimming and water sports are happening at the site. Many participants do not wear life jackets- even when at the centre of the void. If they were in trouble then no life belt (if one could be found!) would reach them and emergency services would be unable to access the site except by helicopter. It is a tragedy waiting to happen.

These sites need to be made safe. It is not enough to just put up a few 'Danger Deep Water' or 'Cold Water Kills' notices.

Until the planning laws are changed and strengthened and ruthless companies are made to fulfil their promised commitments to communities, then this situation will occur over and over again.

It is happening now in Merthyr where the site has been abandoned and the void is filling up. The void should still be being drained as, once full, the company will use it as an excuse to do nothing, as, they say, it would then be too expensive to drain. We have seen it happen here!

Legislation needs to be in place to prevent ruthless companies from applying for extensions on time, over and over again, therefore delaying progressive restoration work on sites. When work ceases they should still be responsible for maintenance of the site including pumping out the water from the void.

Merthyr and all other former opencast sites should be given the promised restoration, not just a poor substitute. At Parc Slip / Margam, it is not right or fair that we have to settle for this barren, featureless, moonscape landscape.

We have been betrayed.

Gaynor Ball / Former Secretary of PACT

2. The way things stand at Margam and sadly regardless of previous and existing planning laws, it has been proven that the best and only way to achieve restoration at our Open Cast site would have been to prevent them from operating here in the first place.

i.e. Leaving it in the ground.

The Welsh Government did not protect the Margam site from operators abandoning the site and the Councils did not either.

If they did not have legal backing to stop the Operators from avoiding a proper restoration as promised in planning applications, then the planning laws and enforcement procedures should be strengthened by them so it could not happen again....

But they have not made adequate enough improvements as it is potentially all happening again at Merthyr.

There was no progressive restoration at Margam in spite of people asking planning departments for it to happen as it was promised...

There should not be situations whereby just because the Operators apply and want more extensions they cease or do not even start to restore progressively...

Councils should have powers to enforce this and it should be mandatory to do so not a choice.

The Councils knew that the Operators had switched off the pumps and were aware the vast void was filling up with water.

There should be better protection to prevent this... the reason given further down the line that the Void cannot be backfilled is that it is too costly now to drain it. Will this happen at Merthyr too?

The Councils should be able to take over the pumping and keep the void drained then charge the operators for the costs from their profits that should have been incrementally guarded by them for this.

Also the Operators at Margam sold off their site before any restoration started Offshore banks were used but according to the law they have done nothing illegal.

There should have been laws in the planning process to avoid this ..No sales should be allowed after extension permission is refused and before proper promised restoration is completed.

The destruction of and loss of countryside amenity cannot be restored if vast overburden mounds remain and massive deep holes fill with water.

The countryside features of historical meandering right of way footpaths are lost in the void and under the overburden mound forever.

The historical sense of place is destroyed permanently and the sense of place locally is degraded and altered negatively.

Features such as stone bridges, farmhouse etc, are not restored and the community amenity as a countryside feature is lost.

Margam has supposedly got an alternative restoration. What is this ?

Alternative in this instance means.. no restoration ..as nothing at all has been put back as it was and industrial features of massive overburden mound huge void and concrete car park remain.

The previous arterial road link is not reinstated and a mediocre gravel track is the "alternative".

So the majority of the amenity has been lost and not restored.

Even if many, many, many years down the line some vegetation returns naturally there will still not be any sort of real restoration as long as the mound and huge void remain.

The site is now open for access to walk, horse ride and cycle and having a practical ability to use the amenity is the only benefit that has returned.

The water filled void is dangerous and attracts unsuitable reckless usage.

The WG and Councils need to strengthen not only the planning laws but their resolve to stop further atrocities and more abandoned sites using Margam as the very worse example of betrayal, abuse and manipulation of an inadequate planning system and enforcement procedures.

The Coal Authority should not continue to issue licensing to Operators who have sold off and abandoned sites elsewhere.

Why was it accepted that the Operator at Margam once they had exploited and gained money from working coal at Margam, then supposedly were only responsible for the massively deep, flooded Void? Margam is barren, desolate and ugly.

A sick reminder of how the Planning system and authorities have allowed a company to Smash and grab the coal, then abandon the site and ride roughshod over a community.

Why should Margam site remain abandoned ?

Suzanne De Celis / Former Issues co-ordinator PACT / Former member of the Site Liaison Committee

3. Who should finance the restoration of opencast coal sites?

- 28th November 1994: The South Wales Regional Coal Company limited was incorporated . Company Number 2997376, Under The Companies Acts 1985 & 1989, Memorandum of Association. Paragraph 3:

The company's objective:

(i) To acquire property, rights and liabilities of British Coal Corporation under any restructuring scheme made pursuant to the Coal Industry Act 1994

- 03/01/1995. The company's name Changed to Celtic Energy Ltd. The Regional Director from 30/12/94 to 01/07/2006. Was Bryan Riddlestone - leading the management buyout (MBO) of the privatised coal industry in South Wales.

- Prior to privatisation, the nationalised industry, British Coal Opencast Executive, was guaranteed to restore the sites opencast following restoration plans therefore no bonds or securities to this end were required of the nationalised industry.

- In 1993 following a public inquiry into the 1989 planning application for Parc Slip West - refused by Mid Glamorgan County Council following strong local opposition, passed by West Glamorgan CC where a tiny sliver of the proposed site crossed the boundary into that county - the Planning Inspector, Mr Sheers, gave consent to the application because of the amazing restoration plans. He thought that there was already 2 years restoration needed between Law Street and Bedford Road following Parc Slip Extension OCCS and so another 4 years opencast at Parc Slip West would result in such amazing restoration that all the pollution, the heavy vehicles racing round local country lanes, the noise, the dust, loss of amenity, the temporary road closure etc, would all be worth it because of the amazing restoration planned.

- Therefore, on privatisation in 1994, the management buyout company SWRCCL later known as Celtic Energy Ltd, came away with the licence and consent, complete with detailed restoration plans for Parc Slip West but also with the licence for Parc Slip Extension.

- Privatisation of the coal industry preceded the establishment of The Coal Authority and the companies, the MBOs, came away from privatisation with no requirement to provide bonds or securities towards restoration of the sites they were working or had consents to work, for a period of 10 years.

Obviously the management team that formed the MBO on privatisation were fully aware of all restoration liabilities and plans - they had been an integral part of the working of the sites. Under the Memorandum of Association of SWRCC Ltd.

3. The company's objective: (i) to acquire property, rights and Liabilities of British Coal Corporation under any restructuring scheme made pursuant to The Coal Industry Act 1994.

Therefore not only were the management team fully aware of the restoration plans at each of the sites they had bought on privatisation, even though they didn't have to pay bonds or securities upfront, or for 10 years, they had signed up to take on the liabilities of the BCC and that would have to include the restoration plans. If not for the latter, it seems likely that the Planning Inspector at the Public Inquiry in 1993, would have - and should have - refused planning permission for Parc Slip West.

- Parc Slip West Extension/ Margam Deep Mine: planning permission granted in 2001. This was a ludicrous scheme put forward by the company to gain further opencast in an area where there were several policies against opencast coal mining. LPA s were desperate to get securities in place towards restoration. However, most of the escrow fund was linked to the deep mine, expected to operate for 20 years, paying 40p per ton of coal while £5000 was required from the opencast section. The mine was not sunk, therefore the escrow funds were nowhere near sufficient to restore the site. The restoration plans had to be redrawn because the mine wasn't sunk. The plans - drawn up by Neath Port Talbot CC - are very impressive.

- 2004, Richard Walters of Walters Group UK "approached the ultimate shareholders of Celtic Energy with a view to acquiring its shareholding" 'Wales Online 25/05/2004'. He is listed as Company Director on 16 August 2004.

- Coaling ended at Parc Slip West Extension/Margam Mine in October 2008. Further extension down valley was refused. Restoration should have started soon after the end of coaling. There has been no restoration since privatisation. Two cross valley roads were taken away and not put back. There is a 48m deep dangerously flooded void the overspill from which causes flooding of a road at Marlas Farm. The culvert allowing the overspill has been blocked recently and if it is not maintained it could lead to even more serious flooding . Ongoing maintenance is needed at the site, who is responsible now the 5 year requirement of maintenance by Celtic Energy is at an end?

- The fraud case review of Mr Justice Hickinbottom clearly stated that at the time of the transfer of Celtic Energy Ltd holdings to the British Virgin Islands companies, there was £136 million in an in house restoration fund.
- Mr Hickinbottom took East Pit as the example in examining the fraud, at the time that site was still operational but Parc Slip Margam had finished coaling and therefore the company that had mined the site was responsible for it's restoration. (2014 Research into the Failure to restore opencast sites in South Wales: key recommendations: part 2A of the Environmental Protection Act 1990 where polluters. Can remain liable for 'remediation' (restoration in this case) even after they sell a property or grant a long lease.)
- Clearly the company was, and always had been, aware that it was responsible for the restoration of the sites it worked. Out of the 13 sites operating at the time of privatisation, most had been restored - leaving Selar, Nant Helen, Parc Slip/Margam and East Pit. Also it had a substantial sum in it's in-house restoration fund. Please see Mr Justice Hickinbottom's Fraud Dismissal Appeal Report February 201 for details.

The UK Government was paid a substantial amount on privatisation, received taxes from the opencast companies and gained security for the supply of coal to a variety of industries and energy companies. The DTI wrote to The Welsh first minister, Rhodri Morgan in 2004 putting pressure on him to get consent for opencast mining at Ffos y Fran and at East Pit and Margam. Privatisation went ahead before the establishment of the coal authority and thus without any securities or bonds agreed with the mineral planning authorities for restoration putting a moral duty on the UK Government to ensure the restoration of open cast sites that it privatised in that way and which it pressurised the Welsh assembly to allow. Celtic Energy Ltd successfully stopped the MPAs serving enforcement notices by threatening bankruptcy while all the time having £136 million in an in house restoration fund.

Janice K Adamson / PACT / Former member of the Site Liaison Committee

26/04/2024 addition

We read yesterday's news report about the fast filling void at Ffos Y Fran and read the comments of Mr Banton (Coal Authority). We would like to comment and add our response to our initial contribution for May 9th.

Things have moved on in planning and mining according to Mr Banton-so he reckons what is now happening at Merthyr will not happen elsewhere.

What an ongoing farce this is. The 2014 Welsh Government review into Open Cast restoration etc.. said exactly the same thing about Margam and East Pit -i e that Merthyr or anyone else would NOT be going down same abandoned route.

Mr Banton is wrong to try and make Margam and East Pits flooded abandoned voids sound like "acceptable features" that future mines can incorporate-instead of being disgusted at the situation. He is condoning the company's action of walking away from their responsibility to restore sites properly and as promised.

The Welsh Government needs to step up and properly understand that making safe industrial damage and dangers a private coal company has created, whilst squirreling away millions from digging up coal by Open Cast method, is NOT restoration...and flooded coal voids even if subsequently made safe are not promised or acceptable restoration ..and should not have the title restoration related to the practice...neither " Alternative restoration "

They should be given the title of -"abandoned opencast sites."

WG needs to put in much stronger legislations to protect environment and communities next to coal. The Councils and Coal Authorities need to be encouraged by the WG to prioritize protecting the environment, historical sense of place and communities next to coal instead of repeated allowances for rogue operators to mine and then abandon sites with so called alternative restorations being the norm.

If WG do not do this once and for all, then they are proving to the electorate that they are still not acting effectively enough to prevent companies abandoning sites over and over again, by not strengthening legislation appropriately enough they are actually allowing other companies who have pillaged coal and abandoned sites to continue to do so.

Gaynor Ball
Suzanne De Celis

--== Appendix A - Evidence ==--

Regarding Failure to Restore:

Letters in Correspondence with the Responsible public agencies:

Here are communications between myself and Mr Gareth Chapman, CEO and Head of Legal (at the time), MTCBC, and Ms Judith Jones, Head of Planning MTCBC.

n.b. The communiqués are listed in inverted date order; (latest at the top and oldest at the bottom)

They start in 2014 and then work through the period of sale of the Ffos-y-fran operation by Miller-Argent (South Wales) Ltd. to Gwent Investments Ltd. (as was; now Merthyr (South Wales) Ltd.) in 2015, 2016.

It can be seen that we had concerns about the restoration of the site stemming from the way that the mining company was working. They were still tipping heavily on the external spoil tips/overburden mounds 6 to 7 years into the operation, and it was becoming evident that the percentage of spoil to reinstate at the end of coal mining was far higher than we had envisaged. This was heavily back-loading the restoration exercise and it was becoming clear to us that the final restoration would cost far more because of it (as we understood the costs then).

We tried to get the CEO and Head of Planning, Mr Gareth Chapman, and the Head of Planning, Ms Judith Jones to accept this as a significant risk to the reclamation of the land and possibly to the public purse. We asked them to accommodate that risk by either increasing the mining companies contributions or make them change their operational methods to reduce the amount of restoration work at the end of the coal extraction phase. Again, we failed to get them to shift their position.

We rang the alarm bell 10 years ago, (though we had been raising concerns about the 'guarantee' arrangement prior to this), before this current owner took over the Ffos-y-fran operation, and when they were taking over, and the Local Authority had the opportunity to renegotiate the 'guarantee' or 'bond'. At this point the Welsh Government had already published their estimate of the restoration costs of opencast coalmines across Wales¹ and had highlighted that Ffos-y-fran was in danger of falling short on the funding for the work (In 2014, at £50 Million).

¹ <https://www.gov.wales/sites/default/files/publications/2019-07/failure-to-restore-opencast-coal-sites-in-south-wales.pdf> - Research into the failure to restore opencast coal sites in south Wales

From: FOI (Freedom of Information) [mailto:FOI@merthyr.gov.uk]
Sent: Wednesday, **August 3, 2016** 2:15 PM
To: 'Chris Austin'
Subject: EIR 587 [NOT PROTECTIVELY MARKED]

Classification: NOT PROTECTIVELY MARKED

Dear Sirs

**RE: ENVIRONMENTAL INFORMATION REGULATIONS 2004 -
INFORMATION REQUEST**

Thank you for your request for information about Ffos-Y-Fran which we received on 22 July 2016. Your request has been considered under the Environmental Information Regulations 2004.

Following a search of our paper and electronic records, we have established that the information you requested **is not held by Merthyr Tydfil County Borough Council**. The Council has relies on Regulation 12(4)(a) which relates to information that is not held or has been destroyed. As this information is not held the Council considers that the public interest test is not applicable.

We are sorry that we cannot help further on this occasion but if you are in any way dissatisfied with the handling of your request, or have any further information needs in the future then please contact the Freedom of Information Officer on 01685 725000 or FOI@merthyr.gov.uk. You have the right to appeal against our decision. If you wish to appeal please set out in writing your grounds of appeal and send to:

Deputy Monitoring Officer
Merthyr Tydfil County Borough Council
Civic Centre
Castle Street
Merthyr Tydfil
CF47 8AN

Tel: 01685 725000
Fax: 01685 725060
Email: legal@merthyr.gov.uk

Classification: NOT PROTECTIVELY MARKED

Dear Sirs

RE: ENVIRONMENTAL INFORMATION REGULATIONS 2004- INFORMATION REQUEST

We have considered your request and have carried out further searches in order to establish whether the information you have requested is held. Unfortunately we have not been successful in locating the information you require, as such we can confirm that our response sent to you on the 30 June 2016 is accurate.

We supply this based on your clarified request. If this is not what you wanted or if you feel we have not fully understood your request please do not hesitate to contact us to clarify your exact requirements. If you have any queries or concerns or are in any way dissatisfied with the handling of your request and you wish to make a complaint please contact the Legal Department on 01685 725000 or legal@merthyr.gov.uk. If you are not satisfied with the outcome of your complaint please contact the Councils Complaints Team on 01685 725000 or complaints@merthyr.gov.uk, alternatively you may wish to submit a complaint using the Councils [online complaints form](#). You maintain the right to request an internal review of the Councils response to your request. If you seek an internal review please set out in writing your grounds of appeal and send to:

Deputy Monitoring Officer
Merthyr Tydfil County Borough Council
Civic Centre
Castle Street
Merthyr Tydfil
CF47 8AN

Tel: 01685 725000
Fax: 01685 725060
Email: legal@merthyr.gov.uk

RE: FoI Request - Waste disposal at Ffos y Fran [NOT PROTECTIVELY MARKED]

Classification: NOT PROTECTIVELY MARKED

Dear Mr Austin,

I acknowledge receipt of your e-mail request under the FOIA.

This matter will now be dealt with by the FOIA officer of the Council.

Yours sincerely,

Gareth Chapman

Prif Weithredwr
Cyngor Bwrdeistref Sirol Merthyr Tudful

Chief Executive
Merthyr Tydfil County Borough Council

 Ffon/Phone: +44 (0)1685 725100
 E-Bost/EMail: [REDACTED]
 Rhynygrwyd/Web: <www.merthyr.gov.uk>
 Canolfan Ddinesig, Stryd y Castell, Merthyr Tudful, CF47 8AN / Civic Centre, Castle Street, Merthyr Tydfil, CF47 8AN

 Arhoswch! Meddyliwch am yr amgylchedd - oes angen argraffu'r ebost yma
 Please consider the environment - do you really need to print this email?

To GC from CA > Wednesday 20th July 2016

Mr Gareth Chapman, CEO, Merthyr Tydfil Borough Council (MTCBC)
CC: MTCBC Freedom of Information Officer

Re: Biffa and the Ffos-y-fran Opencast Coalmine – 20072016

Gareth,

Could you please provide me with, under the Freedom of Information Act, 2000, copies of all correspondence, minutes or transcripts of meetings between Biffa, or other waste processing companies, and MTCBC regarding the Ffos-y-fran opencast coalmine and its use, or possible use as a landfill or waste disposal site.

I have no preference as to how this is presented; either electronically or paper would be acceptable.

(nb - I have also copied this to the MTCBC Freedom of Information officer)

Many thanks for your indulgence,

Chris Austin

Wednesday 20th July 2016

e-mail; [REDACTED]

Tel: [REDACTED]

Address:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Classification: NOT PROTECTIVELY MARKED

Dear Sir/Madam

RE: ENVIRONMENTAL INFORMATION REGULATIONS 2004- INFORMATION REQUEST

Thank you for your two requests for information about Ffos-Y-Fran which we received on 22 July 2016, your requests have been amalgamated to form one request. We are dealing with your request under the Environmental Information Regulations 2004. We are considering your request and you will receive the Councils full response within the statutory time limit of 20 working days, which in this instance is no later than 19 August 2016, unless the information is exempt or we require additional time to consider whether disclosure is in the public interest in accordance with Regulation 7 of the Regulations.

The Regulations define a number of exceptions that may prevent release of the information you have requested. There will be an assessment and if any of the exceptions categories apply then the information will not be released. You will be informed if this is the case, including your rights of appeal. If the information you request contains reference to a third party then they may be consulted prior to a decision being taken on whether or not to release the information to you. You may have to pay a fee for this information; we will consider this and let you know. If a fee is applicable the Council will issue you with a Fees Notice. The 20 working day time limit will not start until we receive your payment.

If you have any queries or concerns, please contact the Freedom of Information Officer on 01685 725000 or FOI@merthyr.gov.uk. You can find out more about the Regulations from the Information Commissioner at:

To GC from CA > Wednesday 20th July 2016

Mr Gareth Chapman, CEO, Merthyr Tydfil Borough Council (MTCBC)

CC: MTCBC Freedom of Information Officer

Re: Further Concerns on the Restoration of the Ffos-y-fran Opencast Coalmine – Revised 12072016

Gareth,

the response to my Freedom of Information (FoI) request in relation to the current situation regarding the Ffos-y-fran restoration guarantee has left me unsure of how to progress. With a 20 working day response time to my request to review the response, and there being no response as yet, coupled with the uncertainty of the conclusion, it may be better to submit a new request.

You previously stated that the responsibility for the restoration guarantee of £15 million is now with Miller Argent Holdings Limited, a subsidiary of the new parent company, Gwent Investments Ltd. I have examined the existing document on this guarantee and I cannot see that it could support such a condition. I believe that this

guarantee would have had to be renegotiated and agreed with the new owner of Miller-Argent (South Wales) Ltd, Gwent Investments Ltd, as there is nothing in the existing covenant that supports such an arrangement.

Could you please provide me with, under the Freedom of Information Act, 2000, copies of all current documentation securing and stating the details of the legally binding (or otherwise) agreement, for Gwent Investments Ltd (as the parent company) to provide an ongoing guarantee of £15 Million. Also, any further documentation which secures their liability for the further £15 Million due in 2022. This may be held by any of the parent company's subsidiary corporations which are, to the best of my knowledge; Miller Argent (South Wales) Limited, Miller Argent (Ffos-y-fran) Limited, Miller Argent (Nominee No. 1) Limited, but most especially, Miller Argent Holdings Limited.

As the subsidiary company, Miller Argent Holdings Limited wasn't named in the original guarantee agreement, there must be a new agreement detailing the responsibilities of said company, and probably those of Gwent Investments Limited, their current parent. I have attached a copy of the existing/historic agreement with the previous parent companies; Miller Group and Argent LLP, which may aid you in the search for the new agreement.

I have no preference as to how this is presented; either electronically or paper would be acceptable.

(nb - I have also copied this to the MTCBC Freedom of Information officer)

Many thanks for your indulgence,

Chris Austin

Wednesday 20th July 2016

e-mail; [REDACTED]

Tel: [REDACTED]

Address:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: ENVIRONMENTAL INFORMATION REGULATIONS 2004- INFORMATION REQUEST

The Council acknowledges your clarification received on the 5 July 2016. We are currently reviewing our previous response to your request. Please note we are not treating your email dated the 5 July 2016 as a formal internal review at this time. We are considering your request and you will receive the Council's full response within the statutory timescale of 20 working days, unless the information is exempt or we require additional time to consider whether disclosure is in the public interest. If you have any queries or concerns then please contact me on 01685 725000 or FOI@merthyr.gov.uk. You can find out more about the Regulations from the Information Commissioner at:

Information Commissioner's Office (Wales)
2nd Floor
Churchill House
Churchill Way
Cardiff
CF10 2HH

Tel: 029 2067 8400

Fax: 029 2067 8399

Email: wales@ico.org.uk

Website: www.ico.org.uk

Responses to completed requests for information are published online within our disclosure log. Our disclosure log is located on our external website (www.merthyr.gov.uk).

Yours faithfully

Swyddog Rhyddid Gwybodaeth/Freedom of Information Officer
Adran Gyfreithiol/Legal Department
Cyngor Bwrdeistref Sirol Merthyr Tudful/Merthyr Tydfil County Borough
Council

To GC from CA > Monday 4th July 2016

Sir,

I find it surprising that the Council does not hold information relating to this because the Council is responsible for managing the operations at the site, including its restoration, and that the funds for carrying out this goes to the heart of that restoration. I understand that MTCBC owns a large part of the site and so the Council should have a real interest/concern in full and effective restoration.

I am seeking information on Gwent Investments Ltd's restoration responsibility, and as such, by direct association, their subsidiary companies (associated with the mining operation at Ffos-y-fran), as the parent company inherits their responsibilities. This would be Miller Argent (South Wales) Limited, Miller Argent Holdings Limited, etc...

In a previous communication, (16 02 02 (L) CAIGC) Mr. Gareth Chapman said "*In respect of the £15m Surety, this remains in place however it is now secured with Miller-Argent Holdings Limited. The Council has also secured that by January 2022 a cash deposit of £15m will also be available for restoration costs.*". I assumed that as the responsibility for the previous restoration guarantee was borne by the parent companies, the responsibility for any surety held by the subsidiary company, Miller-Argent Holdings Limited, would ultimately fall to the parent company, Gwent Investments Ltd. Miller argent holdings limited wasn't named in the original guarantee agreement, so there must be a new agreement detailing the responsibilities of said company, and hence Gwent Investments Limited as their current parent.

Could I respectfully request that you review your response to my request?

I trust that they have enough information to complete my request, but please do not hesitate to get back to me if there is any concern.

Yours sincerely,

Chris Austin

Subject:EIR 572

Date:Thu, 30 Jun 2016 13:45:56 +0000

From:FOI (Freedom of Information)

<mailto:FOI@merthyr.gov.uk><FOI@merthyr.gov.uk>

To:'Chris Austin' [REDACTED]

Dear Sirs

RE: ENVIRONMENTAL INFORMATION REGULATIONS 2004- INFORMATION REQUEST

Thank you for your request for information about Ffos-Y-Fran which we received on 15 June 2016. Your request has been considered under the Environmental Information Regulations 2004.

Following a search of our paper and electronic records, we have established that the information you requested is not held by Merthyr Tydfil County Borough Council. The Council has relies on Regulation 12(4)(a) which relates to information that is not held or has been destroyed. As this information is not held the Council considers that the public interest test is not applicable.

We are sorry that we cannot help further on this occasion but if you are in any way dissatisfied with the handling of your request, or have any further information needs in the future then please contact the Freedom of Information Officer on 01685 725000 or <mailto:FOI@merthyr.gov.uk><mailto:FOI@merthyr.gov.uk>FOI@merthyr.gov.uk. You have the right to appeal against our decision. If you wish to appeal please set out in writing your grounds of appeal and send to:

Deputy Monitoring Officer
Merthyr Tydfil County Borough Council
Civic Centre
Castle Street
Merthyr Tydfil
CF47 8AN

Tel: 01685 725000

Fax: 01685 725060

Email: legal@merthyr.gov.uk

The Deputy Monitor will complete an internal review of the Councils response. You can find out more about the Regulations from the Information Commissioner at:

Information Commissioner's Office (Wales)
2nd Floor
Churchill House
Churchill Way
Cardiff
CF10 2HH

Tel: 029 2067 8400

Fax: 029 2067 8399

Email: <mailto:wales@ico.org.uk><mailto:wales@ico.org.uk><mailto:wales@ico.org.uk>

Website: <http://www.ico.org.uk>/<http://www.ico.org.uk>/www.ico.org.uk

If you have any queries or concerns, or if I can be of any further assistance, please feel free to contact me.

Request for Information - FyF guarantee agreement

Mr Gareth Chapman
CEO, Merthyr Tydfil Borough Council (MTCBC)

Re: Further Concerns on the Restoration of the Ffos-y-fran Opencast Coalmine

Gareth,

in the light of recent events at Ffos-y-fran, with director resignations and further staff layoffs, our concern about the future of the operation has deepened. Also, the recently submitted annual return for Gwent Investments Ltd for 2015-2016 shows them with total assets of £1.8 Million, which further raises questions as to where the money for the restoration guarantee, or the restoration itself, would be found.

You previously stated that the responsibility for the restoration guarantee of £15 million is now with the new parent company, Gwent Investments Ltd. I have perused the existing legal document on this guarantee and I cannot see that it would support such a condition. I am not a legally trained person, so this is just my understanding of it, of course, but I would think that this guarantee would have had to be renegotiated and agreed with the new owner of Miller-Argent (South Wales) Ltd, Gwent Investments Ltd.

Could you please provide me with, under the Freedom of Information Act, 2000, copies of all current documentation securing and stating the details of the legally binding agreement (or otherwise), for Gwent Investments Ltd (as the parent company) to provide an ongoing guarantee of £15 Million. Also, any further documentation which secures their liability for the further £15 Million due in 2022.

I have no preference as to how this is presented; either electronically or paper would be acceptable.

(nb - I have also copied this to the MTCBC Freedom of Information officer)

Many thanks for your indulgence,

Chris Austin

Wednesday 15th June 2016

e-mail; [REDACTED]

Tel: [REDACTED]

Address:
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Gareth Chapman CSIJ., DL., LL.M., MBA., CMgr., DipLG., CCML., Solicitor
chief Executive/prif weithredwr til
Conolfon Ddinesig, Stryd y Costell,

Mr C Austin

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Merthyr Tudful, CF47 8AN
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F axl Ffacs: (01585)- 37 4397
www.merthyr.gov.uk Cyngor \$vvrdeistref Sirol
MERTHYR TUDFUL

Date/Dyddiod: **21st March 2016**
e-mail/e-bost: chief.executive@merthyr.gov.uk

Dear Mr Austin

FFOS.Y.FRAN LAND RECLAMATION SCHEME

Thank you for the e-mail of the 7th March 2016, the contents of which are noted.
I must apologise for the delay in replying, however, I have now had the opportunity to review the documentation.

The document to which you refer issued in February 2016 is "Best Practice" and not legislation, however, much of what is suggested in the good practice was considered by the Council when negotiating the bond back in 2004/2005. The Agreement covering the bonding arrangements was entered into on the 30th March 2005.

As I advised on the 23rd February, the restoration of the site has begun, regular monitoring, progression and compliance with conditions in accordance with the relevant legislation is ongoing.

There are no concerns with the site operation or restoration at this time, but we will of course keep this under constant review and take action if and when necessary and appropriate.

You will also be aware that the Liaison Committee also monitors the progress of the scheme.

If I can be of any further assistance then please do not hesitate to contact me.

Yours sincerely,

Gareth Chapman
Chief Executive

Fao:

Gareth Chapman
Chief Executive
Merthyr Tydfil Borough Council

Chris Austin

[REDACTED]

7th March
2016

Mr Gareth Chapman
CEO
Merthyr Tydfil Borough Council

Sir,

Thank you for your reply (dated Tuesday 23rd February 2016) to my concerns about the situation with the transfer of ownership of Miller-Argent (South Wales) Ltd. **With the greatest respect, I am surprised that you do not agree that my 'what-if' scenario raises enough concern to merit immediate action.** I thought that I had constructed a **plausible and well-supported argument for the realisation of that scenario.**

I identified and analysed the risks and found the likelihood of them occurring to be high and that the impact on the public purse and the environment would be immense. That was enough grounds for me to expect to see a plan of action to explore the council's response to this tangible threat.

Rather than keep pressing my opinion, I have looked to planning procedure for support for my stance and I discovered a recent Welsh Government document that provides the relevant guidance and pulls together MTAN2:Coal, and Minerals Planning Policy Wales. It is the recently issued (*February 2016*) **'Best Practice Guide on Restoration Liability Assessments for Surface Coal Mines'** ^[2] - produced by The Coal Authority, on behalf of the Welsh Government.

This document appears to me to apply to existing, as well as new opencast coalmines. It also appears to require action of the local authority responsible for these operations.

² <http://gov.wales/docs/desh/publications/160218-restoration-liability-assessments-guide-for-surface-coal-mines-en.pdf> - Best Practice Guide on Restoration Liability Assessments for Surface Coal Mines - ISBN 978 1 4734 5775 1 - WG27790

I have reproduced a few of the more salient sections and paragraphs of the document here to illustrate my point:

2.5. This National Best Practice Guide applies to:

- (a) **Sites in operation including mobilisation, extraction or restoration phases**
- (b) Planning applications submitted for new sites or for lateral, depth or time extensions
- (c) Pre-application discussions relating to prospective new sites.

3. **Matters that the Local Authority should consider**

3.1. **In the absence of in-house expertise, the Local Authority should collaborate with an independent expert assessor or a lead authority shared service, if this is available.**

3.2. **The environmental and safety impact of an un-restored abandoned site.**

3.3. **The cost to the public purse of mitigating these risks and fully restoring the site from any point in time.**

3.4. **The risk of failure of an Operator (e.g. contracts/financial standing) leading to site abandonment and the cost of transition to a new Operator.**

3.5. **The risks associated with any proposed security arrangement.**

3.6. Whether they have access to the appropriate technical knowledge and experience required to fully assess the surface mining scheme design and operational risk complexities and its associated cost models to determine the restoration liability and risks associated with the scheme.

3.7. **The need for regular monitoring, and the review of the security arrangement is essential, preferably by an independent expert assessor.**

3.8. Expert legal advice should be sought at the outset to ensure that any Section 106 agreement attached to the planning permission **is drafted in a manner which reduces the opportunity for an Operator to be able to abandon a site without carrying out final restoration in accordance with the approved restoration plan.** Further guidance on the contents of the Section 106 is contained in Appendix A.

It has been brought to my attention that the enhanced land after restoration may be used as security for the restoration. In the case of Merthyr Common land being restored to green belt and common land then its utilisation would be extremely limited. I would think that its inherent value would be quite low and not much use to offset the restoration costs.

The document also alludes to this in Section 4: **Key Principles to be Adopted.** It says:

4.10. By agreement, and subject to the granting of any necessary planning permission, **enhanced end use land values may be used for security.** But it should be acknowledged that the Local Authority will have the ultimate control over securing such end use.

In Section 7: **Financial Risk Assessment** the guidance document states:

7.1. Once the security sum has been agreed following the Assessment and the tripartite meeting, **the Local Authority should seek independent financial advice to confirm the financial status of the Operator and the risks associated with the proposed security arrangement offered by the Operator.**

This appears, to me, to be encouraging the local authority to assess the company's ability to deliver on their security arrangement, and again, in the case of Ffos-y-fran, I would think that this is required action triggered by the change of the operator's parent company.

If you accept that this guidance applies to MTCBC in the case of Ffos-y-fran then I believe that Section 8; **Community Awareness** would apply. It states:

8. Community Awareness

8.1. The local community should be informed by the Local Authority that an Assessment has been scheduled and the planned re-assessment timeframe.

Details of the engagement process, as envisaged by MTAN2, should be set up to foster transparency i.e. site liaison committees, prompt circulation of minutes post meetings, community site visits and other means of communication/liaison such as websites.

I have culled sections out that I believe apply to local authorities responsible for operating opencast coalmines, but I hope that I can prevail on you to review the whole Welsh Government guidance document and verify my selection.

Could I ask you to please reconsider your, and MTCBC's, response to this issue in the light of the new guidance from the Welsh Government?

Could you also please confirm receipt of this e-mail?

Chris Austin

[REDACTED]
[REDACTED]

Chris Austin

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

16th February 2016

Mr Gareth Chapman
CEO
Merthyr Tydfil Borough Council

Sir,

Thank you for your reply to my concerns about the situation with the takeover of Miller-Argent (South Wales) Ltd, [Your Ref: 16 02 02 (L) CA/GC] however it does not allay our fears for the future of operations at Ffos-y-fran.

It is good to see that the £15 Million surety responsibility has been transferred to Miller Argent Holdings Ltd, but that this, in itself, raises further concerns.

The situation prior to the transfer of ownership was that the parent companies were of good standing; 'blue chip' companies as such, and were of significant financial standing and had their good name to protect. This gave a certain level of confidence in their commitment to restore the site at the end of the operation. No such criteria applies to the new parent company, Gwent Investments Ltd, and as such the level of confidence in their ability to restore the site is immeasurably lower.

The company appears to have few assets, financial or otherwise, to its name and as such has little to call on to facilitate such a massively expensive civil engineering exercise; especially when the bulk of the restoration work will come at a time when the company will not be harvesting coal and making a profit.

As far as we can discern, the company's assets do not appear to go anywhere near to covering the cost of restoration; e.g. the mining machinery is on mortgage with HSBC. The land ownership is unclear to me, but the land on the common is worth very little as it cannot be developed extensively.

It is a lot easier to make a profit out of a mining operation if you have no other obligations than to mine the site; the operator only has to balance the cost of mining against the coal sales. The restoration of the site is 'dead money', i.e. it is expenditure with no financial return, and estimates put the cost of the project at many £10s of Millions, or even up to £100 Million; where is this money to come from?

Gwent Investments Ltd's statement, "*the new shareholders intend that it will be very much business as usual and the site operations will be unaffected by the change*" is but a statement of intent and carries little weight in law. It goes nowhere towards increasing our level of confidence in the future of the operation; that statement has to be qualified.

It is heartening to hear of a further £15 Million cash deposit in 2022, but that is on the long pole at 6 years in the future and unfortunately, our concerns would be realised in real time or at least in the very short-term future. We have not previously had sight of the arrangement to pay this money in the planning consent, or Section 106 agreements; is this a new arrangement? Is it the value of the restored land?

With both sureties now sitting with Miller Argent Holdings Ltd, a subsidiary of Gwent Investments Ltd, my understanding of the situation would be that, were the parent company to declare voluntary bankruptcy, Miller Argent Holdings Ltd. would also have to go, and so too all their assets, (if there were any), and this would be for the official receiver to apportion. The sureties would only be payable if there were assets that could be called upon, (and that would possibly not be the case here), and it would be in a strict pecking order; e.g. HMRC, wages, the bank, other creditors.

My understanding is that only the first phase of restoration has been completed, not several phases as you have stated. This restoration phase only happened after around 8 years of mining and is by far the smallest restoration phase. The bulk of the restoration work will not occur until the end of the operation.

This first phase of the restoration of Ffos-y-fran was completed by using 'short tipping', i.e. directly tipping the spoil from the mining operation into the South

Western corner, achieved by using the very cheapest and quickest method. The operator didn't take any spoil from the overburden/spoil heaps which means that, with the massive restoration task that remains, the most labour intensive and expensive part of the restoration project is yet to come.

The company were tipping on the spoil heaps, or overburden tips, up until quite recently, (and we are now over 8 years into the scheme). This is long-term storage, so the operator has significantly back loaded the project with the majority of the cost of restoration, and may be increasing the risk to the public purse day-on-day, as the operation progresses depending on the back-filling strategy employed from this point onwards.

I am led to believe that MTCBC are significant landowners on the Ffos-y-fran site and as such, if the company were to renege on its obligations to restore, the local authority would inherit a large proportion of the liability to restore the site. This has already happened at Margam with the Port Talbot local authority, and at many sites in Scotland previously. *[EDIT: please note that the mining company, Merthyr (South Wales) Ltd. bought the land at Ffos-y-fran/Merthyr Common quite recently - Chris Austin 20240421]*

The Merthyr Tydfil local authority surely must have a duty of care to investigate any significant threat to the public purse and put in place safety measures to limit the impact of such threats. I believe that this transfer of ownership has considerably raised the level of financial risk and it now poses a significant threat to the public purse. This has to, at least, trigger an investigation of the company's ability to complete this work with the aim of uncovering any potential risks, or to provide the reassurance that the local residents need, and deserve.

With this massive increase in the level of risk to the public purse, I ask you and MTCBC to perform detailed scrutiny of this company's ability to provide the full restoration of the Ffos-y-fran site and provide the aftercare services.

Could you please inform me as to your, and MTCBC's, course of action on this issue and the projected timescales? Could you also please confirm receipt of this e-mail communiqué?

Chris Austin

[REDACTED]
[REDACTED]

RE: Restoration of ffos-y-fran [NOT PROTECTIVELY MARKED] > 23rd february 2016

Classification: NOT PROTECTIVELY MARKED

Dear Mr Austin,

I acknowledge receipt of your e-mail.

Much of what you raise is clearly your own opinion and analysis of the acquisition of the respective shareholding and “what could happen” (which I respect) upon which we will have to beg to differ.

I believe I can add no more to that contained in my earlier letter to you, as the Council will continue to monitor the site in accordance with the planning permission granted and accompanying agreements and if it becomes necessary and appropriate, take any balanced and proportionate action.

Yours sincerely,

Gareth Chapman
Chief Executive

Fao:

Gareth Chapman
Chief Executive
Merthyr Tydfil Borough Council

Chris Austin
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

17th February 2016

Mr Gareth Chapman
CEO
Merthyr Tydfil Borough Council

Sir,

Thank you for your reply to my concerns about the situation with the takeover of Miller-Argent (South Wales) Ltd, [*Your Ref: 16 02 02 (L) CA/GC*] however it does not allay our fears for the future of operations at Ffos-y-fran.

It is good to see that the £15 Million surety responsibility has been transferred to Miller Argent Holdings Ltd, but that this, in itself, raises further concerns.

The situation prior to the transfer of ownership was that the parent companies were of good standing; 'blue chip' companies as such, and were of significant financial standing and had their good name to protect. This gave a certain level of confidence in their commitment to restore the site at the end of the operation. No such criteria applies to the new parent company, Gwent Investments Ltd, and as such the level of confidence in their ability to restore the site is immeasurably lower.

The company appears to have few assets, financial or otherwise, to its name and as such has little to call on to facilitate such a massively expensive civil engineering exercise; especially when the bulk of the restoration work will come at a time when the company will not be harvesting coal and making a profit.

As far as we can discern, the company's assets do not appear to go anywhere near to covering the cost of restoration; e.g. the mining machinery is on mortgage with HSBC. The land ownership is unclear to me, but the land on the common is worth very little as it cannot be developed extensively.

It is a lot easier to make a profit out of a mining operation if you have no other obligations than to mine the site; the operator only has to balance the cost of mining against the coal sales. The restoration of the site is 'dead money', i.e. it is expenditure with no financial return, and estimates put the cost of the project at many £10s of Millions, and even up to £100 Million; where is this money to come from?

Gwent Investments Ltd's statement, "*the new shareholders intend that it will be very much business as usual and the site operations will be unaffected by the change*" is but a statement of intent and carries little weight in law. It goes nowhere towards increasing our level of confidence in the future of the operation; that statement has to be qualified.

It is heartening to hear of a further £15 Million cash deposit in 2022, but that is on the long pole at 6 years in the future and unfortunately, our concerns would be realised in real time or at least in the very short-term future. We have not previously had sight of the arrangement to pay this money in the planning consent, or Section 106 agreements; is this a new arrangement? Is it the value of the restored land?

With both sureties now sitting with Miller Argent Holdings Ltd, a subsidiary of Gwent Investments Ltd, my understanding of the situation would be that, were the parent company to declare voluntary bankruptcy, Miller Argent Holdings Ltd. would also have to go, and so too all their assets, (if there were any), and this would be for the official receiver to apportion. The sureties would only be payable if there were assets that could be called upon, (and that would possibly not be the case here), and it would be in a strict pecking order; e.g. HMRC, wages, the bank, other creditors.

My understanding is that only the first phase of restoration has been completed, not several phases as you have stated. This restoration phase only happened after around 8 years of mining and is by far the smallest restoration phase. The bulk of the restoration work will not occur until the end of the operation.

This first phase of the restoration of Ffos-y-fran was completed by using 'short tipping', i.e. directly tipping the spoil from the mining operation into the South Western corner, achieved by using the very cheapest and quickest method. The operator didn't take any spoil from the overburden/spoil heaps which means that, with the massive restoration task that remains, the most labour intensive and expensive part of the restoration project is yet to come.

The company were tipping on the spoil heaps, or overburden tips, up until quite recently, (and we are now over 8 years into the scheme). This is long-term storage, so the operator has significantly back loaded the project with the majority of the cost of restoration, and may be increasing the risk to the public purse day-on-day, as the operation progresses depending on the back-filling strategy employed from this point onwards.

I am led to believe that MTCBC are significant landowners on the Ffos-y-fran site and as such, if the company were to renege on its obligations to restore, the local authority would inherit a large proportion of the liability to restore the site. This has already happened at Margam with the Port Talbot local authority, and at many sites in Scotland previously.

The Merthyr Tydfil local authority surely must have a duty of care to investigate any significant threat to the public purse and put in place safety measures to limit the impact of such threats. I believe that this transfer of ownership has considerably raised the level of financial risk and it now poses a significant threat to the public purse. This

has to, at least, trigger an investigation of the company's ability to complete this work with the aim of uncovering any potential risks, or to provide the reassurance that the local residents need, and deserve.

With this massive increase in the level of risk to the public purse, I ask you and MTCBC to perform detailed scrutiny of this company's ability to provide the full restoration of the Ffos-y-fran site and provide the aftercare services.

Could you please inform me as to your, and MTCBC's, course of action on this issue and the projected timescales? Could you also please confirm receipt of this e-mail communiqué?

Chris Austin

██████████
██

Gareth Chapman CStJ., DL., LL.M., MBA., CMgr., DipLG., CCMI., Solicitor
Chief Executive/*Prif Weithredwr*

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Mr C Austin
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Merthyr Tydfil
CF47 0GD

Date/*Dyddiad*: 2nd February 2016

Our ref./*Ein Cyf.*: 16 02 02 (L) CA/GC
Your ref./*Eich Cyf.*:

Please ask for/*Gofynnwch am*: Gareth Chapman
Direct Line/*Llinell Uniongyrchol*: (01685) 725100
e-mail/*e-bost*: chief.executive@merthyr.gov.uk

Dear Mr Austin

FFOS-Y-FRAN LAND RECLAMATION SCHEME

I thank you for your letter of the 14th January 2016, the contents of which are noted.

Many of the issues you raise are not matters for and over which the Council has no control and you should therefore seek your own independent advice thereon.

The Council was however advised on the 7th January 2016 that on that day, The Miller Group and the Argent Group had completed a sale of their respective shareholding in Miller Argent Holdings Limited. The new shareholder as you state was Gwent Investments Limited.

The Council has been advised that "the new shareholders intend that it will be very much business as usual and the site operations will be unaffected by the change" however as the Planning Permission and s 106 Agreement continues to run with the land then the Council will continue to monitor the site accordingly.

In respect of the £15m Surety, this remains in place however it is now secured with Miller Argent Holdings Limited. The Council has also secured that by January 2022 a cash deposit of £15m will also be available for restoration costs.

I need not remind you that restoration of the scheme is proceeding on a phased basis as agreed with the Planning Authority, with several phases already completed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Chapman', written over a large, stylized signature line.

Gareth Chapman
Chief Executive

Merthyr Tydfil
... a place to be proud of

*Merthyr Tudful
... lle i fod yn falch ohono*

Chris Austin
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14th January 2016

Mr Gareth Chapman
CEO
Merthyr Tydfil Borough Council

Sir,

There is much news circulating about Miller-Argent (South Wales) Limited being in the process of transferring their company ownership, and hence their operation at Ffos-y-fran. Some are even saying that this has been completed. We have copies of companies House documentation showing the movement of 10.4 million shares from Miller Argent to Gwent Investments Limited.

We are obviously very concerned about the implications of this move and we need to know where we stand with the obligations and responsibilities imposed on the company by the planning consent.

I have written to the Head of Planning, Ms Judith Jones and asked her what the implications are of such a move, but I need have confirmation from yourself that this is, in fact, an ownership transfer and that MTCBC are as concerned as we are of the possible repercussions.

Could you please provide us with answers to the following questions? *(some of which have been asked of Ms Judith Jones)*

1. Can you confirm that a transfer of ownership has occurred?
2. If this isn't being termed a transfer of ownership, what is the purpose of the company moving its shares?
3. Will the new owner continue to operate Ffos-y-fran LRS? Has MTCBC had any assurances of this?
4. Is the responsibility to restore the site to be transferred to the new owner/company?
5. If Point 4 is true, the existing restoration legal agreement states that in the event of Miller Argent (South Wales) Ltd walking away from the operation at Ffos-y-fran, or going into liquidation, then the two parent companies – Miller Group and Argent would be liable for the cost of the restoration up to the sum of £15 million. How would this transfer to the new company? Has that event already been triggered by the transfer of ownership? If the new owner defaults or collapses the business, who would then be responsible for the restoration guarantee?
6. Do all the existing planning constraints, e.g. operating hours, still apply to the new owner/company?

Chris Austin

Ellis Cooper
Director of Customer Services
Cyfarwyddwr Gwasanaethau Cwsmeriaid
Miss J Jones – Head of Town Planning /Pennaeth Cynllunio Trefol

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Dyddiad/Date : 9th June 2014

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Eich Cyf/Your Ref.:

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Gofynnwch am/Please Ask For : Miss J Jones
E-bost/E-mail : judith.jones@merthyr.gov.uk

Dear Sir & Madam

RE: FFOS Y FRAN RESTORATION POLICY

I write in reply to your undated letter attached to your email of 13th May 2014 and would reply as follows in response to the seven questions posed:-

Q1 – *Are both the FyF Restoration Policy document and the FyF Planning Consent document legally binding?* – It is for you to take your own legal advice on this matter.

Q2 – *Do you agree that the statements itemised above as extracts from the FyF Restoration Policy document and the FyF Planning Consent document conflict fundamentally?* No, I clarified this in my previous response to you.

Q3 – *Do you agree that the statement in the Miller-Argent minutes (Nant Llesg community forum 6th November 2013) conflicts with the duration statement from the Planning Consent document?* I understand that there was an error in the minutes in relation to this point and that a clarification note has now been added for clarity. No doubt Caerphilly CBC (as the administrative authority for the scheme) can advise further.

Q4 – *If the document that we were shown of the FyF Restoration Policy does not form part of the formal planning documentation set, could you please provide us with, or let us have sight of a copy of the formally accepted restoration policy for our perusal?* As you will be aware it is a condition of the planning consent that all documents pertaining to the scheme are permanently maintained and available for inspection at the Miller Argent Site / office. I respectfully suggest that you attend the offices of the developer where the documentation is available. Alternatively, by prior appointment you may attend the Council's planning office in Pentrebach to view the documents.

Q5 – *Would you please confirm that the operator's activities are fully in compliance with all the planning permissions and conditions that have been imposed?* Monitoring visits to the site have not revealed any breaches.

Q6 – *Could you please inform me as to the steps (if any) that MTCBC will now take to require the operators to backfill with overburden? As stated in Q5 I do not consider there to a breach of the planning permission.*

Q7 – *Could you also please supply us with a copy of the detailed plans for the restoration work that is being carried out in the corner of the site facing the A4060 roundabout and up alongside the Bogey Road past the Incline Side houses? Please refer to the answer to question 4.*

Yours faithfully



J JONES
HEAD OF TOWN PLANNING

Chris and Alyson Austin

[REDACTED]

Judith Jones
Head of Planning – MTCBC

Re: Concerns on the Restoration Policy of Ffos-y-fran (dated 17th April 2014)

thank you for putting together such a comprehensive reply to our concerns, but even so, you have failed to attend to all the issues that we raised.

We are very disappointed to find that you have just noted our concern on the 'bond' negotiated to safeguard restoration of the Ffos-y-fran operation should the operator default on their obligations. Issues with the possibly inadequate bond are of great concern to local residents, the Welsh Government, the Scottish Government and now the UK government. With an estimated shortfall indication of at least £35 million on this 'bond' I would think that the MTCBC planning department would

want to be seen to be feverishly trying to limit the impact and put safeguards in place to cover the worst case scenario.

It has been suggested that MTCBC could even be adjudged to be negligent if the bond is insufficient to cover the remediation work should activities cease at any point in time. The Wales Audit Office may have an interest in this situation as public money would be needed to reinstate the site - as East Ayrshire have found out to their cost. It should also be noted that East Ayrshire has now started disciplinary proceedings against its own employees in relation to their role in the opencast scandal there (*"Deficient" and "Defective": East Ayrshire Council going down with their ship* > <http://coalactionscotland.org.uk/2014/02/deficient-and-defective-east-ayrshire-council-going-down-with-their-ship/>), so a precedent has already been set for public servants undergoing disciplinary action.

I will itemise our concerns here to help provide you with a focus on the specific arguments that we are raising.

Project Duration

I assume your first reply refers to our concern about conflicting statements held in planning documentation for Ffos-y-fran opencast coal mine. Both the Ffos-y-fran Restoration Policy document and the Ffos-y-fran Planning Consent document are held by you and were presented to us in hard copy format by your colleague, Mr David Cross, in the MTCBC planning office, so I am surprised that you have no knowledge of the document and have to go back to Miller-Argent for clarification. The Restoration Policy document was produced by Leeke and Weston on behalf of Miller-Argent and the hard copy that we were given access to carried the MTCBC stamp.

In our original communiqué we said: *"Section 9.6 of the Restoration Policy we found a statement that specified the duration of coaling. It said: '...recovery of coal by opencast methods which will take between 13.5 and 17 years to extract, depending on the coal delivery rate'. This statement could support what the statement in the Nant Llesg community forum minutes. We have found the reference in the planning consent, and it said that the operations were to be: 'Duration of Works. The coal extraction shall cease within 15 years 3 months from commencement of development'. These are very much conflicting statements and we can't see how both can be true".*

Along with the statement from Miller-Argent in reply to an answer to a resident's question in the [Nant Llesg community forum 6th November 2013](#), it was stated that the Ffos-y-fran overburden mounds would be in place for

another 13.5 years ^[3]. We were told during the planning consent phase that Ffos-y-Fran operations were to be 15 years of coaling and 2.5 years of restoration with another 5 years of aftercare. As work started in June 2007 that would put the end of the restoration project in 2024. That's in 10.5 year's time, not 13.5 years; that would put the project end well off in 2027.

This alone should surely be enough to trigger concern within MTCBC and prompt an investigation.

- **Question 1:** Are both the Ffos-y-fran Restoration Policy document and the Ffos-y-fran Planning Consent document legally binding?
- **Question 2:** Do you agree that the statements itemised above as extracts from the Ffos-y-fran Restoration Policy document and the Ffos-y-fran Planning Consent document conflict fundamentally?
- **Question 3:** Do you agree that the statement in the Miller-Argent minutes ([Nant Llesg community forum 6th November 2013](#)) conflicts with the duration statement from the Planning Consent document?
- **Question 4:** If the document that we were shown on the Ffos-y-fran Restoration Policy does not form part of the formal planning documentation set, could you please provide us with, or let us have sight of a copy of the formally accepted restoration policy for our perusal?

We are not clear what you are trying to say with your statement:

2 – As you are aware the S73 application allowing the transportation of coal by road was permitted subject to conditions specifying that:-

"All coal extraction from the development hereby permitted shall cease no later than 6th September 2022".

The following condition goes on to state that:-

"Final restoration of the land shall be completed no later than 6th December 2024 and aftercare shall be undertaken for a period of not less than 5 years upon certification of completion of each phase of the progressive restoration scheme".

This, surely, supports what we are saying, not refutes it? We are arguing inconsistency in the statements from the operator, Miller-Argent and from the Restoration Policy document and that they do not comply with the planning

³ *Overburden mounds: a question was asked in relation to how long the existing Ffos-y-fran overburden mound would be in place. It was explained that this would be in place for another 13.5 years.*

consent. Your statement here supports the planning consent and highlights the inconsistencies in the other documentation.

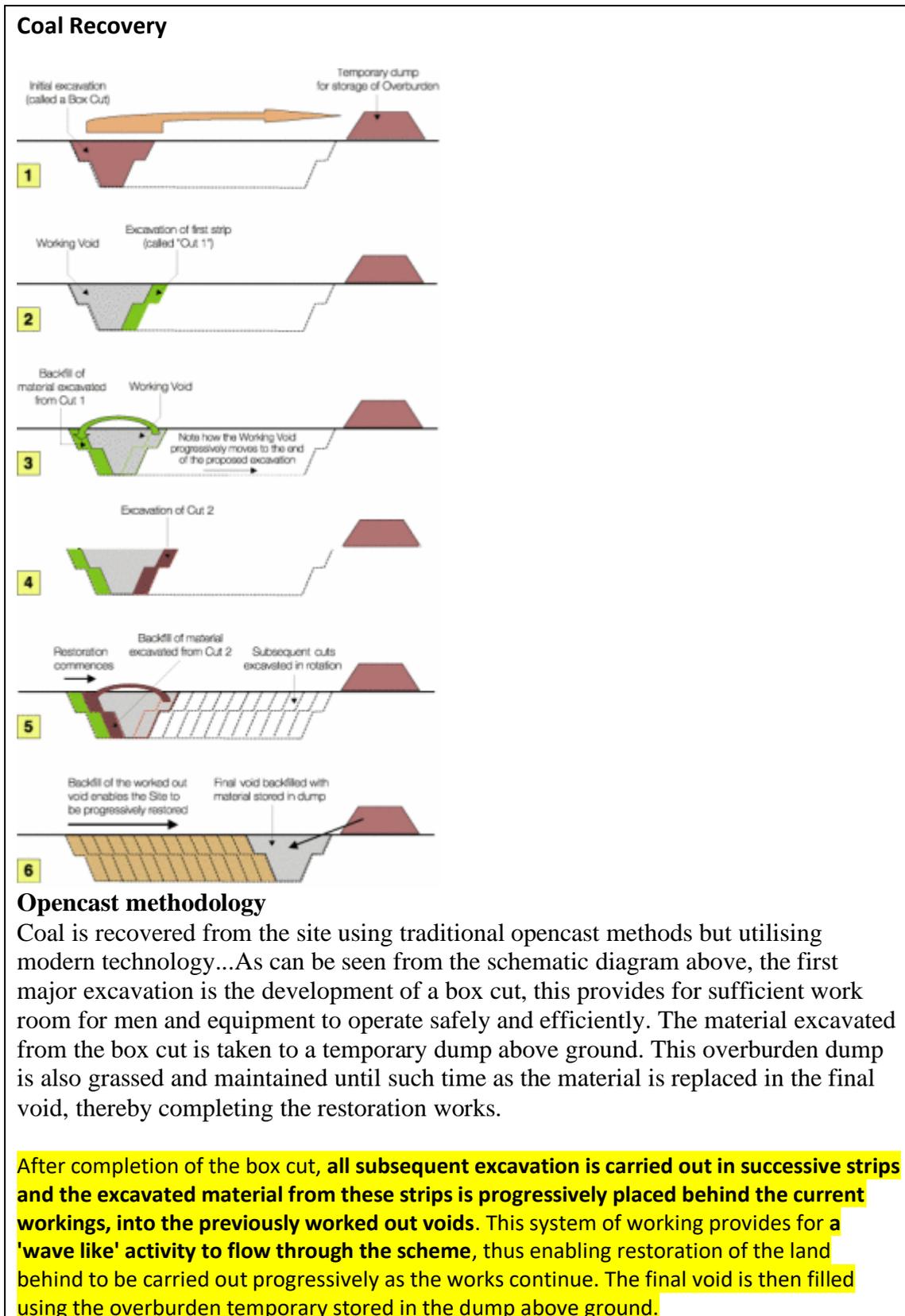
Project Timeline

We maintain that the operator has consistently stated that they will be operating a cut-and-fill operation and that they would be backfilling the void as they go along. Their original documentation states this, and they have stuck to this statement throughout.

Miller-Argent's Ffos-y-fran newsletter No. 001 states:

*'Work on the main site will start with the excavation of the main working void in the South Western area of the site; as well as the recycling of the old waste tips. **The site will be progressively restored** as it is worked South to North, with the **land in the south being fully restored as early as the sixth year of working**. Ultimately, the restored site will be landscaped to reflect the historic setting that existed before the Industrial Revolution took its toll'*

An excerpt from the Miller-Argent website details the Ffos-y-fran Work Methodology as:



If you take the opportunity to carry out a site inspection now, it can clearly be seen from the operator's current working practice that, 6.5 years into the project, Miller-Argent are still storing the majority of their spoil on the overburden mounds. These mounds have been expanded to a degree that is obviously beyond all original estimates and statements.

As we stated in our original letter:

'With the bulk of the restoration work to be carried out at the back end of the project, from 13-17 years we are extremely concerned that we, the local residents, will be suffering the dust and noise from the operation for another 10 years, and that the restoration costs would far exceed the bond value.'

We have been consistently told that the company would operate a cut-and-fill operation and that they would be backfilling the void as they go; in effect the 'void' would move across the site from South to North and the restoration work would follow this through. This would consequently have resulted in a void of a consistent size. When we have complained to the company about noise and dust pollution they have, without fail, told us that the operation and hence the void would be moving away from us, and our problems would diminish.

Promises of this 'movement away' have been anywhere between 18 months to 5 years. They are still there after 6.5 years, and so is the majority of the initial void'.

Financial Risks to MTCBC

It is becoming patently clear to us that Miller-Argent is working in a manner that differs from that which they have stated throughout the operation to date. I would be grateful if you could confirm that their activities are fully in compliance with all the planning permissions and conditions that have been imposed. I should also be grateful if you could inform me as to the steps (if any) that MTCBC will now take to require the operators to backfill with overburden. This would enable MTCBC to limit the impact on the bond, and possibly the public purse, of the remaining restoration work.

- **Question 5:** Would you please confirm that the operator's activities are fully in compliance with all the planning permissions and conditions that have been imposed
- **Question 6:** Could you please inform me as to the steps (if any) that MTCBC will now take to require the operators to backfill with overburden

You may not be able to legally increase the size of the bond at this stage, but it is well within your control and remit to limit the financial impact of future operations on the Ffos-y-fran site. You are the authority, and our representative in this

operation. You have a duty of care to the Merthyr Tydfil residents to do everything you can to limit further excessive spoil tipping and to protect the tax payer from the possible future cost of restoring the site.

As we said previously: '*...recent events in Scotland have illustrated these financial shortfalls when Scottish Coal, and ATH resources collapsed leaving the restoration of their opencast mines to the public purse. The administrator has found somewhere around £28 Million in bonds to restore the work, but the shortfall for this restoration ^[4] is now [exceeding £200 Million](#) and is increasing as more detailed analysis is performed. Along with the recent demise of Aberpergwm in the Neath valley, and the deep mines run by UK coal in the North of England then the thought of a mining company going bust is a very tangible one and should be treated as a serious possibility.*

If you also take into account the current volatility of the global coal market caused by overproduction coming primarily from a run down of the use of coal and the switchover to gas from 'fracking' then it makes the scenario of insolvency a far greater possibility'.

We can't be too complacent, bigger companies than the Miller group have gone to the wall recently! Certainly bigger companies than Miller mining!

The Welsh Government have recently published the results of a report that they commissioned from Environmental Resources Management to look into restoration bond issues with South Wales opencast coal mines, *Research into the failure to restore opencast coal sites in South Wales*, [\[http://wales.gov.uk/docs/desh/research/140424failure-to-restore-opencast-coal-sites-in-south-wales-en.pdf\]](http://wales.gov.uk/docs/desh/research/140424failure-to-restore-opencast-coal-sites-in-south-wales-en.pdf) . Ffos-y-fran was identified as a site that is a **potential risk**. The report said of Ffos-y-fran:

4.3.3

Sites with potential risk Ffos-Y-Fran, Merthyr Tydfil.

This 400 ha site is operated by Miller Argent (South Wales) Ltd, and there remains an estimated 6.6 million (m) tonnes of coal to be extracted, from a total anticipated reserve of 10.8 m tonnes. The site is quite confined and is being worked to a depth in excess of 150 m from the surrounding ground level in places. Although there is as much progressive restoration taking place as the site permits, there are very large overburden mounds which will finally need to be returned to the excavated void. Based merely on the likely cost of bulk earthmoving of those overburden mounds, and the final restoration and treatment of the surface of the 400 ha site, it is likely that **the fixed bond of £15m held by the LPA, Merthyr Tydfil County Borough Council, falls well short of a worst case restoration cost which could be in excess of £50 m based on the collected information.** *[nb - it is our understanding that the bond is not lodged; no actual money exists, it is just a guarantor arrangement. - ChrisA]*

⁴ <http://www.heraldsotland.com/news/environment/councils-left-with-200m-shortfall-in-funds-to-clean-up-opencast-mines.22898637> - Councils left with £200m shortfall in funds to clean up opencast mines

You say in your statement number 3, 'The local planning authority carry out a series of site visits every year to monitor compliance with planning conditions'. When we discussed the massive spoil tipping work around the old overburden mounds, the planning officer was unaware. We would suggest that you take the opportunity to acquaint yourselves with the current tipping situation. The company has been tipping massively all around the old overburden mounds adding millions of tonnes of spoil to the restoration load.

As we have another 11 years of work on this site there is much the planning authority can achieve to limit the future impact of the operation.

Restoration Policy, Strategy and Plans

Local residents have contacted us with concerns about the height of the backfill/restoration work next to the Incline Side houses and around and up the A4060 from the roundabout.

Apparently, the work has achieved a height far in excess of that expected from original consultations with the mining company, and it is still rising. We have concerns about the ultimate height, the slope of the face, potential water drainage issues, and settlement. We are also concerned that this significant increase in height is a further attempt to manage the excessive overburden/spoil tipping.

As they have been restoring this section of the site for about a year now Miller-Argent must have produced detailed plans of this work, and must have lodged them with the MTCBC planning department. We and other local residents would like to have sight of these plans to try and discern what the final shape and size is of the restoration and when it will be finished.

- **Question 7:** Could you also please supply us with a copy of the detailed plans for the restoration work that is being carried out in the corner of the site facing the A4060 roundabout and up alongside the Bogey Road past the Incline Side houses?

Could you please supply us with answers to our concerns above?

Chris and Alyson Austin

Tuesday 13th May 2014

GARY THOMAS M.C.I.H.
Director of Customer Services
Cyfarwyddwr Gwasanaethau Cwsmeriaid
Miss J Jones – Head of Town Planning /Pennaeth Cynllunio Trefol

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Dyddiad/Date : 6th May 2014

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Dear Sir and Madam

RE: FFOS Y FRAN RESTORATION POLICY

I write in reply to your undated letter, attached to your email of 18th April 2014.

The letter raises concerns in relation to the Ffos y Fran restoration policy, specifically project duration, project timeline and the financial risks to this Council of the current restoration strategy. The information contained therein and the series of statements made are noted.

I offer the following comments in response to the concerns raised on pages 3 and 4 of the letter:-

1 – I am not aware of the statement you refer too. I can ask Miller Argent for clarification.

2 – As you are aware the S73 application allowing the transportation of coal by road was permitted subject to conditions specifying that:-

“All coal extraction from the development hereby permitted shall cease no later than 6th September 2022”.

The following condition goes on to state that:-

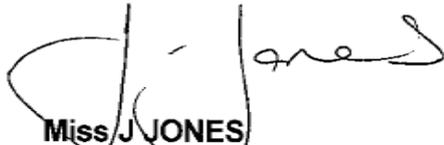
“Final restoration of the land shall be completed no later than 6th December 2024 and aftercare shall be undertaken for a period of not less than 5 years upon certification of completion of each phase of the progressive restoration scheme”.

3 – The Local Planning Authority carry out a series of site visits to Ffos Y Fran every year to monitor compliance with planning conditions.

4 – Your comments and concerns outlined at point 4 are noted. The restoration bond forms part of a legal agreement between the Council and Miller Argent.

With reference to your request for copies of plans, please provide me with the reference / drawing No's and I will arrange for copies to be made.

Yours faithfully



Miss J JONES
HEAD OF TOWN PLANNING

Chris and Alyson Austin

[REDACTED]

Judith Jones
Head of Planning – MTCBC

Concerns on the Restoration Policy of Ffos-y-fran

As residents living near to the Ffos-y-fran mining operation, we are sensitive to the operations on the site. We have noticed things recently that have concerned us and with a statement that we read in the minutes of the Nant Llesg community forum recently it has prompted us to raise our concerns with you.

Our concerns break down roughly into 3 topics; project duration; project timeline; financial risks to MTCBC of the current restoration strategy.

In an answer to a resident's question in the [Nant Llesg community forum 6th November 2013](#), it was stated that the Ffos-y-fran overburden mounds would be in place for another 13.5 years^[5]. We were told during the planning consent phase that Ffos-y-Fran operations were to be 15 years of coaling and 2.5 years of restoration with another 5 years of aftercare. As work started in June 2007 that would put the end of the restoration project in 2024. That's in 10.5 year's time, not 13.5 years; that would put the project end in 2027.

We are watching the work progress and have grave concerns about the fact that the operator is still tipping significant amounts of spoil on the overburden mounds, continuously, and wherever they can find space. They have revisited old sites and are joining two overburden together now with a spoil bridge. The overburden by the railway line has been extended to a significant degree, both along its length and at the end facing Fochriw. Although some backfilling has been performed, it is very much the minority of the spoil that is being tipped there.

We visited the MTCBC Planning Office on Thursday 17/04/2014 and spoke with David Cross about our issues. He gave us copies of the planning consent and the restoration policy to peruse.

⁵ *Overburden mounds: a question was asked in relation to how long the existing Ffos-y-fran overburden mound would be in place. It was explained that this would be in place for another 13.5 years.*

We were extremely concerned to find several statements in the restoration policy that in some way supported their current working method, and some of their recent statements; superficially, anyway.

In Section 9.6 of the restoration policy we found a statement that specified the duration of coaling. It said: *'...recovery of coal by opencast methods which will take between 13.5 and 17 years to extract, depending on the coal delivery rate'*. This statement could support what the statement in the Nant Llesg community forum minutes. We have found the reference in the planning consent, and it said that the operations were to be: *'Duration of Works. The coal extraction shall cease within 15 years 3 months from commencement of development'*.

These are very much conflicting statements and we can't see how both can be true.

Also, we read in paragraph 3.13 that: *'Based on the extraction rate of 1 million tonnes of coal per year, some 26 Ha will have been restored at the end of Phase II, approximately 6 years after the start of excavation'* and *'...68Ha at the end of Phase III, at approximately 12 years'* and *'146 Ha at the end of Phase IV, at approximately 13 years'* and then *'...the remaining 255 Ha to be restored in the following 2 years'*.

From this we determine that the bulk of the restoration work will wait until the end of the project.

With the 'restoration' works that they have already carried out I wouldn't be surprised if it's too far short of the 26 Ha already. So, 6.5 years into the operation (almost 40% complete) we have only a small area of backfill restored, and this may be as much as is required to meet their obligations to date.

With the bulk of the restoration work to be carried out at the back end of the project, from 13-17 years we are extremely concerned that we, the local residents, will be suffering the dust and noise from the operation for another 10 years.

We have been consistently told that the company would operate a cut-and-fill operation and that they would be backfilling the void as they go; in effect the 'void' would move across the site from South to North and the restoration work would follow this through. This would consequently have resulted in a void of a consistent size. When we have complained to the company about noise and dust pollution they have, without fail, told us that the operation and hence the void would be moving away from us. Promises of this 'movement away' have been anywhere between 18 months to 5 years. They are still there after 6.5 years, and so is the majority of the initial void.

In addition, in paragraph 3.12 it is stated that: *'Detailed restoration plans for each phase of the scheme will be submitted for the approval of the Planning Authority at*

least 6 months prior to the cessation of the replacement of overburden in that phase'. [Chris A EDIT - we never have had sight of these detailed plans]

The phases of work are defined in the restoration document as:

Phase 1	Preliminary operations
Phase 2	Excavation to maximum void
Phase 3	Excavation to end of coaling
Phase 4	Final void restoration

nb There is a confusion of terms in this document between 'phases of work' and 'phases of restoration' which makes it difficult to determine clearly what is being stated

From this, we can only conclude that the operator will not have to produce detailed plans of the restoration until the very last phase of the mining operation.

Work has started on the restoration work in the corner of the site facing the A4060 roundabout. We would like to know whether this restoration work has been performed with the benefit of approved detailed restoration plans.

From our observations and our initial skim of the restoration documentation, we have identified the following concerns:

1. The operator has apparently issued a statement of intent to work beyond the agreed duration for the project as stated in their planning consent. This needs clarification and resolution.
2. Are the conflicting statements in the planning consent and the restoration document an error, or do they somehow co-exist and hence support the operator's statement in the Nant Llesg community forum minutes?
3. Is Merthyr Tydfil CBC Planning Department satisfied that all the conditions attached to the planning consent are currently being met?
4. With the lion's share of the backfilling from the overburden apparently not occurring until the final years of the operation there is a high risk of:
 - a. the local community suffering the adverse effects of the mining operation for virtually the entire duration of the operation, ie 17 years
 - b. the local community suffering the visual impact of massive, and still expanding, overburden mounds until the end of the operation, another 10 years
 - c. the £15 Million restoration bond being exceeded. With the initial working strategy stated as cut-and-fill, the operator would have effectively been carrying out ongoing back-filling and restoration work, under those circumstances, if the operator were to pull-out at any point, the restoration costs would be to cover whatever work they had left to do. But, as they

appear to be back-loading the project then restoration of the site grows day-on-day in size and cost. The later they 'pull-out' of the operation, then the larger the restoration costs will be. These restoration costs would be immense in the later stages and could massively exceed the bond/guarantor sum of £15 Million agreed between MTCBC, the Miller Group, and the Argent Group.

- d. Recent events in Scotland have illustrated these financial shortfalls when Scottish Coal, and ATH resources collapsed leaving the restoration of their opencast mines to the public purse. The administrator has found somewhere around £28 Million in bonds to restore the work, but the shortfall for this restoration ^[6] is now [exceeding £200 Million](#) and is increasing as more detailed analysis is performed. Along with the recent demise of Aberpergwm in the Neath valley, and the deep mines run by UK coal in the North of England then the thought of a mining company going bust is a very tangible one and should be treated as a serious possibility. If you also take into account the current volatility of the global coal market caused by overproduction coming primarily from a run down of the use of coal and the switchover to gas from 'fracking' then it makes the scenario of insolvency a far greater possibility.

Could you please supply us with answers to our concerns above?

Local residents have contacted us with concerns about the height of the backfill/restoration work next to the Incline Side houses. Apparently, the work has achieved a height far in excess of that expected from original consultations with the mining company.

Could you also please supply us with a copy of the detailed plans for the restoration work that has been carried out in the corner of the site facing the A4060 roundabout?

We are very worried about the restoration bond not being enough to restore the site if the operation were to collapse. The financial impact on the local authority, and hence its residents could be huge. I urge you to look at this scenario and review the strategy of work versus the original strategy that the £15 million restoration costs estimate was based upon. Figures from Scotland for mines smaller than Ffos-y-fran have much higher restoration cost estimates against them than £15 million. You have the [opportunity to react now](#) ^[7] and put safeguards in place to limit the impact

⁶ <http://www.heraldscotland.com/news/environment/councils-left-with-200m-shortfall-in-funds-to-clean-up-opencast-mines.22898637> - Councils left with £200m shortfall in funds to clean up opencast mines

⁷ <http://www.heraldscotland.com/news/environment/councils-paying-the-price-of-ignoring-clean-up-costs-in-opencast-mining.22956605> - Councils paying the price of ignoring clean-up costs in opencast mining

of shortfalls if the worse were to happen and we think that it would be prudent that you seize that opportunity.

Chris and Alyson Austin

Thursday **17th April 2014**

External (to MTCBC) communiqués regarding Ffos-y-fran Restoration:



Restoration Guarantee

Earlier schemes did not offer the benefit of a restoration guarantee which has been secured by the Agreement with MTCBC. Miller Argent's parent companies are required to execute the draft form of parent company guarantee as annexed to the main Agreement; a copy of which is attached for your information.

The Planning Permission (if granted) will NOT be "personal" to Miller Argent, and we acknowledge that you have raised a very valid point with regard to the proposed Condition number 66. As it stands Condition 66 could be interpreted as having a restrictive affect. We suggest that in order to correct this deficiency, the condition should be varied to provide either a Parent Company Guarantee, acceptable to MTCBC, or a Restoration Bond to cover this potential liability. The Condition could be re-worded along the lines of the following:

66. *No development shall commence, or proceed, unless a Parent Company Guarantee, or a Restoration Bond, to a maximum value of £15,000,000 is provided from a party and on terms approved by the Council (acting reasonably), in respect of the restoration, landscaping and aftercare works approved by this permission.*

We are copying this letter to our Lawyers so that they may write directly to yourselves to certify that the extract provided and the draft parent company guarantee are true extracts from the legal agreement between Merthyr Tydfil County Borough Council, Celtic Energy Limited and Miller Argent (South Wales) Limited.

Should the Welsh Assembly decide that it wishes for matters such as the Community Benefit Fund and Waste Tips Liability, as referred to in Core Document A12, to be secured under the planning permission rather than the existing legal agreement between the parties, we accept the Assembly has the ability to approve the application subject to a Section 106 Agreement being entered into by Miller Argent incorporating the appropriate points.

We trust that this response is satisfactory and look forward to hearing from you on how you wish to handle the matter of the legal agreement with MTCBC. Should there be any other matters please contact the author in the first instance.

Yours sincerely

cc Norman Davies - Merthyr Tydfil County Borough Council

HUW LEWIS AM

Labour & Co-operative, Merthyr Tydfil & Rhymney
National Assembly for Wales
Venture Wales Building
Pentrebach
Merthyr Tydfil
CF4B 4DR

Mr. James N. Davies

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Our Ref: MTR/01 160026

Telephone: [REDACTED]

Web: nuwlewis.org.uk

Twitter [REDACTED]

Email. [REDACTED]

Cenedlaethol Assembly for Cymru Wales

From the Office Manager

Dear Jim,

We have received this letter today from the council's chief executive, Mr. Gareth Chapman, following our representations on your behalf, and I enclose a copy for your information.

Mr. Chapman confirms that the £15 million surety in respect of the Ffos Y Fran site remains in place. The council has also secured that by January 2022, a cash deposit of £15 million will also be available for restoration costs. *[Chris Austin - EDIT - there has been no talk of the further £15 Million since then - we are chasing it, but don't expect them to answer or be open about it]*

I very much hope that this reply provides some reassurance. As always, should you feel that Huw or I could be of any future assistance, please do not hesitate to get in touch.

Christopher Binding

Office Manager, Office of HUW LEWIS AM
Assembly Member, Merthyr Tydfil & Rhymney

Please note: Huw Lewis AM will not be seeking re-election to the National Assembly for Wales in May. His term of office ends on 6 April and you should keep copies of all correspondence for your files. After this time, all files held by Mr. Lewis will be securely destroyed in line with data protection guidelines.

Adran Cyfoeth Naturiol
Department for Natural Resources

To: David Cross, MTCBC LPA
From: Chris Austin
Date: 24 April 2024

David,

I have been going through our old emails and documentation around what was put in place as the restoration 'bond' when the Ffos y fran operation was sold to Gwent Investments (as was).

I am confused by statements that I received from Gareth Chapman and Huw Lewis at that time and was hoping that you could clarify them for me.

This excerpt from a statement by Chris Binding for Huw Lewis, AM:

Mr. Chapman confirms that the £15 million surety in respect of the Ffos Y Fran site remains in place.

The council has also secured that by January 2022, a cash deposit of £15 million will also be available for restoration costs.

I have a hard copy communiqué from Mr Chapman stating the same, which I can locate and supply.

The £15 million surety is mentioned as a separate item from the cash deposit, but we only know of the one £15 Million. Sorry, confused, as always.

We know about the surety in the escrow account, but could you explain what is the other £15 Million? If there were an extra £15 Million then that would solve a lot of the issues up at the mine.

Many thanks in advance,

Chris Austin

Llywodraeth Cymru
Welsh Government
Eich cyfNour ref
Ein cyf/Our ref TO/CS/00136 116

Chris Austin
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr Austin

Thank you for your letter regarding Miller Argent Limited. You pose a number of questions regarding the possible transfer of company ownership by Miller Argent and the implications for their operation at Ffos-y-fran. The Minister has asked that I reply to you on his behalf.

Whilst I am able to address some of the issues you raise I am not able to comment fully, either because we do not have full information available to us or because it would not be appropriate to make a comment.

I can confirm from the planning perspective that Welsh Government has not met the operator. This is something that is more properly a matter for the local planning authority to undertake in the context of its site monitoring role. Merthyr Tydfil CBC would be in a better position to know about the future intentions of the company as they deal with them on a regular basis and we do not generally interfere in matters that are related to day to day planning control. We do not, therefore, have any specific knowledge about the transaction that appears to have occurred, although it does not appear to involve a transfer of ownership. We have not been told anything directly by the company.

In terms of restoration, the local planning authority would be responsible for controlling and enforcing the terms and conditions of any Section 106 agreement. I do not have any information on the section 106 agreement so these questions would be best asked of the Council. Finally, I can confirm that as a matter of principle planning permission is registered with the land (the site) and so any existing constraints, such as operating hours, would still apply should a transfer of land to another company take place.

I understand the concerns you raise and recognise that this response is very general. I hope you will understand why I can only respond in such a general way.

Yours sincerely
Joanne Smith
Planning Directorate

**Gwent Investments capital statement to Companies House in AR01 for
13/03/2016**

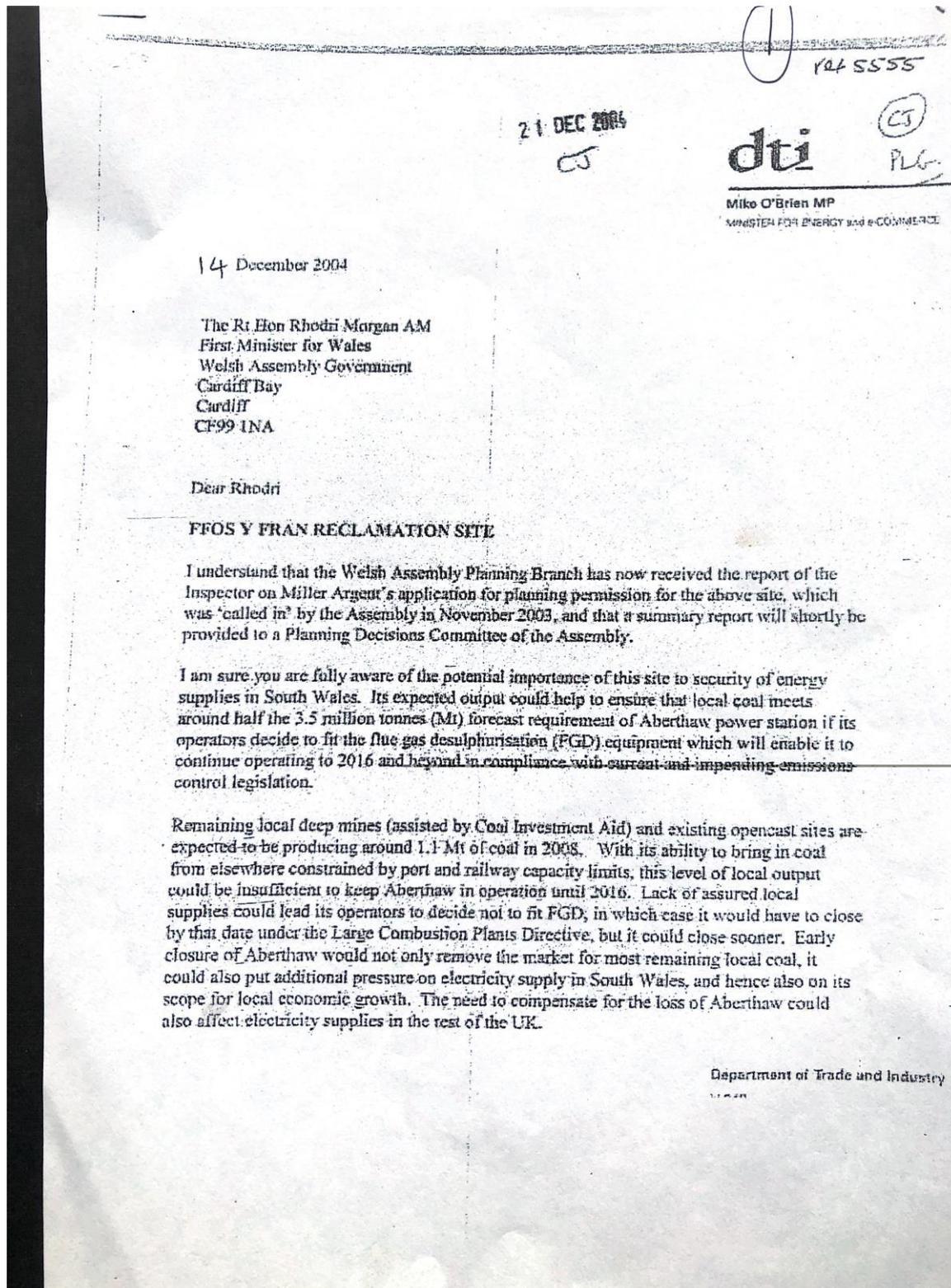
Statement of Capital (Share Capital)

Class of shares	ORDINARY	<i>Number allotted</i>	1800001
		<i>Aggregate nominal value</i>	1800001
<i>Currency</i>	GBP	<i>Amount paid per share</i>	1
		<i>Amount unpaid per share</i>	0
<i>Prescribed particulars</i>			
FULL VOTING RIGHTS			

Statement of Capital (Totals)

<i>Currency</i>	GBP	<i>Total number of shares</i>	1800001
		<i>Total aggregate nominal value</i>	1800001

The decision wasn't really being driven by 'Reclamation' was it? The impetus and urgency is all about getting at the coal. No real concerns about the impact on residents or the safe reclamation of a dangerous and derelict site...just the coal and keeping the lights on; which wouldn't really have been at risk with cheap and plentiful supplies of coal already being imported from safe and secure countries.



Julie James AS/MS

**Ysgrifennydd y Cabinet dros Lywodraeth Leol, Tai a Chynllunio Cabinet
Secretary for Housing, Local Government and Planning**

Bae Caerdydd • Cardiff Bay Caerdydd • Cardiff CF99 1SN Canolfan Cyswllt Cyntaf / First Point of Contact Centre: 0300 0604400 Gohebiaeth.Julie.James@llyw.cymru Correspondence.Julie.James@gov.Wales Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi. We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Eich cyf/Your ref DB4329

Ein cyf/Our ref JJ/00550/24

Dawn Bowden MS

Member of the Senedd for Merthyr Tydfil & Rhymney

Dawn.Bowden@senedd.wales

18 April 2024

Dear Dawn,

Thank you for your email of 12 March regarding action in relation to water levels at the Ffos y Fran site.

Welsh Government continues to closely monitor the situation at the site and our priority remains ensuring the safety of the local community. We remain in regular contact with Merthyr Tydfil County Borough Council and a range of public sector partners including Natural Resources Wales (NRW).

The Council and NRW continue to monitor the site to fulfil their respective regulatory roles. While NRW are responsible for permits relating to water discharge from the site, responsibility in respect to flood risk lies with the Council as the Lead Local Flood Authority. The leader of the Council has assured Ministers that the water level in the void is not an immediate concern, and Welsh Government is providing support to the Council to ensure that it is able to access independent assessments on potential flooding concerns and environmental impacts.

The safeguarding and restoration of the site remains our immediate objective, alongside our wish to see full restoration of the site in line with the planning permission granted.

Yours sincerely,

Julie James AS/MS

Ysgrifennydd y Cabinet dros Lywodraeth Leol, Tai a Chynllunio
Cabinet Secretary for Housing, Local Government and Planning

Communiqués between Ourselves and the Coal Authority

Paul Frammingham, Chief Finance and Information Officer, the Coal Authority

Dear Paul,

thank you for your prompt reply to our letter of concern re: Ffos-y-fran mining void filling with water, but I do have to come back on your assertions.

There are three major points that you made that I'm afraid that I do have to challenge.

1. You say, (on behalf of the Coal Authority - 'CA'), that '*...the site has ceased coaling so we have very limited powers or involvement with the site other than ensuring that the remaining lease and licence conditions are met*'. I would think, and it appears to be supported by statements in the Coal Industry Act 1994 ('the Act'), that your responsibility for coal mines goes beyond their working life. Collapsed historic coal mines and flooded coal workings occur well after the coal extraction phase of the mine has passed. In the case of Ffos-y-fran, the mining company, Merthyr (South Wales) Ltd. (MSW) were working in the mining void right up to the cessation of coal extraction, and therefore the void needed to be dry. The pumps could only be turned off after coal extraction works were completed and I would think that this is the most common circumstance with coal mines.

The Act states that: '

Coal Industry Act 1994 - UK Public General Acts 1994 c. 21 Part I **The Coal Authority**

Section 4A

(1) The Authority may take such action as it considers appropriate (if any) for the purpose of preventing, or mitigating the effect of, the discharge of water from a coal mine into or on to any land or into any controlled waters.

(2) In this section and sections 4B [F2, 4C and 4CA] below—

(a) "controlled waters" has the meaning given by section 104 of the Water Resources Act 1991; and

(b) references to coal mines are to **coal mines vested in the Authority**.

To me, that doesn't carry a caveat of 'working coal mine' nor an exclusion clause of 'coal mines post the coal extraction phase'. The mine is still licensed by yourselves (CA), it will become a historic coal mine from this point forward, but work is to continue on its final restoration at a later date. Operations in this mine are ongoing and will need to be monitored and

regulated by all 'interested' public agencies, commensurate with their responsibilities in this case; the CA included.

In the second instance you say '

2. *'With regards to the sections, you have quoted from the Coal Industry Act 1994 these responsibilities pass to the operator when a lease and licence is in place. Water management and site safety is therefore the responsibility of the operator with oversight from the environmental regulator and the local authority'*. What we have been exploring, and have put to you, is the enforcement action available to the Coal Authority, not the responsibilities of the mine owner/operator. Enforcement action cannot be passed on to the person contravening their responsibilities. They may be responsible for controlling any water discharge from their mine, but if they fail to do so the responsibility then falls to the CA to enforce those responsibilities, or even take control of the situation.

In addition, you go on to say: '

3. *'Following the closure of a surface mine the restoration and associated public safety is a matter for the landowner and local authority'*. The Local Planning Authority (LPA), Natural Resources Wales (NRW) and the Health and Safety Executive (HSE) do all have a measure of responsibility in this instance, commensurate with their responsibilities, but you cannot abrogate, or reassign the responsibilities of the Coal Authority stated within the Act. You may, and probably do, work alongside these other agencies to provide a common solution, but surely, the ultimate responsibilities of the Act lay with you (the CA).

The preamble to the Act says:

1. Background

This statement sets out the functions carried out by the Coal Authority that are within our public task under the Re-use of Public Sector Information Regulations 2015.

It is published primarily to provide clarity to re-users and potential re-users of our information.

This statement is regularly reviewed and is due to be considered again no later than 2024.

2. Public task

The Coal Authority owns the vast majority of un-worked coal in Great Britain, as well as **former coal mines**.

We are a non-departmental public body sponsored by the [Department for Energy Security and Net Zero](#) and established by Parliament under **the Coal Industry Act 1994, which sets out our relevant powers and responsibilities**.

These include:

- licensing coal mining operations
- matters with respect to coal mining subsidence damage outside the areas of responsibility of coal mining licensees
- dealing with property and historical liability issues, for example environmental projects, **mine water treatment schemes and surface hazards relating to past coal mining**

- providing public access to information held by us on coal mining

To us, this does appear to point to there being no 'end date' to your responsibility for a coal mine and any deleterious impact caused by it now, or in the future.

Your (the CA's) website goes on to state:

Report a coal mine hazard

Report a problem with a coal mine to the Coal Authority.

The Coal Authority

0800 288 4242

Open 24 hours a day, 7 days a week

Problems could include:

- a collapsed mine or mine entrance
- **gas or water emissions from an abandoned mine**
- an entrance to an abandoned mine that's not sealed
- a ground collapse, for example a hole in the ground ('sinkhole')

I am a layman in this field but the Act does appear to be quite clear on the responsibilities for enforcement in the management of water issues associated with coal mines, current and historic, in the UK.

We are extremely concerned about the impact of this 'abandoned' mining void and what the flooding of the void with water will cause to us living within its sphere of influence. We are worried about; a catastrophic failure of the retaining walls, loose embankment sections collapsing into the void and causing 'overtopping' of the lowest bank, leachate from the surrounding strata and anything remaining in the abandoned void getting into our water supply and watercourses, the impact on the water table, and the strain that it could put on our already tested water courses and drains in the area, especially with the impacts of climate change now being felt.

We believe strongly that the drainage pumps need to be reinstated as soon as possible to drain the void and, at the very least, allow for an independent survey of the void for its ability to safely hold millions of gallons of water for the foreseeable future, or even in perpetuity. Our ideal would be that the mining void be backfilled to preclude any safety issues of this sort, but that is an issue that we are discussing alongside this.

Could we please ask you to revisit our previous request and review the CA's responsibilities in the light of our assertions above? This is a time critical issue so could we please ask for a response as a matter of urgency?

If your understanding of the Act differs from ours, could you please point us towards the relevant declarations in the Act or in any other relative government

documentation that supports your position. Could you also explain your (the CA's) interpretation of these declarations? If enforcement law differs in Wales to that of the rest of the country, could you please explain where and how?

Yours sincerely,

Chris and Alyson Austin
Residents - Merthyr Tydfil - Thursday 4th April 2024

From: Customer Service [mailto:customerservice@coal.gov.uk]
Sent: Tuesday, April 2, 2024 2:23 PM
To: Chris Austin
Subject: RE: [External] Ffos y fran Water Filled Mining Void

Dear Chris & Alyson

Thank you for your email regarding the water collecting at Ffos y Fran.

I've attached a response from Paul Frammingham, Chief Finance and Information Officer.

Kind regards

Rachel

Rachel Nicholls
Customer Correspondence Officer

E : customerservice@coal.gov.uk
T : 01623 637000
W : gov.uk/coalauthority

200 Lichfield Lane, Mansfield, Nottinghamshire, NG18 4RG

From: Chris Austin [REDACTED]
Sent: 18 March 2024 18:28
To: Customer Service <customerservice@coal.gov.uk>
Cc: [REDACTED]
Subject: [External] Ffos y fran Water Filled Mining Void

Sir/Madam,

my wife and I are resident in Merthyr Tydfil, next to the Ffos-y-fran opencast coalmine/Land Reclamation scheme. We are surrounded by heavily populated residential areas. The mine sits at an elevation of about 1,000 Ft above sea level and looms over Merthyr Town.

We have been working with the Merthyr Tydfil County Borough Council (MTCBC) Local Planning Authority (LPA) to try and ensure the full and final restoration of the Ffos-y-fran coalmine, as the mining company, Merthyr (South Wales) Limited (MSW), are contractually obligated to complete. They ratified their purchase of the mine, complete with its obligation to fully restore the site in late 2015.

It was brought to our attention on Sunday 10th March (2024) that the mining void was filling with water. In evidence of this we were supplied with drone footage and still photographs.

The void is not visible from any vantage point now, so we have no information as to when it started to fill. We have been informed since that the mining company has turned-off the drainage pumps and has stated that it has no intention of turning them back on.

The mining void has not been surveyed by civil engineers, hydrologist, nor hydro-geologists for the purpose of containing a large body of water.

We have pressed the MTCBC LPA for prompt action, but it appears that they are content with awaiting further action by the mining company. This would be in the form of a survey, but the lower section of the mine is now flooded, so we are unconvinced that this can happen, and to await an amended restoration plan that would now not be presented until the Autumn (2024) at the earliest.

By next Autumn, the void will, most likely, be full of water and would present no opportunity for survey nor restoration. Depending on the weather conditions, and the previous year, or two has been extremely wet up here, the mine could very well be full and possibly overtopping the retaining wall facing the A4060 Slip Road/dual-carriageway, or could have broken through a weak point prior to that.

We have reviewed the Coal Industry Act 1994 and it appears that you, The Coal Authority, have the responsibility for these issues and the power of enforcement.

We are asking that you step in now, as a matter of urgency, to prevent this transgression becoming a tragedy.

The drainage pumps need to be reinstated to ensure that the mine doesn't fill to a point of no return, (where it fills beyond a level that precludes any remediation). Once drained then we ask that you perform an independent survey of the mining void for its ability to safely hold millions of gallons of water, in perpetuity.

We want the full and final restoration of the mine, as promised to us, and as defined in the current planning consent, but this is currently being denied us by the mining company's pre-emptive actions along with the safety issues that could result from that action. We need to reinstate the draining of the void and launch independent safety checks with urgency.

Could you please get back to us as soon as possible and inform us of how you plan to deal with this issue.

Chris and Alyson Austin
Residents - Merthyr Tydfil
Monday 18th March 2024

Appendix A

I've taken the opportunity to cut out a few relevant snippets from the Coal Industry Act 1994.

Coal Industry Act 1994

UK Public General Acts 1994 c. 21 Part I The Coal Authority Section 4A

(1) The Authority may take such action as it considers appropriate (if any) for the purpose of preventing, or mitigating the effect of, the discharge of water from a coal mine into or on to any land or into any controlled waters.

(2) In this section and sections 4B [F2 , 4C and 4CA] below—

(a) “controlled waters” has the meaning given by section 104 of the Water Resources Act 1991; and

(b) references to coal mines are to coal mines vested in the Authority.]

4B Coal mine water discharge: powers of entry

(1) If the Authority is of the opinion that a discharge of water from a coal mine into or on to any land or into any controlled waters has caused, is causing or is likely to cause—

(a) serious pollution of the environment; or

(b) danger to life or health,

the Authority may, for any purpose specified in subsection (2) below, in writing authorise a person to exercise, in accordance with the terms of the authorisation, any of the powers specified in subsection (3) below.

(2) The purposes are—

(a) to determine the extent of the pollution or of the danger, or the likelihood of serious pollution or such danger;

(b) to determine whether, and, if so, how, the Authority should exercise its power under section 4A above;

(c) to take action under that section.

(3) The powers are—

(a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, using reasonable force) any premises which the authorised person has reason to believe it is necessary for him to enter;

- (b) to use a vehicle or a boat to do so;
 - (c) on entering any premises by virtue of paragraph (a) above, to take with him—
 - (i) any other person authorised by the Authority and, if the authorised person reasonably believes he is likely to be obstructed, a constable; and
 - (ii) any equipment or materials needed for any purpose for which the power of entry is being exercised;
 - (d) to make such examination and investigation as may in any circumstances be necessary;
 - (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d) above;
 - (f) to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which he has power to enter, and of the air or water or land in, on, or in the vicinity of, the premises;
 - (g) to require any person to give him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section.
- (4) The powers which are conferred in relation to any land by this section include power, for the purposes mentioned in subsection (2) above—
- (a) to carry out experimental borings or other works on those premises; and
 - (b) to install, keep or maintain monitoring and other apparatus there.
- (5) Except in an emergency, in any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of this section shall only be effected—
- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question; and
 - (b) either—
 - (i) with the consent of a person who is in occupation of those premises; or
 - (ii) under the authority of a warrant by virtue of Schedule 1A to this Act.
- (6) Except in an emergency, where an authorised person proposes to enter any premises and—
- (a) entry has been refused and he reasonably believes that the use of force may be necessary to effect entry; or

(b) he reasonably believes that entry is likely to be refused and that the use of force may be necessary to effect entry,

any entry on to those premises by virtue of this section shall be effected only under the authority of a warrant by virtue of Schedule 1A to this Act.

(7) In relation to any premises belonging to or used for the purposes of the United Kingdom Atomic Energy Authority, subsections (1) to (3) above shall have effect subject to section 6(3) of the Atomic Energy Authority Act 1954 (which restricts entry to such premises where they have been declared to be prohibited places for the purposes of the Official Secrets Act 1911).

(8) Schedule 1A to this Act shall have effect with respect to the powers of entry and related powers which are conferred by this section.

(9) In this section, “premises” includes any land, vehicle or vessel, and any plant which is designed to move or be moved (whether or not on roads).]

4C Coal mine water discharge: compulsory purchase of land

(1) The Authority may be authorised by the Secretary of State to purchase **compulsorily any land** anywhere in England and Wales where he is of the opinion that—

(a) the purchase is required by the Authority **for the purpose of preventing, or mitigating the effect of, a discharge of water from a coal mine**; and

(b) the discharge has caused, is causing or is likely to cause significant pollution of controlled waters or serious harm to human health.

(2) The power of the Secretary of State under subsection (1) above shall include power—

(a) to authorise the acquisition of interests in, and rights over, land by the creation of new interests and rights; and

(b) by authorising the acquisition by the Authority of any rights over land which is to be or has been acquired by the Authority, to provide for the extinguishment of those rights.

(3) Without prejudice to the generality of subsection (1) above, the land which the Authority may be authorised under that subsection to purchase compulsorily shall include land which is or will be required for the purpose of being given in exchange for, or for any right over, any other land which for the purposes of the Acquisition of Land Act 1981 is or forms part of a common, open space or a fuel or field garden allotment.

(4) The Acquisition of Land Act 1981 shall apply to any compulsory purchase under subsection (1) above of any land by the Authority; and Schedule 3 to that Act shall apply to the compulsory acquisition under that subsection of rights by the creation of new rights.

(5) Schedule 1B to this Act shall have effect for the purpose of modifying enactments relating to compensation and the provisions of the Compulsory Purchase Act 1965 in their

application in relation to the compulsory acquisition under subsection (1) above of a right over land by the creation of a new right.

4CA Further powers relating to subsidence and water discharge

(1) The Authority may take such action as it considers appropriate (if any)—

(a) with respect to subsidence arising otherwise than in connection with coal-mining;

(b) for the purpose of preventing, or mitigating the effect of, the discharge of water other than from a coal mine into or on to any land or into any controlled waters.

(2) The powers conferred on the Authority by subsection (1) do not affect any other function of the Authority.

Response sent via email: [REDACTED]

17 April 2024

Dear Chris and Alyson

Thank you for contacting us on 4 April to ask further questions about the water collecting in the void at Ffos-y-Fran. We do appreciate your concerns and I apologise if my previous response was not clear regarding our responsibilities.

In your latest email, you refer to sections of the Coal Industry Act 1994 to demonstrate our responsibilities including section 4A (2) which states that these sections only apply to coal mines vested in (owned by) the Coal Authority. In our previous response we explained that we transferred ownership of this mine from the Coal Authority via the lease we granted to the Operator in 1998. This ownership does not revert to us when the Operator ceases to extract coal at the site.

Our enforcement powers would only apply to a circumstance where an Operator was breaching the terms of their licence. For surface mines, local authorities are the primary authority for their regulation, through planning permission and enforcement through the planning regime. Following the closure of a surface mine, managing the restoration and associated public safety is a matter for the landowner and local authority.

We will of course continue to provide advice to Merthyr Tydfil County Borough Council, Welsh Government and other partners as needed.

We recommend you continue to speak to Merthyr Tydfil County Borough Council about your concerns.

I hope my response has clarified the points you raised.

Yours sincerely, Paul Frammingham, Chief Finance and Information Officer, Coal Authority

Response sent via email: [REDACTED]

2 April 2024

Dear Chris and Alyson

Thank you for contacting us on *22 March 2024* to share your concerns about the water collecting in the void at Ffos-y-Fran. We understand your concerns and would advise that you continue to speak about them with Merthyr Tydfil County Borough Council, as the lead authority for the site. You may also wish to speak with [Natural Resources Wales \(NRW\)](#) who have responsibilities and oversight for water management.

For background, policy for coal mining in Great Britain is set by the UK, Scottish and Welsh Governments through planning policy and the UK and Welsh Governments through coal licensing policy and legislation.

Local authorities are the lead authority for their oversight and regulation through planning permission and enforcement through the planning regime. To operate surface mine operators also require a coal mining licence from the Coal Authority and other relevant approvals from bodies such as Natural Resources Wales and the Health and Safety Executive. Ffos-y-Fran surface mine has a current coal mining licence but the site has ceased coaling so we have very limited powers or involvement with the site other than ensuring that the remaining lease and licence conditions are met.

With regards to the sections, you have quoted from the Coal Industry Act 1994 these responsibilities pass to the operator when a lease and licence is in place. Water management and site safety is therefore the responsibility of the operator with oversight from the environmental regulator and the local authority.

Following the closure of a surface mine the restoration and associated public safety is a matter for the landowner and local authority. We know that the council and NRW are aware that the ground water in the void is returning to its natural level and that the council and operator are in discussions about site restoration.

We continue to offer advice to the council and to Welsh Government as a partner body with knowledge and expertise in this area.

Yours sincerely

Paul Frammingham
Chief Finance and Information Officer

Communiqués between Ourselves and National Resources Wales (NRW)

Sioned - 23 April 2024

Hello

We have now received the below response from one of our teams;

"Water sampling & quality: at this time, we are not undertaking water samples from within the void. The operator, MSW(Ltd), do have permits in place, including regarding discharge of water (effluents). Previous to the pumps being switched off, the water would've have been pumped and discharged via the agreed discharge points from the site. The monitoring requirements for the operation are outlined in the permits, which require the operator to monitor for suspended solids, pH, iron and visible oil and grease from their discharge points. As such we've had no concerns regarding permitted discharges over the last year and we've not had any water quality/pollution events logged over the past 12 months.

Ideally, we would like to see MSW(Ltd) take up our suggestion around wider water quality monitoring in and around their operation, which would be outside the requirements of a NRW permit but it would help support wider discussions on remediation and address concerns circulating in the public domain around the water quality.

Filling of the void: as described previously, the void does not fall under the Reservoirs Act 1975 so at this time it does not fall under our remit. However, we continue to work closely with other bodies regarding water management and other aspects related to site operation and remediation plans. The operator still remains active on site therefore the site has not been abandoned, as suggested"

Kind regards

Sioned Wyn-Evans

Cymorth Cyswllt Cyfoeth / Customer Hub Support
Cwsmer, Cyfathrebu a Masnach/ Customer, Communications and Commercial
Cyfoeth Naturiol Cymru/Natural Resources Wales

Ebost: [REDACTED]

Siaradwr Cymraeg

April 23, 2024

Sioned,

are you now in a position to give me a response to the queries I raised below? A situation report would suffice, for now.

We are concerned, and dealing with the issue is time critical, so we need to be progressing our response to this issue.

Just a quick scan of the pollution/contamination issues raise concerns about Iron Pyrites and its oxidation to Sulphuric Acid (the mining void has been open to the atmosphere for several years), the heavy metal issue, and we believe that Nickel, Zinc and Iron are quite prevalent in coal seams, hydrocarbons, and the high Sulphur coal itself leaching Sulphur and its compounds into the water. The Sulphuric Acid, despite being a dangerous substance in itself, will accelerate the leaching of metals into the water.

Many thanks,

Chris Austin

April 11, 2024

Sioned,

could you please provide me with an update on where we are with our request?

Further to this, it has been reported to us that the Local Planning Authority and the mining company, Merthyr (South Wales) ltd. have both asserted (this week) that the water level in the void is falling. I haven't been able to corroborate the statement myself, so we will have to take their statement as fact.

The drainage pumps haven't been reinstated so this raises further concerns. The weather here has been awful and rainfall has been greater than average for many months. This should have resulted in the flooding of the mining void with water accelerating, and visually with waterfalls cascading into the void this is so, but the opposite appears to be the case. It now begs the question, where is the water going?

If the water contains toxins from the surrounding strata, and possibly from material abandoned in the void after mining activities ceased, any water leaking out of the void would be carrying this contaminated water out into the locale.

It urgently needs to be determined where this large quantity of water is leaking out to. It could be the local watercourses, where the questions are; could it overwhelm those watercourses, and is it then making its way from there into the River Taff? In addition, whether it could be polluting the water table and the detrimental consequences of that have to be considered.

Could you please investigate the LPA's claims and chase where the water is escaping to, alongside my original request?

Yours sincerely,

Chris Austin

From: Chris Austin [mailto: [REDACTED]]
Sent: Thursday, April 4, 2024 4:51 PM
To: 'Chris Austin'; 'Enquiries'
Subject: RE: RE: Ffos y fran Mining Void Water Filled NRW:02692144

Sioned,

the water in the flooding mining void has a colour to it that we wouldn't expect to see considering the composition of the container. It carries a milky green-blue hue.

We thought that this was just the colour of the sky reflecting in the water, but we've had video footage taken in different weather conditions and the colour does appear to carry through.

One of our serious concerns about a water filled void is the leaching of toxins from the surrounding strata and anything abandoned in the mine when the mining company abandoned it, along with anything that was contained in the infill.

Are you taking samples of the water content and analysing it for toxins?

With this mine not being surveyed for it being safe to contain millions of gallons of water, and therefore whether it is 'water tight' so to speak, we are very concerned that any toxins would leak out into the watercourses and even more worryingly, into the water table.

Could you please let us know what you are doing to ensure the safety of the water supply and water courses within the sphere of influence of this mine?

With the very wet weather conditions that we've been experiencing recently, and with the increasing impact of climate change, the void is filling at an alarming rate. Are you working on a solution for this void filling with water as we could soon find ourselves with it achieving a depth that will overtop the forward edge of the mine. This would carry any polluted water out into the surrounding environment in large quantities. Also, we fear that it will overwhelm the already stretched drainage system in the locale causing property damage along the way and eventually reach the River Taf.

Could you please let us know if this falls under your remit and what you are planning to do to alleviate the issue?

Yours sincerely,

Chris and Alyson Austin

From: Chris Austin [mailto: [REDACTED]]
Sent: Wednesday, April 3, 2024 10:36 AM
To: 'Enquiries'
Subject: RE: RE: Ffos y fran Mining Void Water Filled NRW:02692144

Sioned,

many thanks for this detailed response, it is very much appreciated.

Obviously, we are very disappointed that the Act excludes structures such as our flooded mining void as we feel that the act should encompass ensuring that we have a safe structure to contain a large body of water.

However, we will not be able to change the act, certainly not in the time allotted, and we understand that you are unconditionally constrained by the wording within, so we will have to

find another avenue to have this mine surveyed independently to give the local populace the reassurance that it deserves.

We are pleased that you are still working with the LA as we have further concerns with a flooded void that we will discuss with you at a later date.

Chris Austin

From: Enquiries [mailto:enquiries@cyfoethnaturiolcymru.gov.uk]
Sent: Thursday, **March 28**, 2024 10:54 AM
To: Chris Austin
Subject: FW: RE: Ffos y fran Mining Void Water Filled NRW:02692144

Hello

Thank you for your email.

Please find attached a response from one of our teams for your attention.

Kind regards

Sioned Wyn-Evans

Cymorth Cyswllt Cyfoeth / Customer Hub Support

Dear Mr and Mrs Austin

Thank you for your email and enquiry regarding Ffos-y-Fran opencast mine and the application of the Reservoirs Act 1975.

You have shown diligence in your work with MTCBC and in your reading of the law, and we hope the explanations below allow you to understand why we do not consider the Reservoirs Act to apply to the Ffos-y-Fran void.

The Reservoirs Act 1975 (the 1975 Act), and its predecessor law, the Reservoir (Safety Provisions) Act 1930, were brought into force to protect against an uncontrolled release of water from large raised reservoirs. The term “raised” is important because it means there must be some form of structure to hold water above ground level. The void has been purposefully excavated below natural ground level and we are not aware of any dam which retains water in the Ffos-y-Fran void, other than the exposed, but natural, rock faces.

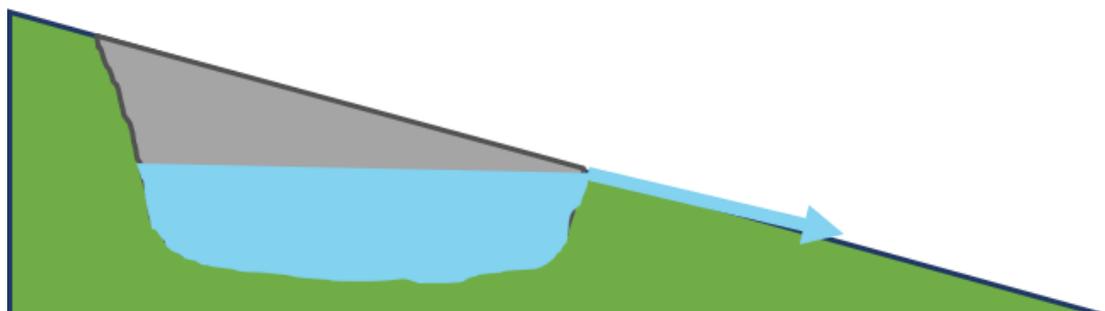
On the matter of the void, we provide the following advice which in summary is that in its current state, even though it may fill with water, the void does not form a large raised reservoir within the meaning given by the 1975 Act. There are some very limited, pre-planned circumstances which could result in a large raised reservoir being formed, but simple filling of the void is not one of them. We hope the drawings help to convey the principles to you.

Reservoirs Act 1975 Section A1

- A *large raised reservoir* is a structure designed or used for collecting and storing water, and a large, raised lake or other area capable of storing water which was created or enlarged by artificial means,
- A structure or area is “raised” if it is capable of holding water above the natural level of any part of the surrounding land.
- A raised structure or area is “large” if it is capable of holding 10,000 cubic metres of water above the natural level of any part of the surrounding land.

Both definitions in RA75 section A1(1) require a reservoir to be “raised” so that water is held above the natural level of any part of the surrounding land. The void at Ffos-y-Fran is an “*area created by artificial means*” but is not designed or used for collecting and storing water. In fact, the opposite is true – it’s desirable that water is pumped away from the void to prevent storage and a cessation of pumping should not infer a “use”. For clarity, we do not consider other dictionary definitions of reservoir because it is defined within the law for a specific purpose.

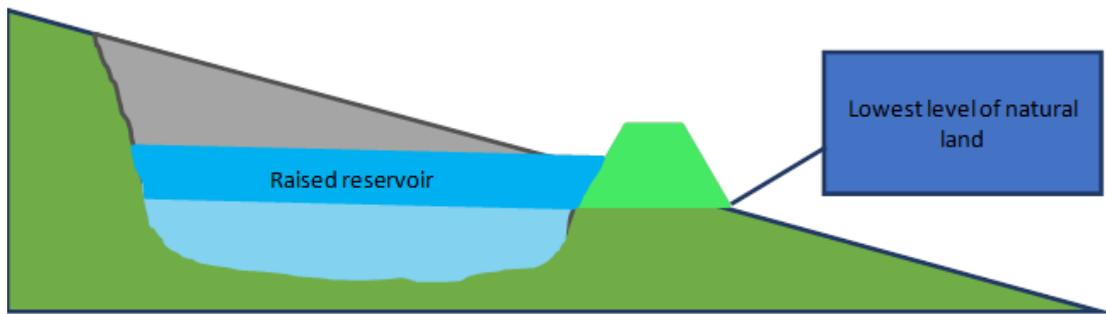
We do not dispute that the capacity is “large” as it is clearly above 10,000 cubic metres but it is not “raised above the natural level of any part of the surrounding land” (being that which is “*remaining after the construction or any alteration of a large raised reservoir*”). Whilst the void itself is created by artificial means, any water in the void is retained by the internal faces made of natural ground. Upon filling, the point at which water reaches the rim of the void it will overflow over the natural ground contiguous with the reservoir.



There are some circumstances that I’ve outlined below that might bring the site under the 1975 Act but these would require intended and designed intervention.

Creation of a dam or bund to prevent overspill

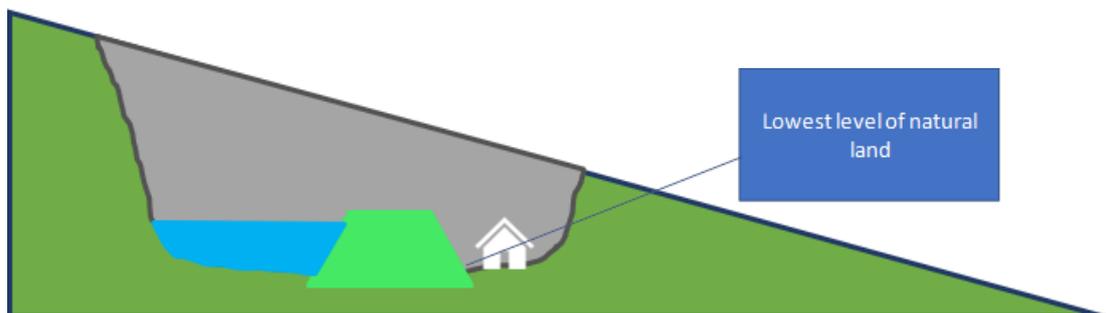
A bund or dam constructed to prevent overspill could cause storage of water above the natural level of land surrounding the newly formed reservoir. The lowest downstream toe of the bund would determine the lowest level above which capacity is measured. If the capacity is 10,000m³ or more, the 1975 Act would apply, subject to exemptions.



The Regulations specify that capacity is measured above the “toe” defined as the point on the downstream side of a structure forming part of the reservoir where its base meets the lowest natural level of any part of the surrounding land.

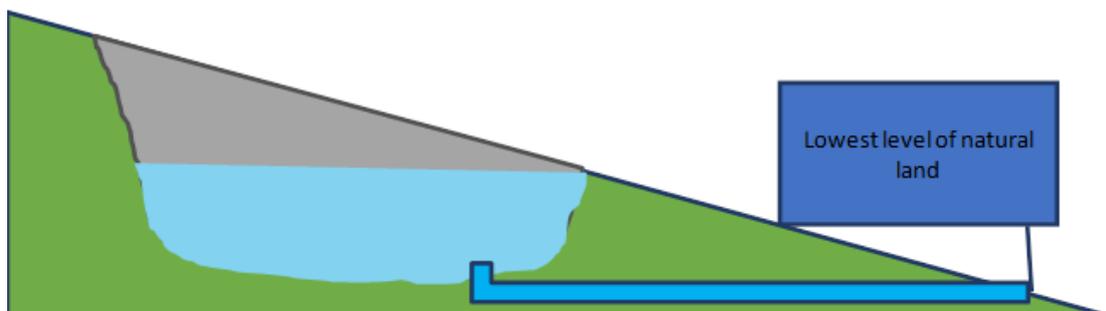
Development of the void

A raised reservoir could also be constructed within the site, perhaps as part of a development project to use the void, if this was 10,000m³ then the 1975 Act would apply, subject exemptions.



Construction of a drainage hole

Occasionally a lake may be utilised by installing an artificial drain to allow draw off. Whilst this does not raise the level of the reservoir, it redefines the lowest natural level.



Exemptions

If a large raised reservoir is created, it could be exempt from RA75 if any of these exemptions apply:

Reg 3.— Specified things not to be treated as large raised reservoirs

(1) Pursuant to section A1(8) of the 1975 Act the following things are not to be treated as large raised reservoirs for the purpose of that Act—

- (a) a mine lagoon which is a tip within the meaning of the Mines Regulations 2014
- (b) a quarry lagoon which is—
 - (i) a tip within the meaning of the Quarries Regulations 1999; or
 - (ii) a disused tip within the meaning of Part 2 of the Mines and Quarries (Tips) Act 1969;
- (c) a canal or other inland navigation;
- (d) structures designed and constructed with the primary purpose of protecting land from the sea: or
- (e) a road embankment or railway embankment except where—
 - (i) the drain or drains through it are artificially blocked for the purposes of using areas upstream to store water; or
 - (ii) the drain or drains through it are constructed so that water is stored above natural ground level.

(2) Paragraph (1)(c) does not include a reservoir which forms part of a canal or other inland navigation.

We do not dismiss your concerns, but **it would be improper and beyond our powers to regulate the void under the Reservoirs Act 1975**, when we do not consider it meets the test for being a large raised reservoir. Under our broader remit, we do however continue to work with the owner, with Merthyr Tydfil CBC and with other parties on matters associated site since mining has ceased.

The main excavated void is an area that was created or enlarged by artificial means and is capable of holding considerably more than 10,000 cubic metres of water. Within the initial revised restoration proposals submitted by RML on behalf of MSW in October 2023 it is suggested that the filling of the final void would require some 26,000,000 cubic metres of material. The revised proposals suggest partially filling the void with some 4,000,000 cubic metres of fill material. Even if not all of this volume could be occupied by water (without overtopping) it is clear that the void, which the report indicates is some 175 metres deep, could hold in excess of 10,000 cubic metres of water.

Communiqués between ourselves and MTCBC LPA

David,

the mining void is filling rapidly due to the very wet weather that we have been experiencing of late; there are waterfalls cascading down the sides of the mine into the flooded void. I urge you, (the Merthyr Tydfil County Borough Council (MTCBC) Local Planning Authority (LPA)), once again, to use the money from the escrow account to put pumps back in the mining void and clear the water before it is too late to act.

The £15 Million lodged in that account by Merthyr (South Wales) Ltd. (MSW) was secured for this very purpose; to make the mine safe in the case of the mining company failing to deliver on its contractual obligation to fully restore the mine as ratified in the legal agreement between themselves (MSW) and MTCBC dated December 22nd 2015 and measured against the 2007 planning consent. They have now clearly reneged on that legally binding contract, so the money is now available for the purpose of making the mine safe.

I have also asked for intervention from National Resources Wales (NRW) and the Coal Authority (CA) on this issue and I'm sure that they are liaising with yourselves on this.

I have informed our MP, Mr Gerald Jones of the situation at Ffos-y-fran, and our request for action, and he is monitoring progress.

As we have already discussed, the mining void has not been independently, or otherwise, surveyed to hold a large body of water and without that surety we can have no confidence in the future safety of the flooded void and under those circumstances we have to assume the worst case scenario - that it will be of dangerous construction and a threat to the health and safety of the surrounding populace. Any promise of a survey by the mining company is fatuous as the mining void is now flooded to a level that would preclude such an activity.

The responsibility for the health and safety of the local populace lies with you, the MTCBC LPA, and you have a duty of care to act promptly and effectively on this issue. We urge you to do so now.

An independent survey by civil engineers, hydrologists and hydro-geologists cannot be performed underwater in a flooded mine; the pumps have to be reinstated to clear the water to allow for this safety inspection and certification.

We are also very concerned about what is leaching into the water in the mining void as the colour is atypical of expectations. It is currently a milky blue/green colour which concerns us greatly. We'd expect there to be natural toxins leaching out of the surrounding strata, but we cannot think of anything that would turn such a large amount of water that colour.

If the water in the void is polluted with toxins, and finds its way out of the void; whether by leaching out through the strata, or overtopping the walls, then it will find its way into the local watercourses, the River Taff, and could pollute the water table.

Could you please reconsider this request for action as a matter of urgency and please inform us of your decision.

Yours sincerely,

Chris and Alyson Austin
Monday **8th April 2024**

From: Chris Austin [mailto: [REDACTED]]
Sent: Wednesday, March 13, 2024 10:31 PM
To: [REDACTED]
Cc: 'dawn.bowden@senedd.wales'; [REDACTED]
[REDACTED] 'delyth.jewell@senedd.wales'
Subject: Ffos y fran Final Restoration Costs

David,

sorry to load you up on the Ffos-y-fran issue, **but things are now happening at an accelerated rate and time is not on our side.**

The issues surrounding the final restoration of the mine and land at Ffos-y-fran all come out of the cost of the final restoration works now being unaffordable by the mining company.

I realise that I've spoken to you about this previously, but it would be remiss of me not to revisit this core issue when the situation is escalating rapidly with the drainage pumps being turned off by the mining company, and the mining void filling up with water.

I don't know whether that's an act of brinkmanship by the company, an attempt at pressurising the LPA and forcing an issue, or just disdain?! But, the standoff needs to be broken.

I've explored my understanding of the cost of final restoration issues here and I've suggested a clarification and possible resolution. I am a layman, but have taken advice from professionals. This is a high-level discussion document exploring a low cost resolution and would have to have the meat put on the bones by civil engineers.

I feel as though the final restoration issue has been driven down a cul-de-sac by the costs issue and it needs to be reversed out and redirected.

Chris Austin

Exploring a Realistic and Achievable Solution:

We are strongly of the opinion that the figures being quoted for the cost of the final restoration of the Ffos-y-fran site have been vastly overinflated.

This is of great concern to us as all the negotiation exercises that are currently being carried out between the MTCBC LPA and the mining company are being driven by this overinflated figure.

It is our opinion that the costing figures of £116 Million doing the rounds now in the public domain, and the £125 Million that the local authority and Welsh Government are using are extremely unrepresentative and unfortunately this supports the mining company's argument that they can't afford to restore the site. These costing figures have been supplied and used without supporting evidence.

Maybe this statement sounds harsh, but as it was the result of a desk exercise in the MTCBC LPA, not a detailed industry standard survey of the site and the alternatives, and as the calculations have not been made available for public scrutiny, then we are forced to follow the 'worst case scenario' line.

The Welsh Government estimated the cost of the final restoration at £50+ Million in 2014, and revised this upwards to £50-60 Million in 2018. Even these figures were being challenged by some as over the top at the time, but are a bargain compared to those being used now.

We have spoken with a recently retired civil engineer with planning and mining experience and he was aghast at the costs being used. His view was that the desk exercise must have taken the mining company's existing fuel usage figures and adjusted them upwards taking into account the rise in diesel costs and the loss of entitlement to Red Diesel after the taxation changes of April 1st 2022 to arrive at a figure like this, (though more recent usage figures would have included the loss of Red Diesel entitlement). This would be completely unrepresentative as the machinery usage profile would be completely different during final restoration operations.

During the final restoration phase there would be no further coal lorries running up and out of the mining void, and back and forth across the long haul road to the railhead/Coal Disposal Point (CDP) at Cwmbargoed. There would be no lorries bringing spoil to the void from the CDP coal washery, and none taking spoil to the spoil tips. The large Komatsu Super Shovels would be overkill for restoration operations and their massive fuel use could be avoided. There would be a saving on the cost of the expensive daily coal train as no coal will be exported from the site, along with the cost of running the coal washery, and the running of the CDP itself. Staff costs would also be much reduced as with much reduced machinery use the number of operators needed would reduce significantly.

Our adviser said that in principle the final restoration work is fundamentally just a large 'muck shifting' operation; large scale, but not taxing in engineering terms. Keeping the work simple and minimal is key to keeping the cost of final restoration low. Significantly reducing the number of machines and lorries used would attend to the key fuel usage issue.

I must say that this is in not a detailed analysis of the final restoration solution at Ffos-y-fran, but more food for thought on a minimal cost solution. I am in no way a mining engineer, but I do have common sense, and the solution mooted here is low in complexity, with low machinery usage, low fuel usage and low staffing, so doesn't appear to me to end up being anywhere near as expensive as the figures being used. I could spend a week poring over Google to refine the detail, but there are far better civil engineers and mining engineers out there that you could turn to to confirm this resolution and make it work.

He suggested that the industry standard solution for this would be to use long, and staged conveyer belts running from the spoil tips to the mining void with a couple of diggers keeping the belt full with a continuous feed of spoil (aka overburden) via a hopper and this would fill the hole up steadily, and relatively cheaply, (relative to heavy lorry usage). Bulldozers and diggers working either end of the belt would feed the diggers and distribute the spoil in the hole. Spoil moved from the spoil tips to the belt and from the belt into the void could be tipped down a chute system. The spoil removal from the high tips could be via a chute system, or possibly via a dram/bogey/rail truck solution. There would be little other machinery required other than possibly a few lorries on the spoil tip and some in the void, (although a conveyor belt in the void would further reduce lorry use), along with diggers and bulldozers to evenly distribute the spoil. I remember such long, surface conveyer belts being used for decades at Tower colliery to shift their spoil and coal, and of course, this is the solution used extensively underground for moving large volumes of coal and spoil.

There would be far fewer machines and operators needed, and the fuel costs that they claim have massively inflated the restoration cost would be kept low as there would be no longer any need for lorries driving back and forth between the railhead, mining void and spoil tips heavily laden with coal and spoil.

Along with there being a substantial amount of restoration already completed, (the void is nowhere near as deep as it was during coal extraction in there), we believe that the site could be restored for a mere fraction of the cost being bandied about.

The mining company could readily afford to do this. In fact, we believe that they could readily meet the inflated final restoration costs, let alone the revised down figure I've mooted here! With the vast profits they have made from the operation and the extra 18 months of unlawful coal extraction at very high coal sales prices, no solution discussed so far would be beyond their finances. Figures of around £200 Million taken out of the business have been reported by outside agencies such as the Good Law Project. Yet the mining company still claims poverty?

The cost of the final restoration at the time the mining company bought the Ffos-y-fran operation in late 2015 was estimated to be £50+ Million and the company didn't balk at this figure at the time and signed the contract to fully restore the mine and the land there without complaint or caveat. So, they cannot complain about at least spending that £50+ Million on the operation, and with the obvious large profit made from the coal mining they cannot claim that they haven't the money available.

I haven't factored in the £15 Million held in the escrow account here, but if the mining company were to fully restore the mine as per their original contractual obligation then they could do so with the mind to recovering that money at the end of a successful operation. They could therefore spend over and above the £50 Million knowing that they could recover the overspend up to a total cost of £65 Million (£50 Million plus £15 Million).

With the scaled-down costs that should result from what we've presented here, we think that the full, final restoration of the site, as the mining company signed-up to in their original planning agreement and are contractually obligated to provide, could be achieved.

Chris Austin

Resident - Merthyr Tydfil

=====

To: David Cross
From: Chris Austin

Hi David,

I've penned a quick response to your statements but will continue to research the issue and its resolution.

Time is not our friend here and any action needs to be taken quickly. Waiting on the mining company to act, when it is in their interests not to, will be counter-productive at best.

Chris Austin

Your Statement:

1. The Council are very much alive to the concern you have raised regarding the rising water levels within the mining void, which is no longer being pumped out by Merthyr South Wales Ltd (MSW). This issue has been under constant review by the Council and MSW are actively monitoring the water levels. At present the Council is satisfied that the water body is well contained within the mining void and it does not currently present a significant concern. The water levels would have to rise considerably higher before there would be any concern with the water over topping the land around the void.
2. There have been discussions between the Council and Natural Resources Wales (NRW) to determine whether the water body would fall within the remit of the Reservoirs Act 1975. NRW has advised the Council that Ffos Y Fran does not meet the test for being a large raised reservoir.
3. MSW are currently in the process of appointing hydrogeologists, hydrologists and water quality consultants to assist in the assessment of the water body within the void and the wider restoration of the mine. This will form part of the on-going discussions between MSW and the Council, as well as other regulatory bodies.
4. There are currently no plans for MSW to reintroduce pumps on site to remove the water from the mining void. This would likely have a significant impact on the viability of any restoration scheme and would likely present concerns with regard to the rate at which water could be discharged from the void into nearby water courses without causing flood risks downstream.
5. MSW has informed the Council that a planning application for a revised restoration scheme is scheduled to be submitted in late Autumn 2024. The revised restoration scheme is likely to include the retention of the water body within the mining void with the surrounding land being appropriately re-profiled.
6. The excavation of coal from the mine was ceased in November 2023 and there is no further transportation of any remaining coal stockpiles within the mine to the

Cwmbargoed Disposal Point (CDP). Coal that has already been conveyed to the CDP was being transported to TATA up until approximately mid-February 2024. MSW informed the Council in February that Tata no longer wished to receive coal from the site. The Council is aware that there is a small amount of coal remaining within the CDP that may be distributed to customers, which can be carried out under a separate permission relating to the CDP.

Our Response:

I don't think that I need to tell you how extremely disappointed we are with this news and that we find your response to this issue totally unacceptable. Even though we were expecting very little from this exercise, the news still hit us like a punch in the stomach.

It's the way that it is such a dead-ended statement that has been presented as a fait accompli; there's nothing can be done about it. You, the MTCBC LPA, are coming across as passive observers to this ongoing travesty of justice being effected by the mining company; not as active controllers of the situation.

We are very angry and disappointed, but that will get us nowhere further forward so we are trying to be constructive here.

We are very much of the mind that the situation that we now find ourselves in can be completely remediated if the LPA were to act quickly.

The MTCBC LPA have been unresponsive to this rapidly deteriorating situation, acting as reporters of the mining company's transgressions, when it is you who are the controlling authority and should be proactive in taking control of the awful situation we see unfolding before our eyes.

The mining company has now, clearly reneged on its contractual obligations to restore the mine, as agreed and ratified in the original planning conditions/planning consent to restore the land at Ffos-y-fran (Merthyr Common).

The £15 Million in the escrow account should now be released to the MTCBC LA for its use, and we would strongly suggest that it is used to put drainage pumps into the water filled void and start emptying it now, before it becomes too late to do so.

If a water filled void were to be the final solution, (God forbid!), independent civil engineers could then be contracted to survey the mining void for safety and its ability to hold a large body of water for the foreseeable future. We would then know exactly where we stand from a safety point of view, and how we can move forward with managing the water issue. But, in parallel with the pumping exercise, you could explore using the remaining escrow money to properly restore the mine as we discussed in an a previous communication with you.

With the steer that we have been given from our Civil Engineering advisor, we believe that the most significant safety and restoration work could be completed within a £15 Million budget. We are strongly of the opinion that MTCBC LPA must not give the remaining works, nor have access to any escrow money to the Merthyr (South Wales) Ltd. mining company.

The mining company has plainly telegraphed its intention to exit this contract with very little further significant inroads into rectifying the core works and issues of the final restoration of Ffos-y-fran. What remains is the smaller and less essential part of the final restoration exercise, and if they are holding the LPA to ransom over anything, they should be cut free. Nothing good will come of any further relationship with them.

The responsibility now falls to the MTCBC LPA, with their duty of care to the local populace, to take control of this situation and attend to the water filled void as a matter of urgency.

The failure of NRW to categorise the water filled void as a reservoir is difficult to comprehend. The Reservoirs Act 1975 was put in place to ensure that the containment of large bodies of water didn't constitute a danger and that's why it triggers a surveying and certification process that would give everyone the necessary level of confidence in the construction. This is a man-made construction that will, if left to its own devices, be filled with millions of gallons of water and looms over communities at about 1,000 foot above sea level. Why would this then not attract the same level of safety inspections and certification? It could become a dangerous structure that threatens local communities but we don't see any concern in your communication, nor in NRW's dismissal.

Response detail:

1. The current water level issues are still low which is why I was urging immediate action. We have few safety concerns with how it is now, (other than that it bodes ill for the future), but we cannot say that we will be saying so in a month or two's time! Pumping now will stop the water attaining a level that will fill the void beyond the point-of-no-return for having the ability to rectify the situation with pumps, and allow for a full and proper independent civil engineering survey of the void for its safety to contain such large volumes of water for the foreseeable future.

Overtopping is an issue, but certainly not the primary concern; that would be a concern for the future when the void is already full of water. The pressure of the water on the sides of the mine and the action of the water on the loose spoil around the sides (liquefaction) are our main concerns. Along with this is the unknown issue of toxic leachate. There are naturally occurring mineral toxins that will leach into the water, but in addition, anything else with a toxic content that has found its way into the void over the years will now leach out once dissolved in the water.

The primary risks of any large void that fills with water is down to three things:

Firstly, that water is a lubricant, and can cause the failure of a retaining structure/s simply by allowing the reduction of friction between two wetted particles - of whatever size and number - leading to their failure under load, the load being the weight or pressure of the water.

Secondly, that a structure immersed in water is reduced in weight by the volume of water it displaces, and this can lead to failure of retaining structures - a dam can be overturned if its foundations get saturated, and all fill and rock around a void filled with water gets saturated (dams have drains beneath them for this reason).

Thirdly, is the potential energy of the mass of water - how high it is above sea level - that is much of the risk. At sea level a landslip into a water filled void is dangerous, but every metre above sea level adds to the danger. The sides of the mine are very steep and loose.

The angle of repose of the material stacked against that void wall looks far too steep to be stable when immersed in water.

2. We need to see the reason/s why this large body of water doesn't attract the designation of a (large raised) reservoir. The Reservoirs Act 1975 was put in place to ensure the safety of the containment of large bodies of water, and that is exactly what this void is. It is an artificial construct, that is most likely fated to hold millions of gallons of water that would exceed - many times - the 10,000m³ minimum size requirement, sitting at a height of around 1,000 foot above sea level and looming above heavily populated residential areas. The 'reservoir' designation would attract an independent civil engineering survey of the void for its ability to safely hold a large body of water and it would attain a certification of its safety only after that detailed scrutiny. Without that survey the void will be allowed to fill with millions of gallons of water without the security of it being certified for that purpose. There have been many reservoir failures in the past here, and across the world, that have been the result of poor design and a dearth of safety checks. This mine would attract fewer safety checks than even they did unless we can trigger an **independent** safety inspection.

The LPA and the NRW has a duty of care to the local populace to ensure that an independent survey is performed to protect the safety of the local populace. The uncertified containment of a very large body of water could soon become a danger to life and the local populace need to be reassured by independent surveys that it is safe.

3. The safety checks on the mining void need to be performed by **independent** civil engineers, hydrologists and hydro-geologists as the mining company has

already demonstrated that it cannot be trusted to produce the level of confidence necessary by performing their own surveys. The mining company, by the very fact that they continued to mine coal unlawfully for 18 months beyond the end of their planning consent, worked coal for an extended period well beyond the edge of the mine boundary, and now they have switched off the drainage pumps with little concern for the detrimental, even dangerous impact of that action!

It appears to have been forgotten in your statement that this all takes time and the survey and any required action is time critical. 'The company are in the process of appointing...' Time is not our friend and by the time they have completed their preamble the void will already be under water. Then, whilst all this survey work is being performed, and with further talks carrying on beyond this; the pumps will still be turned off, the mine continues to fill with water and any discussions in the Autumn on the issue will become moot! This also raises the question; how can they survey the mining void properly when it is slowly being submerged under water? Will they be hiring surveyors who are also professional divers?

4. Without the pumps, the mining void fills with water and once it has passed the 'point of no return' the situation, whatever the risks and whatever decision may be made for its future, will become fixed. No restoration of the void will be possible once the void is filled with water, and that is the fundamental final restoration aim. We will be left with a dangerous, deep water filled void that will be too dangerous to use as public amenity and will need to be secured for all time. The threat to the local populace is uncertain. This danger has been illustrated today with a group of off-road/4-wheel-drive vehicles ploughing around the mine and the edge of the mining void. There appears to have been no security staff on site, as it will be the norm in the very near future. Then there's inquisitive children who will be drawn to the edge of the void by temptation and dare! With the steep and loose sides to the void their ability to exit the water after falling in will be hindered dramatically.

What a magnificent end to the largest Private/Public partnership funded land reclamation scheme in recent history.

5. By the Autumn of this year the mining void will be full of water and we will find ourselves in a position we cannot return from. The water cannot be pumped out because the volume will be too great for any of the nearby watercourses to handle *[we do need to verify this as it doesn't make logical sense to us - if it can be pumped out now, surely the pumps flow rate would be the same, it would just take longer to empty]* . This water filled void will be far too dangerous to be accessed by the public, and of no practicable use to the public. Without independent surveying and regular monitoring throughout its life (in perpetuity!) this large body of water sitting at a height of around 1,000ft above sea level will always pose a threat to the health and safety of the surrounding communities in one form or another.

Without restoring, or back-filling the mining void the re-profiling of the surrounding tips is just a case of prettying them up! This isn't the restoration that the local residents have suffered 17 years of opencast coal mining for. The core, and most beneficial, restoration targets will be avoided and the spoil tips will remain in place; they'll just be tidying them up around the edges and planting grass seed that will not grow successfully for any extended period anyway. Why is the LPA just reporting this and not doing something to stop this happening?! This was the whole aim of the entire project; this is a Land Reclamation Scheme, the coal extraction was just included to pay for that restoration works, not to be an end in itself. The mining company has made vast profit out of the coal sales and is now refusing to meet its contractual obligation to complete the restoration and make the land safe. What was the point of planning conditions? What use are Section 106 agreements? Where are your enforcement powers?

6. The frequency of the lorries on the haul road from the mine to the CDP throughout the first months of this year, and the tonnage of coal shipped out of the site, with coal trains leaving the CDP up until Friday 23rd February, appears to indicate that they were processing coal other than that produced by the relatively low volume barrel wash. Stockpiles should have been cleared by 30th November and its very hard to believe that they had stockpiled enough coal nor produced enough barrel wash output to take them through until now, 15th March 2024.
7. In addition, we had the height of overburden mound 3 checked and the flat top is sitting at 420 Metres above sea level and the additional structures built on there increase that height by a further 5-10 Metres. That exceeds, by a good margin (15-20 Metres), the maximum allowed height for that overburden mound. The maximum height was specified as 410 Metres, I believe.

Chris Austin

Sunday **17th March 2024**

RE: Ffos-y-fran Current Condition **14 March 2024**

To: 'Chris Austin'
From: Cross, David

Dear Mr Austin,

Thank you for your email below, of which I will respond to the various points you have highlighted in turn:

- The Council are very much alive to the concern you have raised regarding the rising water levels within the mining void, which is no longer being pumped out by Merthyr South Wales Ltd (MSW). This issue has been under constant review by the Council and MSW are actively monitoring the water levels. At present the Council is satisfied that the water body is well contained within the mining void and it does not currently present a significant concern. The water levels would have to rise considerably higher before there would be any concern with the water over topping the land around the void.
- There have been discussions between the Council and Natural Resources Wales (NRW) to determine whether the water body would fall within the remit of the Reservoirs Act 1975. NRW has advised the Council that Ffos Y Fran does not meet the test for being a large raised reservoir.
- MSW are currently in the process of appointing hydrogeologists, hydrologists and water quality consultants to assist in the assessment of the water body within the void and the wider restoration of the mine. This will form part of the on-going discussions between MSW and the Council, as well as other regulatory bodies.
- There are currently no plans for MSW to reintroduce pumps on site to remove the water from the mining void. This would likely have a significant impact on the viability of any restoration scheme and would likely present concerns with regard to the rate at which water could be discharged from the void into nearby water courses without causing flood risks downstream.
- MSW has informed the Council that a planning application for a revised restoration scheme is scheduled to be submitted in late Autumn 2024. The revised restoration scheme is likely to include the retention of the water body within the mining void with the surrounding land being appropriately re-profiled.
- The excavation of coal from the mine was ceased in November 2023 and there is no further transportation of any remaining coal stockpiles within the mine to the Cwmbargoed Disposal Point (CDP). Coal that has already been conveyed to the CDP was being transported to Tata up until approximately mid-February 2024. MSW informed the Council in February that Tata no longer wished to receive coal from the site. The Council is aware that there is a small amount of coal remaining within the CDP that may be distributed to customers, which can be carried out under a separate permission relating to the CDP.

I trust the above information is of assistance.

Kind regards

David Cross

Dear Mr Austin,

Thank you for your email below regarding the current condition of the mine. I can confirm that we are aware of the water within the void which is being actively monitored and we have been in discussions with Natural Resources Wales to seek their advice regarding its status as a reservoir. Please allow me some time to review the various points you have raised and provide a more detailed response. I will endeavour to provide this response by the end of this week.

Kind regards

David Cross

From: Chris Austin [REDACTED]
Sent: 12 March 2024 10:22
To: Cross, David [REDACTED]
Cc: dawn.bowden@senedd.wales; Gibbs, Kevin (Councillor) [REDACTED]
Sammon, Declan (Councillor) <[REDACTED]>
delyth.jewell@senedd.wales
Subject: Ffos-y-fran Current Condition

David,

please find attached a photograph of the Ffos-y-fran mining void, supplied to us by the Coal Action Network (CAN). It was taken yesterday morning, (11th March 2024). It is obvious that the pumps have been turned off and the mining void is now filling with water.

We are extremely concerned to see the state of the void, and the depth of the water within it. It is our understanding that this mining void has not been designed, nor constructed to hold water.

We believe that this now falls under the Reservoirs Act 1975, and if it meets the description of a 'large raised reservoir' the mining void at Ffos-y-fran will require certification by reservoir engineers during its construction phase, and prior to filling with water, (as it is most likely to collect and store over 10,000m³ of water).

It is now being allowed to fill with water, so could you please confirm the classification of the mining void as a 'large raised reservoir', or the reasons as to why it is not.

If it does meet the definition of a 'large raised reservoir' then we would please like to see the certification by a Reservoir Engineer of the Ffos-y-fran mining void for the safe collection and storage of such a large body of water. I would suggest that if the Ffos-y-fran mining void hasn't been surveyed and certificated by reservoir engineers then it would, ipso facto, be termed a high-risk reservoir because of the unknowns.

Mining voids, by default, are only surveyed to contain air, not water, and the extra strain of millions of gallons of water would exert massive pressure on the walls and foundations of this structure. For every 10,000m³ of water the weight would increase by 10,000 Tonnes, and the Ffos-y-fran void would contain many multiples of this. (*n.b. 10,000m³ of water would be contained in a cube of approximately 22 Metres on a side, or around 72 feet on a side*). The void would need to be sized to confirm the total volume.

Also, the leachate of toxic substances from the contents of the void could leak out into the local water table and waterways if the void is allowed to fill with water.

As you are currently negotiating the final restoration strategy of the Ffos-y-fran mining void, does this filling of the void with water now indicate a fait accompli on

the final restoration of the void? Once filled with water there will be no going back from this position as it would be too onerous and expensive a task to pump such a large volume of water from the void. It is filling up rapidly so it could most probably achieve a point of no return quite soon. We have seen this happen elsewhere, Margam and East Pit are the most recent examples, and we don't want to see it happen here. The pumps need to be turned back on as a matter of urgency.

Could you please, as a matter of urgency, confirm whether this is a 'large raised reservoir' and if so, let us have sight of the reservoir safety certification, or explain to us why it doesn't attract that designation. Could you also indicate/confirm what the projected future of the mining void is to be?

In addition, coal is still leaving the site by bulk carrier lorries apparently bound for Rugby Cement/Cemex. (We determined this by the sign writing and telephone numbers on the lorries). The stockpiles of coal at the site appear to be never-ending! This was a task that they were supposed to have completed by 30th November 2023.

Many thanks in advance,

Chris Austin

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Excerpts from the Reservoirs Act, 1975
<https://www.legislation.gov.uk/ukpga/1975/23>

"Large raised reservoir": England and Wales

(1) In this Act "large raised reservoir" means—

(a) a **large, raised structure** designed or used for **collecting and storing water**, and

(b) a **large, raised lake or other area capable of storing water which was created or enlarged by artificial means**.

(2) A structure or area is "**raised**" if it is capable of holding water **above the natural level of any part of the surrounding land**.

(3) A raised structure or area is "**large**" if it is **capable of holding 10,000 cubic metres of water** above the natural level of any part of the surrounding land.

(4) The Minister must make regulations about how to calculate capacity for the purpose of subsection (3) (and "natural level" and "surrounding land" are to be construed in accordance with the regulations).

(5)The Minister may by regulations provide for a structure or area to be treated as “large” by reason of proximity to, or actual or potential communication with, another structure or area.

(6)In making regulations under subsection (5) the Minister shall aim to ensure that a structure or area is treated as large under the regulations only if 10,000 or more cubic metres of water might be released as a result of the proximity or communication mentioned in that subsection.

(7)The Minister may by order substitute a different volume of water for the volume specified in subsection (3) or (6).

(8)The Minister may by regulations provide for specified things not to be treated as large raised reservoirs for the purposes of this Act.

(9)A reference to a large raised reservoir includes a reference to anything used or designed to contain the water or control its flow.

(3)It shall be for the [F18relevant authority] in whose area a reservoir is situated, if they are not themselves the undertakers, to secure that the undertakers observe and comply with the requirements of this Act.

(6)For purposes of this Act “enforcement authority” means, in relation to a reservoir, the [F18relevant authority] charged under subsection (3) above with securing that the undertakers observe and comply with the requirements of this Act (and, where the context so requires, includes the authority that would be so charged if the reservoir were a large raised reservoir); and accordingly the provisions of this Act relating to the enforcement authority for a reservoir do not apply in the case of a reservoir if a [F18relevant authority] are the undertakers and the reservoir is situated wholly in the area of that authority.

NRW or LPA responsibility?

22 Feb 2024

Dear Mr Austin,

Thank you for your emails below.

At present there are two stockpiles of coal currently remaining within the mine. One stockpile is of inferior coal which we understand has a high sulphur content and the other stockpile is being processed through the barrel wash. There is no further coal being excavated and this has been the case since the end of November 2023. The stockpiles of coal have been clearly identified to the Council and the matter is being reviewed on a weekly basis.

Whilst Merthyr South Wales (MSW) have indicated an intention for the inferior coal is to be transport to Tata, this is not currently taking place and it remains in-situ. There are environmental benefits to removing the inferior coal. In regards to the stockpile which is

currently being processed in the barrel wash, approximately 85% of the materials is actually being tipped back into the void of the mine. The coal you see being moved to the Cwmbargoed Disposal Point (CDP) is from the barrel wash stockpile only. This process has been delayed for a number of reasons, in part due to the inclement weather, but also due to technical issues at Tata which in turn has affected the transportation of the coal. The removal of this stockpile is also of benefit to the overall restoration of the site.

In regards to the restoration proposals, the Council has been in discussions with MSW who have appointed consultants to prepare a revised restoration scheme. There are also ongoing discussions with MSW to establish what interim restorations could take place ahead of any revised scheme.

Kind regards

David Cross

[Comment: Chris Austin - 23042024 - if you are taking spoil and processing it to retrieve 15% coal and discarding 85% of the product, you are extracting coal. This is an unlawful activity as the mining company's planning consent to extract coal ended on 6th September 2022. This is not removing stockpiled coal!]

30 January 2024

Dear Mr Austin,

Thank you for your email regarding the current activity taking place on site.

As is referenced in the statement in your email below, it was agreed with Merthyr South Wales (MSW) that the remaining stockpiles would be removed from the mine and an extension of time would be considered if there were matters causing a delay which is outside of their control. This is being reviewed on a weekly basis. The majority of what is currently left on the site is coal that is being processed in the barrel wash, of which approx. 80-85% of the stockpile is being distributed back into the void, which is also of benefit towards the restoration of the site.

There continues to be discussions with MSW to seek the submission of a revised restoration scheme, of which they have appointed consultants to prepare the necessary environmental assessment and plans.

Kind regards

David Cross

From: Chris Austin <[REDACTED]>
Sent: 22 January 2024 10:39
To: 'Chris Austin' <[REDACTED]> Cross, David <[REDACTED]>
Cc: dawn.bowden@senedd.wales; Gibbs, Kevin (Councillor) <[REDACTED]>

Sammon, Declan (Councillor) <[REDACTED]>
Subject: RE: Ffos y fran Coal operations

David,

have you managed to obtain an explanation for this perceived further contravention of planning law, agreements and directives? If so, could you please inform me of the outcome?

I am assuming that you are still negotiating/renegotiating with this company in relation to the final restoration of the Ffos-y-fran site? If confirmed as 'unlawful', this would be further evidence of the mining company's complete disregard for regulation, directives, laws, and deadlines and I hope that this would be factored in when compiling a means of holding them to account over future restoration works.

Chris Austin

From: Chris Austin <[REDACTED]>
Sent: 22 February 2024 11:25
To: Cross, David <[REDACTED]>
Cc: dawn.bowden@senedd.wales; Gibbs, Kevin (Councillor) <[REDACTED]>
Sammon, Declan (Councillor) <[REDACTED]>
delyth.jewell@senedd.wales
Subject: FW: Ffos y fran Coal operations

Hi David,

do you now find yourself in a position to answer my query?

Coal extraction continues at Ffos-y-fran and a visit to the site yesterday (Wed 21/02/2024) showed quite a lot of activity and refuelling of vehicles up there.

Today there was a large coal train being loaded at the Coal Disposal Point/Railhead at Cwmbargoed.

The stockpile at the back of the CDP is being topped up and decremented regularly, so the coal extraction/mining operation at FyF is ongoing. Popular opinion is that there wouldn't be much coal for them to process from the spoil tips as it's mostly overburden, so they would most likely be mining it.

As I've asked, are you, (the MTCBC LPA), aware of this continuing coal production activity? Are you continuing to extend ad-hoc, rolling planning consent to the mining company, Merthyr (South Wales) Ltd. to continue coal production at Ffos-y-fran? If so, could you explain for what reason?

Many thanks in advance,

Chris Austin

Coal train being loaded with coal at the Cwmbargoed railhead, Thursday 22nd February 2024 - 18 months beyond the end of their planning consent to mine coal at Ffos-y-fran

From: Chris Austin [mailto: [REDACTED]]
Sent: Monday, February 12, 2024 1:20 PM
To: 'Chris Austin'; [REDACTED]
Cc: dawn.bowden@senedd.wales; [REDACTED]; delyth.jewell@senedd.wales

Subject: RE: Ffos y fran Coal operations

Hi David,

are you, (the MTCBC LPA), still extending ad-hoc planning permission to the mining company, Merthyr (South Wales) Ltd. to continue coal production at Ffos-y-fran?

It is now 12th February (2024) and coal trucks are bringing what looks very much like coal into the railhead at Cwmbargoed from the mine at Ffos-y-fran. The coal stockpile at the back of the railhead (Coal Disposal Point) appears to be increasing in size too. I can't imagine that extracting and moving coal out is part of any ongoing restoration works; certainly not part of the planning consent extant.

If this is from the 'barrel wash' (a method of extracting coal from colliery spoil), then that would be a completely open-ended exercise as there is coal contained in all the spoil heaps on the site; many, many thousands of Tonnes I would guess. It was our understanding that the clearing of coal stockpiles was being allowed because their work there had been slowed down or delayed by severe weather conditions which have long passed. Have you placed a limit on the 'barrel wash' coal production exercise? After all, coal extraction is 'coal extraction', whatever the means of production and continuing to allow barrel wash is allowing coal production at the site to continue.

Could you please let me know what the current situation is up there as it is our understanding that they are either moving forward on restoration works, or on stop awaiting a decision on the way forward on the restoration work after your renegotiation exercise. Neither of these understandings include the production of coal.

Many thanks,

Chris Austin

ps attached are a couple of quick snaps taken whilst passing the site this morning (12th February 2024). The lorries are quite frequent on the haul road.

From: Chris Austin [mailto: [REDACTED]]
Sent: Monday, January 22, 2024 10:39 AM
To: 'Chris Austin'; [REDACTED]
Cc: 'dawn.bowden@senedd.wales'; [REDACTED]
Subject: RE: Ffos y fran Coal operations

David,

have you managed to obtain an explanation for this perceived further contravention of planning law, agreements and directives? If so, could you please inform me of the outcome?

I am assuming that you are still negotiating/renegotiating with this company in relation to the final restoration of the Ffos-y-fran site? If confirmed as 'unlawful', this would be further evidence of the mining company's complete disregard for regulation, directives, laws, and deadlines and I hope that this would be factored in when compiling a means of holding them to account over future restoration works.

Chris Austin

David,

many thanks for this prompt reply. I wasn't specifically looking for a reply, but I was treating the discussion as an open forum to explore the FyF restoration issues, share information, present our views on the situation, our suggestions, and the LPA's response to the applicant's behaviour over the last 13 months. I had hoped that this dialogue could continue.

You (the MTCBC LPA) have stated previously that you were working with the mine operator on the renegotiation of the existing restoration strategy, and that triggered this discourse. The mine operator's statement that he was closing down the operation on 30th November (2023) was also a key factor.

As this affects us directly as Merthyr residents, and with us living alongside the Ffos-y-fran mine, we believe that we should have input to any planning process discussing its future, but, to us, this has largely been progressing 'behind closed doors'.

The information we have used and presented has been gained through research and long-term experience. The financial information came from statements in the planning committee meeting and analysis of Companies House submissions by third parties. The mining operation's coal production tonnage comes from the Coal Authority, observations of the coal trains and bulk lorries, and the global price of coal used to calculate the mining company's turnover is readily available on several financial tracking sites online. This is the only way we can obtain this information, but it is carefully searched, vetted and selected. The ongoing planning process is effectively a closed book to us, so careful estimation gives a far better understanding than just taking the figures from the mining company who have a vested interest in misrepresenting the situation.

We feel that if we were just to wait for all this to play out, we would be presented with the outcome as a fait accompli, and it could be one that we would not have supported, or agreed to, if we were part of the process.

If I can prevail on you to put yourself in our position, and look at this from our point of view, using the information and observations that we have available to us.

We now have a situation at FyF that is, to us and many others, highly incongruous. We have a mining company that has unlawfully extracted coal for 13 months beyond the end of their planning consent, and who are working coal seams outside of the mine's licensed boundary.

Over 8 months into these unlawful coal mining activities the MTCBC planning committee eventually sat and our duly elected representatives roundly and unanimously rejected the mining company's Section 73 planning application to extend their planning consent to mine coal at Ffos-y-fran. The planning committee gave clear instruction for enforcement action to be implemented as soon as possible and the impression by all was that this was to be executed in short order.

The coal extraction continued at a pace...and still does to this day.

We have seen statements from esteemed legal counsel and planning experts stating that you, the MTCBC LPA, could implement a 'stop notice' (cease and desist) on the mining company for their unlawful coal mining activity, at any time, with just short notice (3 days, to 28 days).

Yet, neither you, (MTCBC LPA), nor the Coal Authority have served the company with enforcement action beyond you sending them a notification of intent over 9 months after their transgression started, and the Coal Authority much further on.

[As an aside, we are still completely baffled by how the mining company didn't elect to challenge the refusal of their planning application to extend operations, yet they then challenged the threatened enforcement action that was to compel them to align with that planning committee decision. Bizarre!].

I realise that the mining company have appealed the enforcement action, and that the Welsh Government have elected not to expedite their appraisal of the appeal, but this situation didn't arise until over 10 months into the unlawful coal mining activity. We feel that there was sufficient opportunity to bring about a favourable conclusion in that period.

We have been made aware of the difference between 'unlawful' and 'illegal' and we have been informed that until enforcement action is actually served on the mining company its activities can only be termed 'unlawful'. Our information is that unless that activity becomes termed 'illegal' (in planning and common law), then the Local Authority can take no future action to recover costs, monies, land, and property.

There is also the additional issue of the Motocross track, (built to national standards and at great expense), on top of the largest spoil tip (OB3 - Overburden Mound 3). There is no planning consent for this, and I don't believe that they sought any, but the operator is now claiming Permitted Development (PD) when, in reality, it meets few to none of the criteria for PD, yet we hear from you that the LPA is now speaking to the operator about retrospective planning consent. To us, a completely inappropriate response by our LPA as this spoil tip is scheduled to be the first spoil tip to be returned to the mine to initiate its restoration under the existing planning consent. This consent is very much still the only planning consent currently in place in law. It is also built on land that is subject to planning conditions imposed under that existing, current planning consent.

To us, this displays a tacit acceptance by the LPA that this spoil is never to be returned to the mine; a contravention of the mining company's current planning consent.

How is anyone going to perceive this? They would see a cash-rich mining company dictating to the MTCBC LPA, and the LPA kow-towing to those dictats. It also telegraphs the direction of the revised restoration talks, and what Merthyr residents are soon to be presented with.

Your last sentence (*'In the event that a revised restoration strategy is submitted it would be for the applicant to set out their case as to the reasons why an alternative scheme is being presented'*) seems to imply that you (the LPA) are taking a passive position, and that you will act if and when presented with a new restoration strategy but, by your own admission, you are a party actively involved in the discussions around the ongoing restoration renegotiation, and you are not just waiting on the presentation of the mining company's revised plans at some time in the future. What we have presented previously in this ongoing discourse is information that you would need to have to hand in pre-application submission discussions, or negotiations, and not taking this information into account would directly impact, or skew, any decisions made by you at that time.

Unfortunately, you (MTCBC LPA) are now being seen as 'giving ground' to all of the mining company's demands since September 6th 2022, and 'tolerating' its unlawful activities.

This, primarily, gives us little confidence in any sort of favourable outcome for Merthyr, or its residents, but we are not just concerned for our future, we are also worried about the future of the planning process and how its being practiced here in Merthyr, and in Wales. This is being watched closely by interested parties, (inside of public services but more worryingly outside), and your perceived intransigence may now be seen as demonstrating to company's in Wales that a total disregard for the planning process will not result in any effective form of punitive response from the LPA; that the LPA has no teeth when it really comes down to it, and manipulative companies could seemingly get away with breaching planning law with impunity.

I'm sorry that this sounds like a rant, it is not meant to be so, but 13 months of a clear breach of planning conditions without the perpetrator being brought to book is wholly unacceptable to

us. Either the planning system is being manipulated to a degree not seen before by an extremely astute corporation (!), or the planning system in Wales is no longer fit for purpose.

Chris Austin

From: Cross, David [mailto: [REDACTED]]
Sent: Sunday, **October 1, 2023** 1:41 PM
To: 'Chris Austin'
Cc: Sammon, Declan (Councillor); Gibbs, Kevin (Councillor); dawn.bowden@senedd.wales; delyth.jewell@senedd.wales; Jones, Judith (Planning & Neighbourhood Services); [REDACTED]
Subject: RE: Ffos y fran Restoration Cost Statement [NOT PROTECTIVELY MARKED]

Dear Mr Austin,

Thank you for your email. I am not quite sure if you were expecting a response to the commentary you have provided below. I am not really in a position to provide any meaning response given that as a matter course, it would be usual for the planning department to seek to investigate the financial position of any developer. Whilst some information can no doubt be obtained, this may not always be accurate or complete. In the event that a revised restoration strategy is submitted it would be for the applicant to set out their case as to the reasons why an alternative scheme is being presented.

Regards

David Cross

From: Chris Austin < [REDACTED] >
Sent: 26 September 2023 13:25
To: Cross, David < [REDACTED] >
Cc: Sammon, Declan (Councillor) < [REDACTED] >; Gibbs, Kevin (Councillor) < [REDACTED] >; dawn.bowden@senedd.wales; delyth.jewell@senedd.wales; Jones, Judith (Planning & Neighbourhood Services) < [REDACTED] >; [REDACTED] < [REDACTED] >
Subject: RE: Ffos y fran Restoration Cost Statement [NOT PROTECTIVELY MARKED]

David,

thank you for your prompt reply.

My apologies for the rushed response, the subject mater deserves to have more time spent on it than I have at the moment. I will get back to you with a more expansive reply as soon as possible. I have a very busy week this week, but I'll do what I can.

Miller-Argent (South Wales) Ltd. were absolved (rightly, or wrongly!) of all further restoration responsibilities when they sold the company to Merthyr (South Wales)

Ltd. (*Gwent Investments, and Blackstone (South Wales) Ltd., as was*) in 2015/2016; their communications at the time were stating £60 Million as the cost of restoration. If they'd put any monies aside to pay for it, then they had a bean-feast on it! But, that is now largely irrelevant.

The profits made from the mining operation are clear to those who understand corporate finances. I will admit to not being an expert in this area, but Companies House filing alone will give a basic audit trail of the money made from this mining operation by Merthyr (South Wales) Ltd., and its parent/subsidiary companies, up until the end of December 2021. It is also to be noted that because of the Russo-Ukrainian war, coal prices achieved a record high during 2022, and went from the average £60 per Tonne to a peak of £480 per Tonne. It averaged about £250-£300 per Tonne across the year, and not to mention a further 14 months of unlawful coal extraction at still extremely good coal prices, and decent profits (or why would they have continued to operate?).

At the planning committee meeting of April 26th (2023) it was stated that the operator had taken £75 Million in profits. Statements made by the Good Law Project have indicated payments to shareholders of £50 Million (allegedly, a small number of shareholders held 'in-house'), and a holding of £80 Million in Gwent Holdings (parent company?). I am not best placed to corroborate this, but surely the MTCBC LA has financial experts that could readily corroborate this? It does, however, demonstrate that the information is readily available to all and appears to show that the mining company is, in actuality, extremely financially solvent.

As you, the MTCBC LPA, are renegotiating the final restoration of Ffos-y-fran founded on the assumption that the mining company are unable to afford the full restoration of the mine as originally agreed, it may be prudent to ask one of your financial experts to go through their accounts before signing any new agreement. Being open-minded is a laudable approach, but it must be tempered by the facts of the mining company's actual financial situation. In my painfully earned experience, there is a fine line between pragmatism and capitulation.

The £15 Million 'bond' in the escrow account was always just a 'safety net' amount, (though woefully inadequate), it was never set up to cover the full cost of the final restoration of the mine.

Merthyr (South Wales) Ltd., (and Miller-Argent before them), agreed, contractually, to the full restoration of the FyF mine, at their cost, and MSW are still legally obligated to provide it.

The Ffos-y-Fran Land Reclamation scheme was established first-and-foremost to restore/reclaim the land with the sale of the mined coal to pay for the reclamation/restoration work. It was stated that any monies over-and-above that responsibility were to go to the operator.

Many thanks, again,

Chris Austin

Tuesday **26th September 2023**

p.s.

I have the 2014 Welsh Government statement. and the 2018 statement here on file, but I will need to get the source links to you.

4.3.3 Sites with potential risk

Ffos-Y-Fran, Merthyr Tydfil

This 400 ha site is operated by Miller Argent (South Wales) Ltd, and there remains an estimated 6.6 million (m) tonnes of coal to be extracted, from a total anticipated reserve of 10.8 m tonnes. The site is quite confined and is being worked to a depth in excess of 150 m from the surrounding ground level in places. Although there is as much progressive restoration taking place as the site permits, there are very large overburden mounds which will finally need to be returned to the excavated void. Based merely on the likely cost of bulk earthmoving of those overburden mounds, and the final restoration and treatment of the surface of the 400 ha site, it is likely that the fixed bond of £15 m held by the LPA, Merthyr Tydfil County Borough Council, falls well short of a **worst case restoration cost** which could be **in excess of £50 m** based on the collected information

The only 2018 reference that I hold on file on my PC is via a BBC link:

<https://www.bbc.co.uk/news/uk-wales-south-east-wales-44335857>

Ffos-y-Fran: Clean-up row over opencast mine - 1st June 2018

...He [*Matt Hutchings, QC for the local authority*] argued that a company with an annual operating profit of around £10m was unlikely to be able to find the funds needed for the final payment in one lump sum.

"What security does the council have? None," he said.

The court heard that total restoration costs had been estimated at around **£62m**

From: Cross, David [mailto: [REDACTED]]
Sent: Monday, September 25, 2023 4:32 PM
To: 'Chris Austin'
Cc: Sammon, Declan (Councillor); Gibbs, Kevin (Councillor); dawn.bowden@senedd.wales; delyth.jewell@senedd.wales; Jones, Judith (Planning & Neighbourhood Services); [REDACTED]
Subject: RE: Ffos y fran Restoration Cost Statement [NOT PROTECTIVELY MARKED]

Classification: NOT PROTECTIVELY MARKED
Classification: **NOT PROTECTIVELY MARKED**

Dear Mr Austin,

Thank you for your email below and the suggestions regarding the restoration work at Ffos y fran.

I have noted your comments on the initial anticipated costs for the restoration work, which were previously estimated to be in the region of £50m - £60m. I am not aware as to whether Miller Argent (former mine operator) or Merthyr (South Wales) Ltd (MSW) have set aside funds for the restoration works based on these previous estimates, nor has the Council had sight of any financial records to demonstrate otherwise. Nonetheless, the restoration of the site remains the responsibility MSW to ensure they comply with the relevant planning conditions. To date MSW has not indicated that they have any other funds in addition to the £15M secured in the Escrow accounts.

The present situation is that a restoration strategy was granted as part of the planning permission and further details are required, which sets out the final details and aftercare. I would agree with your suggestion that a focussed and priority driven approach to the restoration works is sensible to ensure that a suitable/viable restoration scheme can be delivered. However, this approach may involve changes to the approved scheme, particularly if it deviates from what has been granted permission. In this regard MSW have indicated that they intend to submit a revised restoration scheme and the Council remains open-minded to a possible alternative scheme. This would likely involve a review of how the existing overburden mounds are restored and any other cost effective methods that can be utilised to improve the viability of the restoration works.

Kind regards

David Cross

From: Chris Austin [REDACTED]
Sent: 20 September 2023 13:21
To: Cross, David < [REDACTED] > [REDACTED] Jones, Judith (Planning & Neighbourhood Services) [REDACTED]
Cc: Sammon, Declan (Councillor) < [REDACTED] > Gibbs, Kevin (Councillor) < [REDACTED] > dawn.bowden@senedd.wales; delyth.jewell@senedd.wales
Subject: RE: Ffos y fran Restoration Cost Statement [NOT PROTECTIVELY MARKED]

David,

firstly, thank you for this update; it is very enlightening.

We still find it hard to accept that the increase in fuel costs will impact the restoration costs to the degree that Huw Towns has estimated, and the methodology used was crude (no slur intended), but we understand that any other method of estimating the costs would entail involving parties who have a vested interest in further overinflating the restoration costs. It would be more prudent to look at a fixed sum of money and build a process that best utilises that limited resource.

If we ignore that concern, for now, and concentrate on the situation extant, then I would like to explore an end goal scenario that would give Merthyr residents most of what they want; maybe, with good fortune, all that they expected.

It is to be noted that during the final restoration phase, the overheads of the rail transport, the long and frequent trips of heavy lorries up and down the haul road, the cost of running the coal grading, barrel wash, and washery, the drilling and blasting costs, and operational costs of running the coal yard, will all vanish. I would think that vehicle numbers could be reduced and with that, much reduced fuel usage, and their commensurate maintenance costs. Staffing numbers may also reduce with a subsequent reduction in wage costs.

It is also to be noted that with just light research into the published finances of the mining company, Merthyr (South Wales) Ltd., appears to reveal healthy profits that would indicate that they could readily accommodate the cost of restoration to the level discussed here.

The original cost of restoration was estimated by the Welsh Government at £50+ million in 2014, with the mining company's (Miller-Argent Ltd.) stated estimate of £60 Million at the time. This information was available to Merthyr (South Wales) Ltd. at the time of their purchasing of the Ffos-y-fran scheme and was patently acceptable to them at that point in time when they signed the planning and restoration agreement. In 2018, the figure was reappraised, or confirmed, as £60 Million.

We can assume from this that there can be no argument with that already fully understood and agreed figure; just with the newly estimated figure.

The mining company has already lodged £15 Million in an escrow account and that money would become available to them at the end of a successful and complete final restoration of the site, so the company could temporarily invest that further sum into the restoration works knowing that it would come back to them upon successful completion of the works.

That amounts to a figure of £75 Million that would be available for the final restoration of Ffos-y-fran by Merthyr (South Wales) Ltd..

Could you please acknowledge receipt of this email?

Chris Austin

David,

sorry for the late reply, I've been out of commission for a while.

The motocross track works on top of OB3 are now complete and the first national races are scheduled for next weekend (3rd and 4th June).

As far as we understand, this has been built using 'permitted development' and as such hasn't been through any form of public scrutiny.

To us, this is our land. This is part of Merthyr Common (latterly termed Ffos-y-fran) which was temporarily stored offsite whilst the mining company extracted the coal underneath it. It was still our land whilst in storage, and the mining company were/are obligated to put it back to where they took it from when they finished coaling.

In our opinion there are two issues here.

1. He has sequestrated/annexed/appropriated land that doesn't belong to him, and for his own commercial gain.
2. He's stuck 2 fingers up to the restoration of this land; something that he was obligated to complete as part of his planning conditions/consent

The original overview of this scheme was:

"The 'Ffos-y-fran **Land Reclamation Scheme**' represents the third, and final, stage of the wider East Merthyr Reclamation Scheme'. It is the largest of the original 3 phases and will restore over 360 Hectares of previously derelict and disturbed land. **Once completed, the land, which will be fit for upland grazing, with safe access for use by the community, will be returned to the Planning Authority**".

Also, just to rub salt into the wound, one of the arguments that was used to originally leverage planning consent was that it would take the noisy, illegal off-road motorbikes off the hillside over East Merthyr. Now the mining company are facilitating this activity.

Some press statements below (*nb Merthyr event dates changed to 3rd and 4th June*)::

Round 2 – 6th & 7th May, Monster Mountain, South Wales

One new venue just didn't seem to be enough! So we're going to another for round two, this time 'Monster Mountain'. It will also be the first time the MX Nationals visits Wales and we're excited about that, as much as we are about the circuit itself. It will be another Alfie Smith and Justin Barclay build and design and they have plenty of space to work with to build a 'monster' of a track too as the venue is a former quarry....a bloody big one. The track will another GP spec design with wide open, flowing turns on hard pack dirt and plenty of room for viewing and for

spectators to get around. We're looking forward to seeing who will be crowned the first 'King of the Mountain'.

2023 Calendar Confirmed for MX Nationals UK

- December 23, 2022

Paul Irwin (Series Director) and Jeff Perrett of MX Nationals UK have announced the 2023 calendar for the Championship.

With the Championship celebrating its 10th anniversary in 2023 riders will get the opportunity to try out two brand new venues (Oakhanger and Monster Mountain MX). Preston Docks makes a return to the calendar but on a fully revamped circuit. View the full calendar below.

Round 1 – 11th & 12th March – Oakhanger, near Bordon

Round 2 – 6th & 7th May – Monster Mountain MX, Merthyr Tydfil, South Wales

Round 3 – 3rd & 4th June – Preston Docks

Round 4 -8th & 9th July – Oxford Moto Parc, Abingdon

Round 5 – 5th & 6th August – Cusses Gorse MX, near Salisbury

Round 6 – 2nd & 3rd September – Hawkstone Park

Two new tracks for 2023 MX Nationals

- December 23, 2022

There are two brand new circuits and one fully revamped one in the six-round MX Nationals next season

The series kicks off on 11-12 March at Oakhanger near Bordon in Hampshire, a deep sand venue in forestry land. It's similar to the venue used for the Natterjack enduro, also near Bordon.

Round two is at the new Monster Mountain venue near Merthyr Tydfil in South Wales. The hilltop track is hard-pack but drains well and is being built by track builders Justin Barclay and Alfie Smith.

A newly-revamped Preston Docks is set for the third round. The circuit has recently been re-taken over by Lee McGarry who has posted some pics of the track that's currently being worked on (as seen above).

Dear Mr Austin,

Thank you for your email and photographs of the operations taking place at the site. Can I assure you that we are actively investigating the breaches in planning control and that enforcement action will be taken. I have also personally undertaken a number of site visits as part of our investigations. However, due diligence also requires us to review other matters as well, which is not limited to just the continued coal extraction and requires us to review any other potential planning breaches that may occur, for example the operations you have identified on the overburdens.

Kind regards

David Cross

From: Chris Austin <[REDACTED]>
Sent: 16 May 2023 12:22
To: Cross, David <[REDACTED]>
Cc: Jones, Judith (Planning & Neighbourhood Services) <[REDACTED]>
dawn.bowden@assembly.wales; [REDACTED] Sammon,
Declan (Councillor) <[REDACTED]> Gibbs, Kevin (Councillor)
<[REDACTED]>
Subject: RE: Today's photo's from Ffos y fran [NOT PROTECTIVELY MARKED]

Hi David,

they are still extracting and processing coal at Ffos-y-fran.

It is now 18 working days/22 elapsed days past the date that the MTCBC planning committee rejected the mining company's application to extend the working period of their coaling operation.

At the planning meeting you promised 'prompt' action, and latterly you said that you would be meeting with the company to discuss their alleged illegal activities. Has that meeting occurred and will you be implementing enforcement action? If not, could you please tell me when the meeting is planned for, and how long your enforcement legal 'due process' is expected to last? We are fast approaching the 9 months extension (since 6th September 2022), of operations that the company initially requested and subsequently had that request rejected by a publicly elected body.

Each day around 1,500 Tonnes of coal are extracted, processed and transported by road and rail to their customers for incineration. Global coal prices have recently fallen to around £165 Per Tonne but that is still a turnover of £247,500 a day. Also, the mining of and burning of this coal is responsible for thousands of tonnes of extra CO₂ into the atmosphere at a time of climate emergency.

Here are a few photo's of today's activities at the Cwmbargoed Disposal Point (CDP) which clearly shows coal lorries delivering coal for processing at the coal washery. These lorries have driven from the Ffos-y-fran mine along the haul road to the CDP. The lorries are arriving just minutes apart.

I was spoken to today by operations/security staff from the company who said that I was distracting his drivers by taking photo's. I am sitting in my car on a public road/on public property taking photo's through the side window, so no distraction involved whatsoever. I am

Appendix B

Evidence - Unlawful Coal Extraction

Letters in Correspondence with the Responsible Public Agencies:

Here are a collection of communiqués between ourselves and the Local Planning Authority (LPA) here in Merthyr Tydfil about the issue of unlawful coal extraction from the Ffos-y-fran opencast coalmine/Land Reclamation Scheme.

It can be seen from the responses, and the timestamps that the LPA were initially reluctant to respond, or even accept to the transgression and then reluctant to act. It has to be understood that this was a huge coal mining operation working in plain sight hauling coal alongside a main road and shipping it out on trains and lorries in plain sight of that road. *[...and note that the railway line was run by Transport for Wales; a Government owned railway service]*. The LPA offices are but 1.5 Miles from the site in the centre of Merthyr town

This is a selection of communiqués, and we were sending photographs of the transgressions regularly to the LPA. These showed convoys of large (77 Ton) coal lorries laden with coal travelling from the mine to the railhead on their private haul road alongside the main road. Photographs of the long coal train at the railhead being loaded with coal (1,500 Tonnes capacity across its 20 trucks), and the big 44 Ton bulk carrier lorries being loaded with coal for delivery to the cement works around Rugby were also included. Also, as they were working beyond their mining boundary for years the large Komatsu SuperShovels were working high on the mountainside following (unlawfully) the lucrative coal seams and were visible from the surrounding area, especially the A4060 'sliproad', dual-carriageway. Yet, they didn't formally acknowledge, or go up to verify our assertions, until 4th May 2023; 8 months after the mining company's planning consent ended on 6th September 2022.

The LPA were telling us that the works that we were observing were maintenance works after a 'slippage' (landslip) in the mine due to bad weather. Slippages of spoil in the steep and loose sided void are a common occurrence and are dealt with regularly, and in short order. They don't require the mining of 1,000 to 1,500 Tonnes of coal per day for 8 months to remedy them! The LPA was 'gaslighting' us and we were incensed but couldn't get them to act. This information was also being used in the Senedd as the information from the LPA was all they were hearing. We wrote to the Members of the Senedd directly to inform them of what was happening at Ffos-y-fran and of the misinformation from the LPA and even the minister, but it changed nothing on the ground.

Mon **26-Jun-23** 1:24 PM

David,

will you be implementing enforcement action tomorrow (Tuesday 27th June 2023) as promised in your letter of intent?

There were laden coal lorries and a coal train at the Cwmbargoed railhead/CDP this morning at 08:45, so coal extraction continues at Ffos-y-fran.

We have had another motocross event this weekend and we had reports of noise and dust from either side of the valleys, (Merthyr and Fochriw; Merthyr and Caerphilly authorities).

We also had very loud, banging, 'dance'/rave' music here in Merthyr until at least 12 midnight, (that's when I managed to fall asleep! So could have been longer). Personally, we couldn't confirm the motocross as the source as we only have occasional access to a car at the moment, though the wind direction and the direction of sound would indicate that it was a likely suspect. Is this allowed under permitted development? Or, is it an illegal rave?

We have also confirmed that, as these are two day events, they are providing camping onsite for Friday and Saturday nights; many motor caravans, we were informed. We don't have an exact figure, but certainly more than 5. It is my understanding that this is not allowed under 'permitted development', but as the legislation is complex it is difficult to discern.

From the posts on Facebook and other social media sites, by those running the motocross events, there have been 7 confirmed practice and event days on this track so far. There may have been more, but this is as many as we can determine. It is our understanding that permitted development only allows for 14 days across a rolling year.

Are the number of events being recorded by the Local Planning Authority as the official arbiter of planning consent and permitted development? Can we expect to see enforcement action from you if, or when, they exceed their allotted maximum?

Also, the track (jumps, bumps, berms, and viewing/judging stations at each jump) has not been bulldozed down between events, so it is a permanent or semi-permanent structure that we also don't believe conforms with permitted development.

Could you please answer the following questions:

1. Are the number of events and practice days at the motocross track on top of Overburden Mound 3 (OB3) being officially recorded by the Local Planning Authority (LPA)?
2. Is camping allowed onsite, for how long, and for how many caravans?
3. Is tent camping allowed onsite?
4. Are they allowed to play loud (very!) music well into the night/early morning?
5. Who, in the local authority, would be responsible for the control of this loud music were it to occur? Is it environmental health, or the LPA under these circumstances?
6. Should they be levelling the track and other semi-permanent structures between each event?
7. With all the work carried out on the top of the spoil tip, is the height of Overburden Mound 3 now beyond the maximum height of 410 Metres AOD as defined in their planning consent?
8. Who owns the spoil in Overburden Mound 3? (As it was part of Merthyr Common and should now be being restored there, we believe that is the LPA on our behalf)
9. If the answer to question 7 is the LPA, then has the LPA allowed the use of the spoil tip/OB3 for the purpose of motocross events?

10. Would the Local Planning Authority issue enforcement action when they exceed their allotted maximum event count under permitted development?
11. Will the Local Planning Authority issue enforcement action for the 'permitted development' infractions that we believe are occurring at the OB3 motocross track?

Chris Austin

Fri 19-May-23 5:21 PM

Dear Mr Austin,

Thank you for your email and photographs of the operations taking place at the site. Can I assure you that we are actively investigating the breaches in planning control and that enforcement action will be taken. I have also personally undertaken a number of site visits as part of our investigations. **However, due diligence also requires us to review other matters as well, which is not limited to just the continued coal extraction and requires us to review any other potential planning breaches that may occur**, for example the operations you have identified on the overburdens.

Kind regards

David Cross

Fri 19-May-23 2:40 PM

Dear Mr Austin,

Thank you for your email and photographs of the on-going activity at Ffos Y Fran.

In regards to the issue of material being deposited on OB3, this is something that I have noted in my more recent site visits and **will form part of our enforcement investigations**.

Kind regards

David Cross

From: Chris Austin [mailto:]

Sent: Thursday, May 18, 2023 8:52 PM

To: 'Chris Austin'; 'Cross, David'

Cc: ; dawn.bowden@assembly.wales;

Subject: RE: Today's photo's from Ffos y fran [NOT PROTECTIVELY MARKED]

Hi David,

just a few snaps today I'm afraid, but you can clearly see the ongoing coal extraction, shipping out coal to customers by rail and road, and the work on top of OB3 has intensified.

From: Chris Austin [mailto: [REDACTED]]
Sent: Wednesday, **May 10, 2023** 12:40 PM
To: [REDACTED]
Subject: Ffos y fran coal extraction continues unabated

David,

a few photographs to evidence the continued coal extraction at Ffos-y-fran. Taken somewhere around 10:30. The trucks were coming in thick-and-fast this morning, so they are working at quite a pace despite the rain.

I didn't see a train, but I may have been a bit too early. Maybe they're still catching up after the holiday.

Chris Austin

From: Chris Austin [mailto: [REDACTED]]
Sent: Thursday, **May 4, 2023** 11:25 AM
To: 'Chris Austin'; 'Cross, David'
Cc: 'Sammon, Declan (Councillor)'; 'Gibbs, Kevin (Councillor)'; 'Jones, Judith (Planning & Neighbourhood Services)'; dawn.bowden@assembly.wales
Subject: RE: Ffos y fran - ongoing coal extraction and OB3 works [NOT PROTECTIVELY MARKED]

Hi David,

they are still quite openly mining coal at Ffos-y-fran. Popped up quickly to check this morning and lorries are coming into the CDP fully laden with coal at around 5 minutes or less between them.

There was a long rail freight train being loaded there again this morning which indicates the sort of tonnage that they must be achieving.

You do need to go up and see for yourself, as the LPA should be 'policing' the operation, not me really. It would carry far more weight coming from you, and as I said previously, making arrangements is not going to gain you any real evidence of them working coal. I don't usually need more than 15 mins myself, so 30 mins would suffice with travel from the bottom of town; so not much of an overhead, and the weather is fine.

Chris Austin

On **4 May 2023**, at 15:11, "Cross, David" < [REDACTED] > wrote:

Dear Mr Austin,

Thank you for your email and for taking the time to inform us of the continued operations taking place at Ffos Y Fran. The information you have provided and the photographs you have forwarded on to us is appreciated.

Notwithstanding our intentions to meet with the mine operator, I have already visited the site myself to confirm whether coal mining operations are still taking place. **It appears that I have witnessed similar operations that you have referred to in your photos.**

Can I reassure you that we are actively investigating the breaches in planning control and will be pursuing enforcement action, of which there is due diligence and process that we also have to adhere to.

Kind regards

David Cross

From: Chris Austin [mailto:████████████████████]
Sent: Wednesday, May 3, 2023 12:19 PM
To: 'Chris Austin'; 'Cross, David'
Cc: 'Sammon, Declan (Councillor)'; 'Gibbs, Kevin (Councillor)'; 'Jones, Judith (Planning & Neighbourhood Services)'
Subject: RE: Ffos y fran - ongoing coal extraction and OB3 works [NOT PROTECTIVELY MARKED]

Hi David,

I had a bit of time on my hands this morning so popped up with my camera for about 15 mins. Three fully laden coal lorries came into the CDP in that time. Also, a long coal train left whilst I was there (approx. 11:20). Heavily laden by the sounds of it as the train was struggling to pull off and gain momentum.

There were coal lorries on the haul road when I returned. I would say that a fully laden lorry every 5 minutes is working coal at quite a rate; probably not too dissimilar to 'normal' extraction rates, i.e. when they had planning consent to do so.

I took quite a few photo's but can't send them all as it will bump the mail server limits. I've copied in 3 examples here. It is very easy to gather the evidence from public land/the main road as they are working the coal quite openly.

Chris Austin





From: Chris Austin [mailto:████████████████████]
Sent: Tuesday, May 2, 2023 8:50 PM
To: 'Cross, David'
Cc: 'Sammon, Declan (Councillor)'; 'Gibbs, Kevin (Councillor)'; 'Jones, Judith (Planning & Neighbourhood Services)'
Subject: RE: Ffos y fran - ongoing coal extraction and OB3 works [NOT PROTECTIVELY MARKED]

thank you David,

In all honesty, if you arrange with the mining company to inspect the site, they will arrange not to be extracting coal whilst you are there...they may be immoral, but they aren't stupid. The Queen never saw a dirty street, nor a beggar, and if you ask a thief if he robbed you, then chances are that he's not going to say yes.

If you wish to see what the company is actually doing on a day-to-day basis then I would suggest that you slip out and visit the site during your dinner hour, or when you tell everyone that you are to be somewhere else.

As all mined coal has to be transferred by lorry across the haul road to the Coal Disposal Point (CDP) at Cwmbargoed and then be loaded onto a large train, or a bulk carrier lorry there (coal-by-road to Cemex; if they still supply them); anything that needs to be seen or recorded can be seen from the public road that runs alongside the site and the CDP. No dirt, rocks, nor spoil will be transported along the haul road to the CDP; it has no worth to them and needs no further processing, nor transportation.

May I respectfully suggest that you ask to see the manifest that Railtrack keep for every train journey on the number of trips and tonnage of coal transferred to TATA Steel in Port Talbot? (The Coal Authority would also be supplied with this information and may be an easier source of this data). After all, they aren't extracting coal just to stockpile it; they have to sell and transport it to the customer to make it all worthwhile.

The bulk carrier lorries usually leave early/first thing in the morning, and the train around 10:00-11:30am ish.

Chris Austin

ps Alyson drives over there most days for work and snaps the lorries as she passes. See today's snaps.

From: Cross, David [mailto: [REDACTED]]
Sent: Tuesday, May 2, 2023 1:32 PM
To: 'Chris Austin'
Cc: Sammon, Declan (Councillor); Gibbs, Kevin (Councillor); Jones, Judith (Planning & Neighbourhood Services)
Subject: RE: Ffos y fran - ongoing coal extraction and OB3 works [NOT PROTECTIVELY MARKED]

Classification: NOT PROTECTIVELY MARKED

Classification: **NOT PROTECTIVELY MARKED**

Dear Mr Austin,

Thank you for email below and for bring to our attention other suspected works/operations that may be taking place at Ffos y Fran, which may not be related to the restoration works.

I am in the process of arranging a meeting with the operators of the site and I will raise this matter with them in order to seek clarification on what may be taking place. In regards to any continued coaling, this is something I will be inspecting as part of any site visit, which forms part of any enforcement action.

From: Chris Austin [mailto: [REDACTED]]
Sent: Friday, April 28, 2023 3:25 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Ffos y fran - ongoing coal extraction and OB3 works

David,

for your information.

We went up to the site this morning and the mining company are still extracting, processing and transporting coal. We watched several full coal lorries enter the CDP at Cwmbargoed at around 13:30.

Also, work has restarted on the top of overburden mound 3 (alongside the railway) and word-of-mouth supports what we told you a few months ago; they are working on the off-road motorcycle track and a public access road. There's a blue digger working up on top there at the moment, and I can't see any reason why they'd still be tipping spoil offsite and re-profiling the top of an external overburden mound at this stage of the restoration process.

Sources are telling us that they are looking to put on their first bike race in 2 weeks time.

Obviously, this is anecdotal, but work up there is ongoing, and for what reason?

Chris Austin

ps sorry, only a quick and poor snap, but as they are openly coaling, they are back-and-forth on the haul road alongside the Bogey Road so it shouldn't be too difficult for you to confirm.

On 26th April (2023) the Council's Planning Committee voted unanimously to refuse permission for the Application in accordance with a recommendation from the Council's planning officers that the applicant had, in summary,
 (1) failed to demonstrate any wholly exceptional circumstances as required by Welsh policy, and that
(2) the proposed development failed to provide an adequate contribution towards the restoration, aftercare and after-use of the site, to the detriment of the surrounding environment and in conflict with local policies.

Dyddiad/Date:

11/04/2023

Ein Cyf./Our ref.:

P/22/0237

Gofynnwch am/Please ask Hugh Towns for:

Eich Cyf./Your ref.:
e-bost/e-mail:

Llinell Uniongyrchol/Direct Line:

Dear Sir/Madam
Application No.

P/22/0237

Location:

Ffos Y Fran Land Reclamation Scheme East Of
A4060 Slip Road Merthyr Tydfil

Proposed Development:

Variation of conditions 3 (Coal Extraction) and 4 (Final Restoration) of planning permission APP/U6925/A/10/2129921 to extend the life of the existing mine until 31st March 2024

I write to advise you that revised information has now been submitted for the consideration of the Local Planning Authority to extend the life of the existing mine until 31st March 2024, at which point coal production at Ffos Y Fran would cease completely.

The application details, including the plans and other documents submitted with it can be viewed online via the planning search page on

<http://www.merthyr.gov.uk/resident/planning-building-control>. The application details can also be inspected electronically at the Civic Centre, Castle Street during normal working hours.

Any comments you have previously made will still be taken into consideration in the determination of the planning application. However, if you wish to make further comments this should be emailed to planning@merthyr.gov.uk or submitted in writing to the Director of Neighbourhood Services at the above address **by the 25th April 2023**.

If you have any queries in relation to the contents of this letter please do not hesitate to contact the above name officer.

Yours faithfully

JUDITH JONES

Director of Neighbourhood Services

From: Chris Austin [mailto: [REDACTED]]
Sent: Tuesday, February 28, 2023 2:58 PM
To: 'Dawn Bowden MS'
Cc: [REDACTED]
Subject: RE: (Case Ref: DB3663)

thanks very much for that Dawn. I'm afraid that MTCBC LPA no longer reply to our communiqués.

Chris Austin

ps Photo's from 16th Feb. I've been ill, so haven't been able to get up there since. Sorry for the poor pictures; we were driving at the time. Stopped for one, but the other was on the move! Old 'phone, (and one-handed; not bad for an old man!) but you can see the large chunks of coal coming off site, and the empty lorry travelling back onsite after discharging its load. They aren't trying to hide anything, and the lorries travel back and forth all day, every working day. The long train visits regularly and they fill it up full of stuff which looks black and very much like coal, from a large mound of black coal like stuff at the far side of the disposal point where these lorries tip their contents. No train, or bulk container lorry if it comes to that (I'm not sure if the coal-by-road tonnage to Breedon cement [*EDIT Chris Austin - we now know it was Cemex cement*] is still being met; it's a very early start), would transport anything without a manifest; it's a legal requirement, so it could be made available to anyone in authority who'd care to ask.

From: Dawn Bowden MS [mailto: [REDACTED]]
Sent: Tuesday, February 28, 2023 2:27 PM
To: [REDACTED]
Subject: (Case Ref: DB3663)

I will put your points to the Council's Chief Executive and seek a further reply.

Thanks

Dawn Bowden MS

From: Chris Austin [mailto: [REDACTED]]
Sent: Tuesday, February 28, 2023 12:06 PM
To: 'Dawn Bowden MS'
Cc: [REDACTED]
Subject: RE: (Case Ref: DB3663)

Dawn,

we have provided evidence to MTCBC LPA that the company is digging and selling coal since their planning consent ended on 6th September 2022. The long coal trains continue to leave the Cwmbargoed Disposal Point loaded with coal. Where is the coal coming from? The lorries openly drive back and forth from the mine loaded with coal to the disposal point every day. Where is this coal coming from? This has carried on for 6 months now and the LPA has chosen to turn a blind eye and let it carry on.

The Railtrack manifests will tell what tonnage they're moving; why doesn't the LPA ask for them then ask why they are still digging and moving coal?

MTCBC's stance has now gone beyond ridiculous; beyond plausible denial, it's now culpable.

Chris Austin

From: Dawn Bowden MS [mailto: [REDACTED]]
Sent: Tuesday, February 28, 2023 9:35 AM
To: [REDACTED]
Subject: (Case Ref: DB3663)

Dear Chris,

Following further recent queries of the local planning authority their position as of late January is as follows:

"To clarify, the planning permission enabled Merthyr South Wales Ltd to extract coal until September 2022 after which point such operations should then cease and the restoration on site can continue. We currently have an application which seeks permission for a further 9 months to continue coaling within the same site area. It is my understanding that a further application is anticipated later this year, which would seek permission to extend the mine and then continue coaling for a further 3 years. As part of this a revised restoration scheme is likely to come forward.

At present we are of the view that the works taking place on site largely relates to the slippage and incorporates some restoration works. Should this situation change it would be necessary for us to consider whether a breach in the planning conditions has taken place and whether it would then be expedient to take enforcement action pending the determination of the current application".

I believe that queries on this issue should currently be directed to the local planning authority but if they do not respond I am happy to seek clarification.

Best wishes

Dawn Bowden MS

To: 'dawn.bowden@assembly.wales'

Dawn,

I have recently sent this e-mail to David Cross of the MTCBC LPA.

We are, and we have been for some time, very concerned about their intransigence relating to the ongoing coal mining activity at Ffos-y-fran that has carried-on beyond the end of their planning consent.

We have informed the authority of this 'coaling' activity since their planning consent ended on 6th September last year (2022), asking for enforcement action, but to no avail.

We now find them trying to say that they didn't know about this activity, and thought that they were dealing with landslide remedial works, despite us informing them and providing photographic evidence. To say that we are incensed is an understatement!

Alyson travels over the Bogey Road every day and we use it regularly to avoid the Dowlais holdups, so we are fully conversant with the continued coal mining that has been going on at the site since the end of their planning consent, and have taken photographs to record the activity. The mining company have done nothing to hide this activity and it would be quite clear, at any time in the day, to anyone who drove past the site what was going on there. Lorries filled to the brim with coal heading for the disposal point and regular coal trains leaving the railhead cannot be mistaken for remedial works nor restoration works.

We watched coal lorries travelling back and forth today and a large coal train at the railhead, so the work carries on. Of course, I'm quite sure that Railtrack's and Cemex's (Breedon's) manifests would tell the full story of the volume of coal that has been produced across the period.

I realise that it is not directly your responsibility, but I just wanted to take this opportunity to give you the facts, and keep you up to date with what's going on.

Chris Austin

From: Planning [mailto:Planning@merthyr.gov.uk]

Sent: Wednesday, February 15, 2023 3:00 PM

To: Chris Austin

Subject: RE: Continued Works at Ffos y fran Opencast Coalmine - fao David Cross

Hi

I confirm receipt of your email.

Regards

Julie

From: Chris Austin <[REDACTED]>

Sent: 15 February 2023 13:52

To: 'Chris Austin' <[REDACTED]> Cross, David

<[REDACTED]>

Cc: Planning <Planning@merthyr.gov.uk>; Jones, Judith (Planning & Neighbourhood

Services) <[REDACTED]>

Subject: RE: Continued Works at Ffos y fran Opencast Coalmine - fao David Cross

Hi David,

could you/someone please acknowledge receipt of this e-mail?

Chris Austin

From: Chris Austin [mailto:[REDACTED]]
Sent: Monday, February 13, 2023 10:20 AM
To: 'Chris Austin'; [REDACTED]
Subject: RE: Continued Works at Ffos y fran Opencast Coalmine

Hi David,

I forgot to ask; could you acknowledge receipt of this communiqué? I still have little trust of electronic communications.

Many thanks,

Chris Austin

From: Chris Austin [mailto:[REDACTED]]
Sent: Monday, February 13, 2023 [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Continued Works at Ffos y fran Opencast Coalmine

David,

I'd like to ask a few questions, and pass on some information, on the ongoing activities at the Ffos-y-fran (FyF) opencast coalmine.

Firstly, coaling at the site has continued beyond the end date of their planning consent on 6th September 2022. Also, it has been at an accelerated rate by the frequency of lorry movements.

My wife passes the site twice a day normally, and we travel across the Bogey Road regularly to avoid any holdups in Dowlais, so we keep abreast of the activities up there.

As you are aware, the mining company extracted coal continuously and intensely up until Christmas, and started back again in the New Year. Over the last couple of weeks though, they have changed pace, and appear to be working at a reduced rate. They are still 'coaling', and the trains are still leaving the site, but it appears to us that the frequency of the lorry movements has decreased.

We are not aware of you, the LPA, issuing an enforcement order, so we have no idea why they would ramp-down the coaling work, and we can only speculate. This is possibly just a temporary thing and they'll start mining in earnest again soon as they are losing (failing to make!) large sums of money whilst working at less than full capacity.

Whichever way you look at it, they have been mining coal for over 5 months (so far) beyond their consented period, and at an accelerated rate. At this rate they will likely have de facto achieved their aims of a 9 month extension.

Secondly, the work on overburden mound 4 (the one that runs alongside the railway), has intensified, and there are quite a lot of diggers, bulldozers and lorries currently servicing the work on top of the mound.

They are building up the top of the mound with spoil and raising large walls around the edge of the plateau. They are also enhancing the access roads to the top of the spoil heap and around the base. Speaking to local residents, the workers are crowing about it becoming a motorbike track and that they are working on it in earnest at the moment.

Obviously, we have several problems with those works as part of our ongoing issue with the restoration of the site, with the new proposal itself, and also with the future of that site.

The mining company's current planning consent, that which they are attempting to modify, has a restoration policy that would see this overburden mound returned to fill the mining void and be used to re-profile the hillside at 'Ffos-y-fran'. Nothing has changed in this course of action.

As part of their Section 73 (S73) application the applicant/mining company are talking about modifying the restoration policy, but that has not been agreed in any form and still sits with the Planning Directorate awaiting a decision as to whether it will be determined by the Welsh Government. So, as nothing has been determined yet, why would they be pressing ahead with building a motorcycle track?

Of course, there is a possibility that the work is not for the building of a motorcycle track, but surely, as the overburden mound is stable, at full capacity/height, and just there for storage until it is to be moved back onto site then why would they be doing so much profiling work?

Even in the event of them gaining approval of their S73 request, my understanding would be that they would have to agree a new restoration policy, to free up the overburden mound and then submit a planning application to build the motorcycle track. Both of these proposals would, not unsurprisingly, be fiercely resisted by residents here, and possibly over in the Rhymney, Darren, and Bedlinog valleys too.

This would take quite some time to resolve, so again, why are they re-profiling overburden mound 4?

Thirdly, a further question on the ongoing coaling work. Mine workers are saying that they are being allowed to continue coaling by the planning office and that they, (ie MTCBC), won't do anything to stop them.

I suppose you need to understand what they are saying here. If the LPA has the power to enforce the planning conditions and stop them extracting coal, but chooses not to do so, then this could be construed as supporting the ongoing coal mining activities. In our view, this lack of action will then preclude you from taking any legal action against the mining company in the future for breaching their planning consent because the LPA is retrospectively complicit, per se. I understand that undertaking enforcement action is discretionary for the council, but there are very real impacts arising from ongoing mining activities which should be a priority for the council. A breach of planning condition is also clearly listed as justification for undertaking such action within your [own guidance](#) and so I'm unclear why such action – especially at the scale the mine operates – isn't being taken.

Something else that's being said is that they are only taking coal from a screening/recovery exercise, not from mining and that's a completely different thing.

It is our understanding that the term 'coaling' and 'coal extraction' being used in their planning consent covers all forms of extracting coal. There are no specific statements excluding screened coal from the planning conditions. Whether it's ignorance or blatant disregard for planning laws, it's clear that MTCBC needs to take action to stop extraction from the site in any form, until we know more about the future of consents at the site.

Fourthly, the company still appears to be mining coal below overburden mound 1 (OB1), (alongside the A4060 slip-road next to the Trecatti landfill site). It is our understanding that they don't have mining rights below OB1 and the area was only allocated for spoil tipping purposes. It is also our understanding that a coal seam runs under the spoil tip, but that they are only allowed to work down to datum/original ground level when restoring from OB1 and not mine the coal. This work has been going on for some time now but it is impossible for us to determine whether they are mining coal, but their workings have been vertical and deep, so they are working the face a great distance below datum. We cannot confirm coal mining activity, but by inference, if there is a coal seam there then they would have had to have been removing the coal.

Could you please:

1. Confirm that you, the MTCBC LPA, haven't issued an enforcement order on coal extraction activities at Ffos-y-fran beyond the 6th September 2022?

2. Confirm that the mining company has continued to extract coal beyond the 6th September 2022?
3. Confirm that the term coal extraction covers screened/recovered coal as well as mined coal. If not, where is this specifically mentioned in the planning consent?
4. Confirm that retrospective legal action in relation to working beyond their planning consent would not be possible under the circumstances, i.e. enforcement action not taken by the LPA?
5. Confirm that no construction activity has been sanctioned by the LPA for the building of a motorcycle track on the top of overburden mound 4 (the one next to the railway line, we believe)?
6. Confirm that no planning application has been received in relation to the construction of a motorcycle track on the top of overburden mound 4?
7. Confirm that the company should not be mining below datum/original ground level at overburden mound 1?
8. Can you confirm that a coal seam runs under overburden mound 1?
9. Can you confirm that the company has been removing the coal; possibly in contravention of their planning conditions?

We are incensed by the way this company is working as it wishes and is holding you, the Welsh Government and the residents of Merthyr to ransom over the restoration of this mine.

The mining company is claiming poverty, but estimates of their turnover in 2022 is somewhere around £160 Million. This is using conservative figures for the average global coal price across the period and their own production figures which we believe that they exceeded. Their profit margin should be high, and with the windfall coal prices that currently prevail they could readily pay for the restoration of the site out of last year's income alone!

The ridiculous argument about Covid losses is easily refuted when you think that they were making a comfortable profit at the then price of £50 per tonne and last year's average, conservative figure was £250 per tonne.

Even if you discount their windfall, they only had to set aside around £7 Million per annum to cover the costs of the Welsh Government's estimated £50 Million to fully restore the site; not a difficult target with their decent profits over the last 7 years of operations.

And, of course, they'll then be reimbursed the £15 Million from the ESCROW account when the restoration work is completed.

We would be grateful for a full and reasoned respond to our above questions at your earliest convenience.

Chris and Alyson Austin

[REDACTED] 'planning@merthyr.gov.uk'

Judith,

just for your information.

Merthyr (South Wales) Ltd. continue to extract coal at Ffos-y-fran. Lump coal; so from the mining operation; 42 days beyond the end of their planning consent to do so, (condition 3).

Chris Austin



Dawn Bowden MS [REDACTED]
(Case Ref: DB3663)

Dear Chris,

To constituents who have contacted me.

Ffos-y-Fran update

I have now received a further update from the local authority regarding the current situation at the open cast operation.

The local planning authority advise me as follows:

“If coal mining operations continue on site, this would result in a breach of the planning conditions and may be subject to enforcement action. At this stage because a planning application has been submitted, which seeks to amend to the current permission and enable operations to continue on site, it would not normally be expedient to take enforcement action

until that application has been determined. In the event that permission is granted, that may resolve any breaches in planning control.

In the situation where consent is not granted, it would be necessary to further review any enforcement action. There is some potential for there to be an impact on the restoration of the site as a result of the delayed start of the final restoration phase, insofar as the period of time in which to undertake those works would be reduced, given that this is expected to be completed by December 2024".

Yours sincerely

Dawn Bowden MS

Hi

Yes the application is valid so we have started to consider the application. The determination date is not known yet as we need to first consider any representations received and any responses from the consultation exercise. Representations can be made until the 19th October 2022. David Cross is the case officer.

Regards

Judith

From: Chris Austin <[REDACTED]>
Sent: 20 September 2022 18:22
To: Jones, Judith (Planning & Neighbourhood Services) [REDACTED]
Cc: Barry, Andrew (Councillor) <[REDACTED]> Jones, David (Councillor) <[REDACTED]> dawn.bowden@assembly.wales
Subject: RE: Ffos-y-fran Mining Operation

Hi Judith,

They worked coal for about 9 days past their planning consent; we have photographic evidence. I haven't confirmed whether they've stopped coaling today, but it has been very quiet down here.

Sorry to ask, I'm not sure of all the status terms in the planning process. When you say 'for consideration', what is the status of the application? Has the application been 'validated' as yet? I need to know when the clock is ticking for objections, and what date we are aiming for to get them in by, and what date we can expect it to be 'determined' after that. I have checked the MTCBC Planning Portal and the **Application Validated** date on there is **1st September**.

Chris Austin

From: Jones, Judith (Planning & Neighbourhood Services) [mailto:[REDACTED]]
Sent: Tuesday, September 20, 2022 4:31 PM
To: Chris Austin
Cc: Barry, Andrew (Councillor); Jones, David (Councillor)
Subject: RE: Ffos-y-fran Mining Operation

Hi

We currently have an application before us for consideration, we will continue to monitor operations at the site until that application is determined.

Regards

Judith Jones BA Hons Town & Country Planning, BTP, MRTPI
Cyfarwyddwr Gwasanaethau Cymdogaeth/ Director of Neighbourhood Services
Cyngror Bwrdeistref Sirol Merthyr Tudful / Merthyr Tydfil County Borough Council

 Ffon / Phone: [REDACTED]
 E-bost / Email: [REDACTED]
 Rhyngrwyd / Web: www.merthyr.gov.uk

From: Chris Austin <[REDACTED]>
Sent: 15 September 2022 12:30
To: Jones, Judith (Planning & Neighbourhood Services) <[REDACTED]>
Cc: Barry, Andrew (Councillor) <[REDACTED]> Jones, David (Councillor) <[REDACTED]>
Subject: RE: Ffos-y-fran Mining Operation

Hi Judith,

thanks for that, but that now means that the mining company are currently working without planning consent.

They are coaling, not just restoring, so are now in contravention of Condition 3 of their planning consent.

As the Section 73 request hasn't been determined or approved yet then they are working illegally.

Could you please inform me of what action MTCBC are going to take on this matter?

Many thanks,

Chris Austin

From: Jones, Judith (Planning & Neighbourhood Services)
[mailto:[REDACTED]]
Sent: Thursday, September 15, 2022 12:16 PM
To: Chris Austin
Cc: Barry, Andrew (Councillor); Jones, David (Councillor)
Subject: RE: Ffos-y-fran Mining Operation

Thank you for your email.

The Planning permission that has been implemented permitted coaling until 6th September 2022.

A Section 73 application has been submitted, which seeks to vary the conditions attached to the original permission, to enable the mine to continue operating for a further 9 months. We are currently considering that application and it will be determined in due course.

The application P/22/0237 can be viewed via this link [Simple Search \(merthyr.gov.uk\)](#)

Regards

Judith Jones BA Hons Town & Country Planning, BTP, MRTPI
Cyfarwyddwr Gwasanaethau Cymdogaeth/ Director of Neighbourhood Services
Cyngor Bwrdeistref Sirol Merthyr Tudful / Merthyr Tydfil County Borough Council

From: Chris Austin [REDACTED]
Sent: 12 September 2022 18:02
To: Jones, Judith (Planning & Neighbourhood Services) [REDACTED]
Cc: Barry, Andrew (Councillor) <[REDACTED]> Jones, David (Councillor) <[REDACTED]>
Subject: Ffos-y-fran Mining Operation

Judith,

it was our opinion that the Ffos-y-fran Mining Operation was to stop coaling around about now, but they are still mining and distributing coal today. Could you confirm the exact date that they are to stop coaling?

Also, they were now supposed to be moving into a final restoration phase, but they are tipping spoil on top of the large overburden mound opposite the railhead. Shouldn't any spoil now be directed to filling in the hole, not be extracted and tipped outside of the mine?

Could you please confirm our understanding of things, or provide us with any reasons why they should still be coaling?

It has been brought to our attention that they will be applying to vary their planning consent to the tune of an extra 9 months coaling, but surely, until that planning variation is approved they should not be allowed to operate?

Many thanks,

Chris Austin
Resident - Incline Top

Appendix C - Photographs



A photo' of Ffos-y-fran in 2006; prior to opencast work starting. It could do with some landscaping, but little else. The mountainside now looks like Mordor! All that suffering, for what?!

The mining company has said of the flooding of the mine *'it's just nature taking its course'* and *'it's nature taking it back'*. That is some brass neck! Where the mine is now was a mountainside! They dug the massive mining void from the mountain top downwards; nature had nothing to do with this; they created the void and are now just letting it flood with water to save themselves money!



The Coal Authority Property Search Services
200 Lichfield Lane, Berry Hill,
Mansfield, Nottinghamshire, NG18 4RG
 Phone: 0845 762 6848
 DX 716176 MANSFIELD 5

GroundSure Reference: 51000179079001
 Our Reference: 51000179079001
 Your Reference: 407.03894.00003
 RRUID: 000000000114015696
 Report Date: Nov 7, 2012

Commercial Enviro All-in-One

**Address: EAST PIT SITE, NEW ROAD, TAIRGWAITH, AMMANFORD,
 DYFED, SA18 1UP**

Thank you for placing your order with the Coal Authority Property Search Services.

Please find enclosed the GroundSure Screening and Coal Authority CON29M Coal Mining and Brine Subsidence Claim report.

This table summarises whether the Coal Authority consider that the following conditions may affect the ground stability at the location above. A fuller explanation of the condition and its potential to result in ground movement are given in Appendix 1 at the back of the report.

Coal Mining	yes
Brine Compensation Area	no

If you need any further assistance, please do not hesitate to contact our helpline on 0845 762 6848 quoting the above report reference number.

Enc.
 GroundSure Screening and the Coal Authority CON29M Coal Mining And Brine Subsidence Claim Report

Aerial Photograph of Study Site

NW



NE

◀W



▶E

SW



SE

Aerial photography supplied by Getmapping PLC.
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Site Name: EAST PIT SITE, NEW ROAD, TAIRGWAITH,
AMMANFORD, DYFED, SA18 1UP

Grid Reference: 273685,212984

Size of Site: 76.43 ha

Report Reference: 51000179079001

Executive Summary

The following opinion is provided by GroundSure on the basis of the information available at the time of writing and contained within this report.

In Need of Further Assessment

Is there a risk of statutory (e.g. Part IIA EPA 1990) or third party action being taken against the site?	In Need of Further Assessment
Does the property represent Acceptable Banking Security from an environmental risk perspective?	In Need of Further Assessment
Is there a risk that the property value may be impacted due to environmental liability issues?	In Need of Further Assessment
What is the potential for environmental risk associated with property ownership i.e. that a prudent purchaser may wish to consider further?	Moderate – High

The Coal Authority Assessment

This table summarises whether the Coal Authority consider that the following conditions may affect the ground stability at the location above. A fuller explanation of the condition and its potential to result in ground movement are given in Appendix 1 at the back of this report.

Coal Mining	yes
Brine Compensation Area	no

This assessment is based on and limited to the records held by the Coal Authority, and the Cheshire Brine Subsidence Compensation Board's records, at the time we answer the search.

Recommendations

GroundSure considers that the following further actions may further clarify the identified environmental risks:

- Undertake vendor enquiries in respect of existing environmental reports relating to the property.
- Undertake consultations with the local authority regarding the status of the site within the authority's Contaminated Land Inspection Strategy.
- Undertake a Phase 1 Environmental Risk Assessment. GroundSure would be pleased to provide you with a quotation to undertake this further more detailed assessment of the property. The cost of the Phase 1 would include a discount to reflect the entire cost of the report already undertaken.

If you would like any further assistance regarding this report, then please contact the GroundSure Helpline on 08444 159000.

Environmental Consultancy: GroundSure Environmental Consultants are available to discuss the findings of this report free of charge and to assist in possible solutions where reports are determined to be In Need of Further Assessment, or where other outstanding environmental issues require further consideration.

Environmental Insurance: Environmental insurance may be available for the subject property. Please contact GroundSure for further details.

Consultant's Opinion

Issue	Guidance
Current land use	GroundSure has not been advised by the client (or their advisers) of the current use of the property. GroundSure has therefore made a best judgement based on the available information that the property is likely to be used as an open cast mine.
Proposed land use	GroundSure has not been advised by the client (or their advisers) of the proposed use of the property. GroundSure has therefore made a best judgement based on the available information that the property is likely to continue to be used as an open cast mine.
On site potentially contaminative issues	Potentially contaminative historic and current industrial land uses of moderate concern have been identified at the property. Additionally, several Licensed Discharge Consents of minor concern have been identified at the study site.
Off site potentially contaminative issues	The following land use of significant concern has been identified in proximity to the study site: <ul style="list-style-type: none"> A former landfill located adjacent to the north, which accepted inert, industrial, household and special waste c.1935-1975. Additionally, past land uses, former refuse tips, and several Licensed Discharge Consents of minor concern have been identified in proximity to the study site.
Potentially vulnerable receptors	Potentially vulnerable receptors have been identified including site users, adjacent residents, the on-site and adjacent watercourses and drains, and the underlying Secondary A aquifers in the superficial deposits and bedrock geology.
Conclusion	GroundSure has identified a potential source-pathway-receptor relationship that may give rise to significant environmental liability. Please refer to the GroundSure Risk Assessment Methodology contained within this report.

Additional Matters

The following additional risk issues are outside the scope of the opinion provided by this report. However, further consideration of these may be appropriate for the subject property.

Issue	Guidance
Site specific features	This report has considered additional site specific information, where provided, however it has not included a site inspection. Additional issues may be present at the property that cannot be reasonably identified by a report of this nature. Such issues may include but not be limited to: ozone depleting substances, oil storage, waste management, materials handling, site drainage, etc. Should these issues be considered to be of concern further specific assessments may be required via additional surveys, inspections, etc.
Asbestos	The Control of Asbestos Regulations 2006 require an Asbestos Management Plan to be maintained for all commercial property constructed prior to 2000 i.e. where asbestos may be contained within the building fabric. Refurbishment or demolition of site structures may require further Refurbishment and Demolition Asbestos Surveys.
Infilled Land	Areas of infilled land have been identified at or in close proximity to the property. In the first instance it would be prudent to seek the views presented by a RICS accredited surveyor and/or geotechnical engineer to clarify any structural/subsidence risks and determine if possible what materials were used during the infilling process.
Flooding	The property lies on or within 25m of an Environment Agency floodplain. Further advice on flooding may be available from the Environment Agency's Floodline on 0845 988 1188.
Natural Ground Subsidence	The BGS has identified a high potential for Natural Ground Instability. A prudent purchaser may wish to seek further advice on this matter from a suitably qualified surveyor or engineer.
Shallow Mining	The BGS has identified a low-moderate potential for the property to be affected by shallow mining. Further information may be available from a RICS accredited surveyor, local Building Control or direct from the BGS. Contact details are provided in Section 12 of this report.
Radon	3-5% of properties in the area have the potential to be radon affected. A prudent purchaser may wish to contact the Health Protection Agency for further advice. Contact details are given in Section 12 of this report.
Radon Protection	Basic radon protective measures are likely to be required at the property. A prudent purchaser may wish to contact the Building Control department at the Local Authority or the Health Protection Agency for further guidance. Contact details are given in Section 12 of this report.

Overview of Findings

For further details on each dataset, please refer to each individual section in the main report as listed. Where the database has been searched a numerical result will be recorded. Where the database has not been searched '-' will be recorded.

Report Section	Number of records found within (X) m of the study site boundary					
	on-site	0-50	51-250	251-500	501-1000	1000-1500
1. Historical Industrial Sites						
1.1 Potentially Contaminative Past Land Use						
Records of potentially contaminative past land use (1:10,000 scale mapping)	81	32	69	-	-	-
1.2 Additional Information – Historical Tanks (1:2,500,1:1,250 scale mapping)	0	0	0 *	-	-	-
1.3 Additional Information – Historical Energy Features (1:2,500,1:1,250 scale mapping)	0	2	0*	-	-	-
1.4 Additional Information – Historical Petrol and Fuel Site Database (1:2,500,1:1,250 scale mapping)	0	0	0*	-	-	-
1.5 Additional Information – Historical Vehicle Repair and Garages (1:2,500,1:1,250 scale mapping)	0	1	0*	-	-	-
1.6 Potentially Infilled Land						
Records of potentially infilled land (1:10,000)	82	26	23*	-	-	-
*51-100m						
2. Environmental Permits, Incidents and Registers						
2.1 Industrial Sites Holding Environmental Permits and/or Authorisations						
Records of Historic IPC Authorisations	0	0	0	0	-	-
Records of Part A(1) and IPPC Authorised Activities	0	0	0	0	-	-
Records of Water Industry Referrals (potentially harmful discharges to the public sewer)	0	0	0	0	-	-
Records of Red List Discharge Consents (potentially harmful discharges to controlled waters)	0	0	0	0	-	-
Records of List 1 Dangerous Substances Inventory sites	0	0	0	0	-	-
Records of List 2 Dangerous Substances Inventory sites	0	0	0	0	-	-
Records of Part A(2) and Part B Activities and Enforcements	0	0	0	0	-	-
Records of Category 3 or 4 Radioactive Substances Authorisations	0	0	0	0	-	-
Records of Licensed Discharge Consents	8	7	6	6	-	-
Records of Planning Hazardous Substance Consents and Enforcements	0	0	0	0	-	-
2.2 Records of COMAH and NIHHS sites	0	0	0	0	-	-
2.3 Environment Agency Recorded Pollution Incidents						
National Incidents Recording System, List 2	0	0	0	-	-	-
National Incidents Recording System, List 1	0	0	0	-	-	-
2.4 Sites Determined as Contaminated Land under Part IIA EPA 1990	0	0	0	0	-	-

3. Landfill and Other Waste Sites	on-site	0-50	51-250	251-500	501-1000	1000-1500
3.1 Landfill Sites						
Environment Agency Registered landfill Sites	0	0	0	0	0	-
Landfill Data – Operational Landfill Sites	0	0	0	0	0	-
Environment Agency Historic Landfill Sites	2	0	0	0	0	0
Landfill Data – Non-Operational Landfill Sites	0	0	1	0	0	-
BGS/DoE Landfill Site Survey	0	0	1	0	0	0
GroundSure Local Authority Landfill Sites Data	0	0	1	0	0	0
3.2 Landfill and Other Waste Sites Findings						
Operational Waste Treatment, Transfer and Disposal Sites	0	0	0	0	-	-
Non-Operational Waste Treatment, Transfer and Disposal Sites	0	0	0	0	-	-
Environment Agency licensed Waste Sites	0	0	0	0	0	0

4. Current Land Uses	on-site	0-50	51-250	251-500	501-1000	1000-1500
4.1 Current Industrial Sites Data	1	1	5	-	-	-
4.2 Records of Petrol and Fuel Sites	0	0	0	0	-	-
4.3 Underground High Pressure Oil and Gas Pipelines	0	0	0	0	-	-

5. Geology	Description
5.1 Are there any records of Artificial Ground and Made Ground present beneath the study site? *	Yes
5.2 Are there any records of Superficial Ground and Drift Geology present beneath the study site? *	Yes
5.3 For records of Bedrock and Solid Geology beneath the study site* see the detailed findings section. Source: Scale: 1:50,000 BGS Sheet 230	

* This includes an automatically generated 50m buffer zone around the site.

6. Hydrogeology and Hydrology	on-site	0-50	51-250	251-500	501-1000	1001-2000
6.1 Are there any records of Productive Strata in the Superficial Geology within 500m of the study site?						Yes
6.2 Are there any records of Productive Strata in the Bedrock Geology within 500m of the study site?						Yes
6.3 Groundwater Abstraction Licences (within 1000m of the study site).	0	0	0	0	0	-
6.4 Surface Water Abstraction Licences (within 1000m of the study site).	0	0	0	0	0	-
6.5 Potable Water Abstraction Licences (within 2000m of the study site).	0	0	0	0	0	0
6.6 Are there any Source Protection Zones within 500m of the study site?						No
6.7 River Quality						
Is there any Environment Agency information on river quality within 1500m of the study site?	No	No	Yes	Yes	Yes	Yes
6.8 Detailed River Network entries within 500m of the site	32	19	51	28	-	-
6.9 Surface water features within 250m of the study site	Yes	Yes	Yes	-	-	-

7. Flooding

7.1 Are there any Environment Agency indicative Zone 2 floodplains within 250m of the study site?	Yes
7.2 Are there any Environment Agency indicative Zone 3 floodplains within 250m of the study site?	Yes
7.3 Are there any Flood Defences within 250m of the study site?	No
7.4 Are there any areas benefiting from Flood Defences within 250m of the study site?	No
7.5 Are there any areas used for Flood Storage within 250m of the study site?	No
7.6 What is the maximum BGS Groundwater Flooding susceptibility within 50m of the study site?	Very High
7.7 What is the BGS confidence rating for the Groundwater Flooding susceptibility areas?	High

8. Designated Environmentally Sensitive Sites

	on-site	0-50	51-250	251-500	501-1000	1001-2000
8.1 Records of Sites of Special Scientific Interest (SSSI)	0	0	0	0	0	3
8.2 Records of National Nature Reserves (NNR)	0	0	0	0	0	0
8.3 Records of Local Nature Reserves (LNR)	0	0	0	0	0	0
8.4 Records of Special Areas of Conservation (SAC)	0	0	0	0	0	0
8.5 Records of Special Protection Areas (SPA)	0	0	0	0	0	0
8.6 Records of Ramsar sites	0	0	0	0	0	0
8.7 Records of World Heritage Sites	0	0	0	0	0	0
8.8 Records of Environmentally Sensitive Areas	0	0	0	0	0	0
8.9 Records of Areas of Outstanding Natural Beauty (AONB)	0	0	0	0	0	0
8.10 Records of National Parks	0	0	1	0	0	0
8.11 Records of Nitrate Sensitive Areas	0	0	0	0	0	0

9. Additional Information

	on-site	0-50	51-250	250-500
9.1 Records of mobile phone transmitters	0	0	0	0
9.2 Records of potential sites of OfCom telecommunications masts	0	0	0	0
9.3 Records of overhead transmission lines in proximity to the study site	0	0	0	0

10. Natural Hazards

10.1 What is the maximum risk of natural ground subsidence?

High

10.2 Is the property in a Radon Affected Area as defined by the Health Protection Agency (HPA) and if so what percentage of homes are above the Action Level?

The property is in a Radon Affected Area, as between 3 and 5% of properties are above the Action Level

Is the property in an area where radon protection measures are required for new properties or extensions to existing ones as described in publication BR211 by the Building Research Establishment?

Basic radon protective measures are necessary

11. Non CON29M Coal Mining Information

11.1 Are there any coal mining areas within 75m of the study site?	Yes
11.2 What is the risk of subsidence relating to shallow mining within 150m of the study site?	Low-Moderate
11.3 Are there any brine affected areas within 75m of the study site?	No
The Coal Authority CON29M Coal and Brine report	Appendix 1

Report Reference: 51000179079001

Using this Report

The following report is designed by Environmental Consultants for Environmental Professionals bringing together the most up-to-date market leading environmental data. This report is provided under and subject to the Terms & Conditions agreed between GroundSure and the Client. The document contains the following sections:

1. Historical Industrial Sites

Provides information on past land uses that may pose a risk to the study site in terms of potential contamination from activities or processes. Potentially Infilled Land features are also included. This search is conducted using radii of up to 250m.

2. Environmental Permits, Incidents and Registers

Provides information on Regulated Industrial Activities and Pollution Incidents as recorded by Regulatory Authorities, and sites determined as Contaminated Land. This search is conducted using radii up to 500m.

3. Landfills and Other Waste Sites

Provides information on landfills and other waste sites that may pose a risk to the study site. This search is conducted using radii up to 1500m.

4. Current Land Uses

Provides information on current land uses that may pose a risk to the study site in terms of potential contamination from activities or processes. These searches are conducted using radii of up to 500m. This includes information on potentially contaminative industrial sites, petrol stations and fuel sites as well as high pressure underground oil and gas pipelines.

5. Geology

Provides information on artificial and superficial deposits and bedrock beneath the study site.

6. Hydrogeology and Hydrology

Provides information on groundwater vulnerability, soil leaching potential, abstraction licenses, Source Protection Zones (SPZ) and river quality. These searches are conducted using radii of up to 2000m.

7. Flooding

Provides information on river and tidal flooding, flood defences, flood storage areas and groundwater flood areas. This search is conducted using radii of up to 250m.

8. Designated Environmentally Sensitive Sites

Provides information on the Sites of Special Scientific Interest (SSSI), National Nature Reserves (NNR), Special Areas of Conservation (SAC), Special Protection Areas (SPA), Ramsar sites, Local Nature Reserves (LNR), Areas of Outstanding Natural Beauty (AONB), National Parks (NP), Environmentally Sensitive Areas, Nitrate Sensitive Areas and World Heritage Sites. These searches are conducted using radii of up to 2000m.

9. Additional Information

Provides information on records of mobile phone transmitters, potential sites of OfCom telecommunication masts and overhead transmission lines up to 500m.

10. Natural Hazards

Provides information on a range of natural hazards that may pose a risk to the study site. These factors include natural ground subsidence and radon.

11. Non Con29m Mining Information

Provides information on areas of coal and shallow mining.

12. Contacts

This section of the report provides contact points for statutory bodies and data providers that may be able to provide further information on issues raised within this report. Alternatively, GroundSure provide a free Technical Helpline (08444 159000) for further information and guidance.

Note: Maps

Only certain features are placed on the maps within the report. All features represented on maps found within this search are given an identification number. This number identifies the feature on the mapping and correlates it to the additional information provided below. This identification number precedes all other information and takes the following format -Id: 1, Id: 2, etc. Where numerous features on the same map are in such close proximity that the numbers would obscure each other a letter identifier is used instead to represent the features. (e.g. Three features which overlap may be given the identifier "A" on the map and would be identified separately as features 1A, 3A, 10A on the data tables provided).

Where a feature is reported in the data tables to a distance greater than the map area, it is noted in the data table as "Not Shown".

All distances given in this report are in Metres (m). Directions are given as compass headings such as N: North, E: East, NE: North East from the nearest point of the study site boundary.

GroundSure Risk Assessment Methodology

Framework

This report is designed to provide a basic environmental liability risk assessment for the purposes of transaction due diligence, financing arrangements and similar circumstances. The report comprises a basic risk assessment within the general principles of the source-pathway-receptor pollutant linkage model and with due regard for relevant publications issued by the Department of Environment, Food and Rural Affairs (and predecessor government departments) the British Standards Institute and the European Union.

Explicit opinion is provided with regard to potential liability for the property to be identified as "Contaminated Land" in accordance with the meaning set out in Part IIA of the Environmental Protection Act 1990. Consideration and due regard is also made of associated legislation that may lead to related statutory or third party environmental liability, including but not limited to the Water Resources Act 1991, the Water Act 2003, the Contaminated Land Regulations 2006, Environmental Permitting Regulations 2007.

This report does not contain a detailed Conceptual Site Model as required in Planning Policy Statement 23, however, it may prove highly effective in determining whether such further assessment is appropriate.

The report is based upon the information contained in subsequent dataset sections. Some datasets have been generated by and are unique to GroundSure, whilst others are provided by recognised bodies including the Environment Agency, British Geological Survey, Health Protection Agency, Local Authorities, etc. GroundSure may also have been provided with further details regarding the site by the client and / or his advisers. In the absence of such, GroundSure has made a best estimation regarding current and proposed land use. This report and the risk assessment presented is based purely upon this information.

In undertaking this report GroundSure has not, unless explicitly stated to the contrary, undertaken a site inspection, site investigation, consulted directly with the local authority with specific regard to the subject property or reviewed existing environmental reports. Whilst every effort is made to consider likely environmental liabilities on the basis of the information assessed, certain issues may only be readily discernible from physical site inspection and / or investigation.

Source - Pathway - Receptor Definitions

Sources of contamination include:

- Historic on-site and historic off-site sources
- Current on-site and current off-site sources

Pathways comprise:

- Mechanisms facilitating "receptor" exposure to contaminative "sources"

Receptors include:

- Human health i.e. site users, adjacent site users
- Controlled Waters i.e. groundwater, surface water
- Habitats and biodiversity
- Property, buildings and infrastructure

Risk Assessment Definitions

Acceptable Environmental Risk: Significant potential environmental liabilities have not been identified

In Need of Further Assessment: Significant potential environmental liabilities have been identified

Is there a risk of statutory (e.g. Part IIA EPA 1990) or third party action being taken against the site?

This response considers the risk of legal liability arising through ownership or occupation and use of the property through statutory or other third party claims.

Does the property represent Acceptable Banking Security from an environmental risk perspective?

Consideration is given to the suitability of the property as robust financial security for the purposes of secured lending facilities. An assumption is made here that the subject property is being considered in isolation and that normal commercial lending loan to value ratios are being considered.

GroundSure may in certain circumstances be able to make a specific lender liability assessment based on a full view of financial arrangements and hence the commercial context of the environmental risks.

Is there a risk that the property value may be impacted due to environmental liability issues?

This response sets out to advise whether environmental liabilities are likely to materially impact upon a standard Royal Institution of Chartered Surveyors valuation of the property necessitating further assessment.

What is the potential for environmental risk associated with property ownership i.e. that a prudent purchaser may wish to consider further?

Low: There are unlikely to be significant environmental liabilities associated with the property

Low-Moderate: There are unlikely to be significant environmental liabilities associated with the property with regard to the proposed use. However, minor issues may require further consideration and further assessment may be appropriate under certain circumstances e.g. redevelopment

Moderate: Some potential environmental liabilities are likely to reside with the property as a result of historical and / or current use. Whilst unlikely to represent an immediate significant issue, if left unchecked this position may change with time. A prudent purchaser may wish to make further enquiries of the vendor / undertake limited further due diligence / seek environmental improvements. Redevelopment of the site will likely require further, more detailed assessment.

Moderate-High: Some potential significant environmental liability issues have been identified at the property requiring further assessment. Should further information be available it may be possible to re-assess the risk. In the absence of sufficient further information, further assessment might comprise consultation with the environmental regulators / review of existing environmental reports / commissioning new environmental reports / consideration of environmental insurance.

High: Significant potential environmental liabilities have been identified at the property. Further detailed environmental due diligence will likely be required and may include review of existing environmental reports / commissioning new environmental reports including site investigations / consideration of environmental insurance / transaction restructuring.

1. Historical Industrial Sites

1.1 Potentially Contaminative Uses identified from High Detail (1:10,000 scale) Mapping

The systematic analysis of data extracted from standard 1:10,560 and 1:10,000 scale historical maps provides the following information:

Records of sites with a potentially contaminative past land use within 250m of the search centre: 182

The following records are not represented on Mapping:

Distance [m]	Direction	Use	Date
0.0	On Site	Unspecified Ground Workings	1913
0.0	On Site	Old Coal Levels	1913
0.0	On Site	Railway Sidings	1913
0.0	On Site	Unspecified Ground Workings	1913
0.0	On Site	Unspecified Heaps	1913
0.0	On Site	Railway Building	1913
0.0	On Site	Unspecified Heap	1913
0.0	On Site	Unspecified Old Drift	1913
0.0	On Site	Unspecified Pit	1913
0.0	On Site	Unspecified Heap	1913
0.0	On Site	Refuse Heap	1913
0.0	On Site	Unspecified Pit	1913
0.0	On Site	Railway Sidings	1913
0.0	On Site	Refuse Heap	1913
0.0	On Site	Colliery	1913
0.0	On Site	Unspecified Ground Workings	1913
0.0	On Site	Unspecified Ground Workings	1900
0.0	On Site	Old Coal Levels (B)	1905
0.0	On Site	Old Coal Levels (B)	1948
0.0	On Site	Railway Sidings	1905
0.0	On Site	Refuse Heap	1877
0.0	On Site	Unspecified Heap	1948
0.0	On Site	Unspecified Heaps	1905
0.0	On Site	Drift	1905
0.0	On Site	Unspecified Old Drift	1905
0.0	On Site	Unspecified Heap	1948
0.0	On Site	Unspecified Heap	1905
0.0	On Site	Railway Sidings	1900
0.0	On Site	Railway Building	1900
0.0	On Site	Railway Sidings	1948
0.0	On Site	Unspecified Heaps	1905
0.0	On Site	Unspecified Heaps	1948
0.0	On Site	Unspecified Heaps	1948
0.0	On Site	Unspecified Heaps	1905
0.0	On Site	Unspecified Heaps	1905
0.0	On Site	Unspecified Heap	1905
0.0	On Site	Disused Engine House	1900
0.0	On Site	Refuse Heap	1948
0.0	On Site	Unspecified Heap	1948
0.0	On Site	Refuse Heap	1948
0.0	On Site	Disused Engine House	1905
0.0	On Site	Railway Sidings	1948
0.0	On Site	Refuse Heap	1948
0.0	On Site	Unspecified Heap	1905
0.0	On Site	Railway Sidings	1900
0.0	On Site	Railway Sidings	1905
0.0	On Site	Tramway Sidings	1877
0.0	On Site	Tramway Sidings	1877
0.0	On Site	Tramway Sidings	1877
0.0	On Site	Coal and Ironstone Drift	1877
0.0	On Site	Unspecified Heaps	1877
0.0	On Site	Unspecified Heaps	1877
0.0	On Site	Unspecified Ground Workings	1877
0.0	On Site	Unspecified Ground Workings	1877
0.0	On Site	Old Coal Levels	1900
0.0	On Site	Railway Sidings	1965
0.0	On Site	Refuse Heap	1965

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0.0	On Site	Refuse Heap	1965
0.0	On Site	Unspecified Pit	1965
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Disused Drift	1900
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Old Drift	1900
0.0	On Site	Unspecified Old Drift	1900
0.0	On Site	Unspecified Ground Workings	1965
0.0	On Site	Opencast Workings	1965
0.0	On Site	Unspecified Ground Workings	1988
0.0	On Site	Unspecified Pit	1948
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Pit	1948
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Pits	1877
0.0	On Site	Unspecified Heap	1965
0.0	On Site	Unspecified Heap	1988
2.0	E	Engine House	1877
3.0	NE	Railway Sidings	1877
5.0	S	Unspecified Heap	1905
6.0	S	Unspecified Ground Workings	1948
6.0	NE	Railway Sidings	1900
7.0	E	Engine House	1877
9.0	S	Unspecified Ground Workings	1905
16.0	E	Unspecified Heap	1948
16.0	E	Unspecified Heap	1913
17.0	E	Unspecified Ground Workings	1948
17.0	E	Unspecified Ground Workings	1905
18.0	SE	Unspecified Disused Drift	1905
20.0	SE	Unspecified Disused Drift	1948
22.0	W	Unspecified Ground Workings	1948
23.0	W	Unspecified Ground Workings	1905
26.0	NW	Colliery	1913
27.0	SW	Refuse Heap	1965
28.0	S	Unspecified Pit	1905
28.0	S	Unspecified Pit	1948
28.0	NE	Disused Colliery (B)	1905
32.0	SW	Unspecified Heaps	1948
32.0	SW	Unspecified Heaps	1905
32.0	S	Unspecified Ground Workings	1905
33.0	NW	Unspecified Heap	1905
35.0	N	Colliery (B)	1877
40.0	NE	Railway Station	1948
41.0	NE	Railway Station	1913
41.0	SW	Unspecified Old Drift (B)	1948
41.0	SW	Unspecified Old Drift (B)	1905
41.0	NE	Railway Station	1965
47.0	SW	Railway Sidings	1965
48.0	NE	Unspecified Ground Workings	1948
54.0	E	Unspecified Ground Workings	1948
61.0	SW	Railway Building	1965
63.0	SW	Railway Building	1965
64.0	SW	Refuse Heap	1948
73.0	NE	Dairy	1965
74.0	SW	Engine House	1877
74.0	SW	Engine House	1877
75.0	SW	Unspecified Ground Workings	1965
75.0	SW	Unspecified Ground Workings	1988
77.0	E	Unspecified Heaps	1905
78.0	SW	Unspecified Ground Workings	1905
79.0	N	Colliery	1900
82.0	N	Unspecified Disused Mine	1965
86.0	E	Unspecified Disused Drift	1913
94.0	SW	Railway Building	1965
95.0	N	Unspecified Heap	1948
108.0	NE	Refuse Heap	1965
108.0	NE	Refuse Heap	1988
126.0	SW	Colliery	1948
126.0	SW	Unspecified Mine	1965
126.0	SW	Refuse Heaps	1988
126.0	SW	Mineral Railway Sidings	1965
139.0	S	Old Coal Levels	1900
147.0	N	Old Coal Pit	1877

148.0	S	Old Coal Levels	1948
152.0	S	Old Coal Levels	1948
154.0	NE	Unspecified Heap	1948
154.0	SW	Colliery	1913
156.0	S	Old Coal Level	1913
157.0	NE	Coal Trial Level	1913
157.0	S	Old Coal Levels	1913
159.0	N	Unspecified Heap	1965
162.0	N	Unspecified Old Level	1905
162.0	SE	Old Coal Levels	1900
162.0	S	Old Coal Levels	1905
163.0	S	Old Coal Levels	1905
164.0	S	Old Coal Levels	1913
165.0	SW	Refuse Heap	1913
177.0	SE	Unspecified Heaps	1877
182.0	N	Old Coal Level (B)	1948
183.0	SE	Old Coal Levels	1905
184.0	SE	Old Coal Levels	1913
185.0	SW	Old Coal Levels	1913
185.0	SW	Engine House	1913
189.0	SE	Old Coal Levels	1900
189.0	SE	Unspecified Heaps	1877
191.0	SW	Old Coal Levels	1905
196.0	SE	Old Coal Levels	1905
197.0	SW	Mineral Railway Sidings	1948
198.0	NW	Unspecified Ground Workings	1948
198.0	NW	Unspecified Ground Workings	1905
207.0	NW	Unspecified Ground Workings	1900
208.0	SW	Mineral Railway Sidings	1913
213.0	SW	Unspecified Old Drift	1913
215.0	N	Old Coal Level	1913
216.0	N	Old Coal Pit	1877
217.0	SW	Old Coal Levels	1913
218.0	N	Old Coal Level	1900
218.0	NE	Smithy	1900
221.0	SW	Unspecified Ground Workings	1988
221.0	SW	Unspecified Ground Workings	1965
222.0	SW	Old Coal Levels	1905
232.0	N	Unspecified Heaps	1965
232.0	N	Unspecified Heaps	1988
241.0	SE	Old Coal Levels	1948
246.0	SW	Old Coal Levels	1905
246.0	NE	Smithy	1948
247.0	SE	Old Coal Levels	1913
248.0	NE	Unspecified Heap	1900

1.2 Additional Information – Historical Tank Database

The systematic analysis of data extracted from High Detailed 1:1,250 and 1:2,500 scale historical maps provides the following information.

Records of historical tanks within 100m of the search centre:

0

Database searched and no data found.

1.3 Additional Information – Historical Energy Features Database

The systematic analysis of data extracted from High Detailed 1:1,250 and 1:2,500 scale historical maps provides the following information.

Records of historical energy features within 100m of the search centre:

2

The following records are not represented on Mapping:

Distance (m)	Direction	Use	Date
49.0	E	Electricity Sub Station	1982

Report Reference: 51000179079001

49.0	E	Electricity Sub Station	1991
------	---	-------------------------	------

1.4 Additional Information – Historical Petrol and Fuel Site Database

The systematic analysis of data extracted from High Detailed 1:1,250 and 1:2,500 scale historical maps provides the following information.

Records of historical petrol stations and fuel sites within 100m of the search centre: 0

Database searched and no data found.

1.5 Additional Information – Historical Garage and Motor Vehicle Repair Database

The systematic analysis of data extracted from High Detailed 1:1,250 and 1:2,500 scale historical maps provides the following information.

Records of historical garage and motor vehicle repair sites within 100m of the search centre: 1

The following records are not represented on Mapping:

Distance (m)	Direction	Use	Date
16.0	NE	Garage	1961

1.6 Potentially Infilled Land

Records of Potentially Infilled Features from 1:10,000 scale mapping within 100m of the study site: 131

The following Historical Potentially Infilled Features derived from the Historical Mapping information is provided by GroundSure:

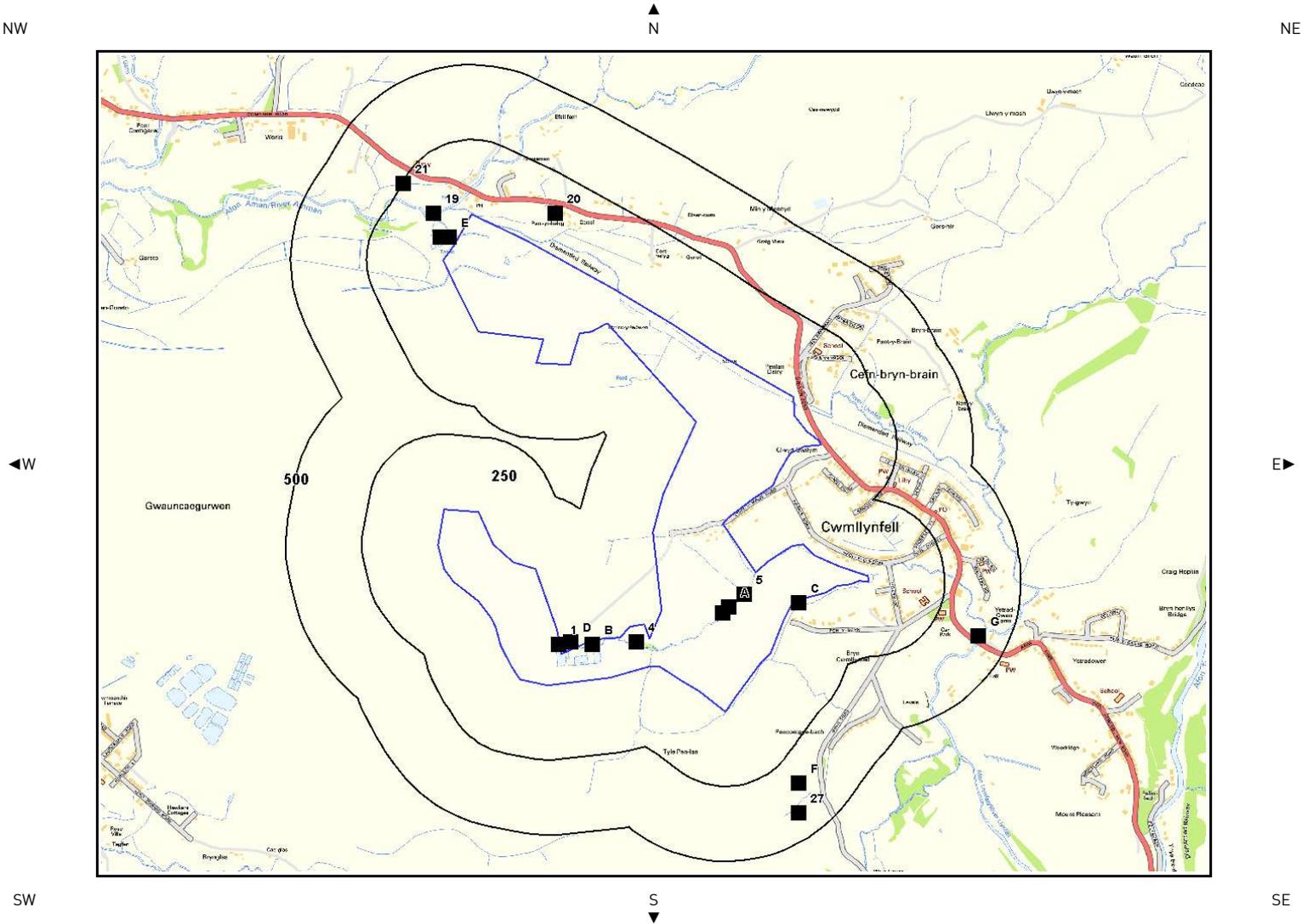
Distance [m]	Direction	Use	Date
0.0	On Site	Unspecified Heaps	1905
0.0	On Site	Drift	1905
0.0	On Site	Refuse Heap	1948
0.0	On Site	Unspecified Heap	1905
0.0	On Site	Refuse Heap	1948
0.0	On Site	Unspecified Heap	1948
0.0	On Site	Refuse Heap	1877
0.0	On Site	Ponds	1965
0.0	On Site	Unspecified Heaps	1877
0.0	On Site	Coal and Ironstone Drift	1877
0.0	On Site	Cuttings	1877
0.0	On Site	Cuttings	1877
0.0	On Site	Reservoir (B)	1900
0.0	On Site	Old Coal Levels (B)	1905
0.0	On Site	Pond	1877
0.0	On Site	Pond	1965
0.0	On Site	Pond	1988
0.0	On Site	Unspecified Heaps	1877
0.0	On Site	Unspecified Ground Workings	1877
0.0	On Site	Air Shaft	1877
0.0	On Site	Unspecified Drift	1877
0.0	On Site	Unspecified Ground Workings	1900
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Ground Workings	1948

Report Reference: 51000179079001

0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Ground Workings	1948
0.0	On Site	Unspecified Pit	1948
0.0	On Site	Unspecified Pit	1948
0.0	On Site	Unspecified Ground Workings	1877
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Old Coal Levels	1900
0.0	On Site	Unspecified Disused Drift	1900
0.0	On Site	Unspecified Heap	1948
0.0	On Site	Refuse Heap	1948
0.0	On Site	Unspecified Old Drift	1905
0.0	On Site	Unspecified Ground Workings	1905
0.0	On Site	Unspecified Pits	1877
0.0	On Site	Unspecified Old Drift	1900
0.0	On Site	Unspecified Old Drift	1900
0.0	On Site	Unspecified Heaps	1905
0.0	On Site	Unspecified Heaps	1948
0.0	On Site	Unspecified Heaps	1948
0.0	On Site	Unspecified Heaps	1905
0.0	On Site	Unspecified Heaps	1905
0.0	On Site	Unspecified Heap	1905
0.0	On Site	Unspecified Heap	1948
0.0	On Site	Unspecified Heap	1905
0.0	On Site	Old Coal Levels (B)	1948
0.0	On Site	Unspecified Drift (B)	1877
0.0	On Site	Air Shaft	1900
0.0	On Site	Refuse Heap	1965
0.0	On Site	Unspecified Ground Workings	1965
0.0	On Site	Cuttings	1905
0.0	On Site	Cuttings	1877
0.0	On Site	Cuttings	1877
0.0	On Site	Air Shaft	1877
0.0	On Site	Air Shaft	1905
0.0	On Site	Pond	1877
0.0	On Site	Unspecified Ground Workings	1988
0.0	On Site	Unspecified Heap	1988
0.0	On Site	Unspecified Drift	1900
0.0	On Site	Opencast Workings	1965
0.0	On Site	Unspecified Heap	1965
0.0	On Site	Reservoir	1905
0.0	On Site	Pond	1900
0.0	On Site	Unspecified Pit	1965
0.0	On Site	Refuse Heap	1965
0.0	On Site	Old Gravel Pit	1900
0.0	On Site	Gravel Pit	1948
0.0	On Site	Reservoir	1948
0.0	On Site	Old Gravel Pits	1905
0.0	On Site	Pond	1900
0.0	On Site	Cuttings	1948
0.0	On Site	Pond	1900
0.0	On Site	Pond	1948
0.0	On Site	Pond	1905
0.0	On Site	Pond	1877
2.0	NE	Old Gravel Pits	1905
5.0	S	Unspecified Heap	1905
6.0	S	Unspecified Ground Workings	1948
9.0	S	Unspecified Ground Workings	1905
16.0	E	Unspecified Heap	1948
17.0	E	Old Gravel Pit	1905
17.0	E	Unspecified Ground Workings	1948
17.0	E	Unspecified Ground Workings	1905
18.0	SE	Unspecified Disused Drift	1905
20.0	SE	Unspecified Disused Drift	1948
22.0	W	Unspecified Ground Workings	1948
22.0	SW	Unspecified Drift (B)	1877
23.0	W	Unspecified Ground Workings	1905
23.0	E	Gravel Pit	1877
27.0	SW	Refuse Heap	1965
28.0	S	Unspecified Pit	1948
28.0	S	Unspecified Pit	1905
28.0	NE	Disused Colliery (B)	1905
32.0	SW	Unspecified Heaps	1905
32.0	SW	Unspecified Heaps	1948
32.0	S	Unspecified Ground Workings	1905
33.0	NW	Unspecified Heap	1905
35.0	N	Colliery (B)	1877
41.0	SW	Unspecified Old Drift (B)	1948

41.0	SW	Unspecified Old Drift (B)	1905
48.0	NE	Unspecified Ground Workings	1948
51.0	W	Pond	1965
51.0	W	Pond	1988
51.0	W	Pond	1877
54.0	W	Pond	1900
54.0	E	Unspecified Ground Workings	1948
55.0	W	Pond	1877
61.0	W	Pond	1948
61.0	W	Pond	1905
64.0	SW	Refuse Heap	1948
75.0	SW	Unspecified Ground Workings	1965
75.0	SW	Unspecified Ground Workings	1988
77.0	E	Unspecified Heaps	1905
78.0	SW	Unspecified Ground Workings	1905
79.0	N	Colliery	1900
80.0	NE	Gravel Pit	1900
82.0	N	Unspecified Disused Mine	1965
86.0	NE	Gravel Pit	1877
91.0	W	Air Shaft	1877
94.0	W	Air Shaft	1877
94.0	SW	Unspecified Drift	1877
95.0	N	Unspecified Heap	1948
98.0	W	Old Air Shaft	1905
100.0	W	Old Air Shaft	1900

2. Environmental Permits, Incidents and Registers Map



Authorisations, Incidents and Registers Legend



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- | | | | |
|---|-------------------------------|---|--|
|  | Recorded Pollution Incident |  | RAS 3 & 4 Authorisations |
|  | Site Outline |  | Part A(1) Authorised Processes and Historic IPC Authorisations |
|  | Dangerous Substances (List 1) |  | Part A(2) and Part B Authorised Processes |
|  | Dangerous Substances (List 2) |  | COMAH / NIHS Sites |
|  | Water Industry Referrals |  | Sites Determined as Contaminated Land |
|  | Licensed Discharge Consents |  | Hazardous Substance Consents and Enforcements |
|  | Red List Discharge Consents | | |

2. Environmental Permits, Incidents and Registers

2.1 Industrial Sites Holding Licences and/or Authorisations

Searches of information provided by the Environment Agency and Local Authorities reveal the following information:

Records of historic IPC Authorisations within 500m of the study site: 0

Database searched and no data found.

Records of Part A(1) and IPPC Authorised Activities within 500m of the study site: 0

Database searched and no data found.

Records of Water Industry Referrals (potentially harmful discharges to the public sewer) within 500m of the study site: 0

Database searched and no data found.

Records of Red List Discharge Consents (potentially harmful discharges to controlled waters) within 500m of the study site: 0

Database searched and no data found.

Records of List 1 Dangerous Substances Inventory Sites within 500m of the study site: 0

Database searched and no data found.

Records of List 2 Dangerous Substance Inventory Sites within 500m of the study site: 0

Database searched and no data found.

Records of Part A(2) and Part B Activities and Enforcements within 500m of the study site: 0

Database searched and no data found.

Records of Category 3 or 4 Radioactive Substance Licences within 500m of the study site: 0

Database searched and no data found.

Records of Licensed Discharge Consents within 500m of the study site: 27

Report Reference: 51000179079001

The following Licensed Discharge Consents records are represented as points on the Authorisations, Incidents and Registers map:

ID	Distance [m]	Direction	NGR	Details	Receiving Water: Unnamed Watercourse
1	0.0	On Site	273410, 212460	Address: East Pit Occs (extension) Outlet E3, East Pit Occs (extension) Outlet E3, , Effluent Type: Unspecified Permit Number: BM0042210 Permit Version: 1	Status: New Consent, By Application (wra 91, Section 88) Issue date: 16/6/1992 Effective Date: 16/6/1992 Revocation Date: -
2A	0.0	On Site	273970, 212587	Address: E Pit E Occs Wt Area F Ammanford, East Pit East Occs Wt Area F, Tairgwaith, Ammanford, Carmarthenshire, SA18 1UP Effluent Type: Trade Discharges - Site Drainage Permit Number: BM0042209 Permit Version: 4	Receiving Water: Tributary Of The Nant Llynfell Status: Varied By Application - (wra 91 Sched 10 - As Amended By Env Act 1995) Issue date: 17/4/2009 Effective Date: 1/4/2010 Revocation Date: -
3A	0.0	On Site	273970, 212587	Address: E Pit E Occs Wt Area F Ammanford, East Pit East Occs Wt Area F, Tairgwaith, Ammanford, Carmarthenshire, SA18 1UP Effluent Type: Trade Discharges - Site Drainage Permit Number: BM0042209 Permit Version: 3	Receiving Water: Tributary Of The Nant Llynfell Status: Varied By Application - (wra 91 Sched 10 - As Amended By Env Act 1995) Issue date: - Effective Date: - Revocation Date: 23/4/2009
4	0.0	On Site	273665, 212470	Address: East Pit Site Outlet E2 , East Pit Site Outlet E2, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042203 Permit Version: 1	Receiving Water: Tributary Of The Afon Llynfell Status: Revoked - Unspecified Issue date: 30/1/1985 Effective Date: 30/1/1985 Revocation Date: 29/2/1988
5	0.0	On Site	274020, 212630	Address: East Pit Extension Point F , East Pit Extension Point F, , Effluent Type: Unspecified Permit Number: BM0042209 Permit Version: 2	Receiving Water: Tributary Of The Nant Llynfell Status: New Consent, By Application (wra 91, Section 88) Issue date: 5/4/1994 Effective Date: 5/4/1994 Revocation Date: -
6B	0.0	On Site	273520, 212460	Address: East Pit Site Outlet E2 , East Pit Site Outlet E2, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042203 Permit Version: 3	Receiving Water: Tributary Of The Afon Llynfell Status: New Consent, By Application (wra 91, Section 88) Issue date: 5/4/1994 Effective Date: 5/4/1994 Revocation Date: -
7B	0.0	On Site	273520, 212460	Address: East Pit Site Outlet E2 , East Pit Site Outlet E2, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042203 Permit Version: 2	Receiving Water: Tributary Of The Afon Llynfell Status: Revoked - Unspecified Issue date: 1/3/1988 Effective Date: 1/3/1988 Revocation Date: 4/4/1994
8A	0.0	On Site	273948, 212567	Address: East Pit East Occs Wt Area F Carms, East Pit East Occs Wt Area F, Tairgwaith, Ammanford, Carms Effluent Type: Trade Discharges - Site Drainage Permit Number: BP0369601 Permit Version: 1	Receiving Water: Trib Afon Llynfell Status: New Consent (wra 91, S88 & Sched 10 As Amended By Env Act 1995) Issue date: - Effective Date: - Revocation Date: -
9C	10.0	S	274200, 212600	Address: East Pit Extension Point F , East Pit Extension Point F, , Effluent Type: Unspecified Permit Number: BM0042209 Permit Version: 1	Receiving Water: Tributary Of The Nant Llynfell Status: Revoked - Unspecified Issue date: 1/3/1988 Effective Date: 1/3/1988 Revocation Date: 4/4/1994
10C	10.0	S	274200, 212600	Address: East Pit Extension Point G , East Pit Extension Point G, , Effluent Type: Unspecified Permit Number: BM0042205 Permit Version: 1	Receiving Water: Tributary Of River Llynfell Status: Revoked - Unspecified Issue date: 1/3/1988 Effective Date: 1/3/1988 Revocation Date: 4/4/1994
11C	10.0	S	274200, 212600	Address: East Pit Extension Point G , East Pit Extension Point G, , Effluent Type: Unspecified Permit Number: BM0042205 Permit Version: 2	Receiving Water: Tributary Of River Llynfell Status: Revoked (wra 91, S88 & Sched 10 As Amended By Env Act 1995) Issue date: 5/4/1994 Effective Date: 5/4/1994 Revocation Date: 7/1/1999

12D	25.0	N	273450, 212470	Address: East Pit Extension Outlet E1 , East Pit Extension Outlet E1, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042208 Permit Version: 1	Receiving Water: Tributary Of The Afon Llynfell Status: Revoked - Unspecified Issue date: 1/3/1988 Effective Date: 1/3/1988 Revocation Date: 4/4/1994
13D	25.0	N	273450, 212470	Address: East Pit Extension Outlet E1 , East Pit Extension Outlet E1, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042208 Permit Version: 2	Receiving Water: Tributary Of The Afon Llynfell Status: New Consent, By Application (wra 91, Section 88) Issue date: 5/4/1994 Effective Date: 5/4/1994 Revocation Date: -
14E	28.0	NW	273050, 213820	Address: East Pit Extension Outlet D1 , East Pit Extension Outlet D1, , Effluent Type: Unspecified Permit Number: BM0042206 Permit Version: 1	Receiving Water: Tributary Of The Afon Amman Status: Revoked - Unspecified Issue date: 1/3/1988 Effective Date: 1/3/1988 Revocation Date: 4/4/1994
15E	28.0	NW	273050, 213820	Address: East Pit Extension Outlet D1 , East Pit Extension Outlet D1, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042206 Permit Version: 2	Receiving Water: Tributary Of The Afon Amman Status: New Consent, By Application (wra 91, Section 88) Issue date: 5/4/1994 Effective Date: 5/4/1994 Revocation Date: -
16E	54.0	NW	273020, 213820	Address: East Pit Site Outlet D2 , East Pit Site Outlet D2, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042201 Permit Version: 2	Receiving Water: Tributary Of The Afon Amman Status: Revoked - Unspecified Issue date: 1/3/1988 Effective Date: 1/3/1988 Revocation Date: 4/4/1994
17E	54.0	NW	273020, 213820	Address: East Pit Site Outlet D2 , East Pit Site Outlet D2, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042201 Permit Version: 3	Receiving Water: Tributary Of The Afon Amman Status: New Consent, By Application (wra 91, Section 88) Issue date: 5/4/1994 Effective Date: 5/4/1994 Revocation Date: -
18E	54.0	NW	273020, 213820	Address: East Pit Site Outlet D2 , East Pit Site Outlet D2, , Effluent Type: Trade Discharges - Unspecified Permit Number: BM0042201 Permit Version: 1	Receiving Water: Tributary Of The Afon Amman Status: Revoked - Unspecified Issue date: 30/1/1985 Effective Date: 30/1/1985 Revocation Date: 29/2/1988
19	111.0	NW	273000, 213900	Address: Pengosto Opencast Site Point E (aba, Pengosto Opencast Site Point E (, Point E (abandoned) Effluent Type: Minewater Permit Number: BC0001405 Permit Version: 1	Receiving Water: River Amman Status: Consent Expired - Time Limit Issue date: 12/2/1966 Effective Date: 12/2/1966 Revocation Date: -
20	127.0	NE	273400, 213900	Address: Rhosamman Ps 2 , Rhosamman Ps 2, , Effluent Type: Unspecified Permit Number: BO5113801 Permit Version: 1	Receiving Water: River Amman Status: Consent Expired - Time Limit Issue date: - Effective Date: - Revocation Date: 14/3/1994
21	248.0	NW	272900, 214000	Address: Rhosamman 1 Ps Emerg , Rhosamman 1 Ps Emerg, , Effluent Type: Unspecified Permit Number: BO5113701 Permit Version: 1	Receiving Water: River Amman Status: Consent Expired - Time Limit Issue date: - Effective Date: - Revocation Date: 14/3/1994
22F	338.0	SE	274200, 212000	Address: Glen Colliery Gwryd Road Cwmllynfe, Glen Colliery Gwryd Road Cwmlly, Gwryd Road Cwmllynfell, Cwmllynfell, Cwmllynfell , Effluent Type: Trade Discharges - Unspecified Permit Number: BP0050901 Permit Version: 1	Receiving Water: Unnamed Tributary River Llynfe Status: Revoked - Unspecified Issue date: - Effective Date: - Revocation Date: 7/2/1993
23F	338.0	SE	274200, 212000	Address: Glen Colliery Gwryd Road Cwmllynfe, Glen Colliery Gwryd Road Cwmlly, Gwryd Road Cwmllynfell, Cwmllynfell, Cwmllynfell , Effluent Type: Trade Discharges - Unspecified Permit Number: BP0050901 Permit Version: 2	Receiving Water: Unnamed Tributary River Llynfe Status: Revoked - Unspecified Issue date: 8/2/1993 Effective Date: 8/2/1993 Revocation Date: 30/1/1995

24F	338.0	SE	274200, 212000	Address: Glen Colliery Gwryd Road Cwmllynfe, Glen Colliery Gwryd Road Cwmlly, Gwryd Road Cwmllynfell, Cwmllynfell, Cwmllynfell , Effluent Type: Trade Discharges - Unspecified Permit Number: BP0050901 Permit Version: 3	Receiving Water: Unnamed Tributary River Llynfe Status: Consent Expired - Time Limit Issue date: 31/1/1995 Effective Date: 31/1/1995 Revocation Date: 11/8/1995
25G	402.0	SE	274790, 212490	Address: Swo No 11 Nr Glanyrafon Cwmlly, Swo No 11 Nr Glanyrafon Cwmlly Effluent Type: Sewage Discharges - Sewer Storm Overflow - Water Company Permit Number: BW1404001 Permit Version: 1	Receiving Water: River Llynfell Status: New Consent, By Application (wra 91, Section 88) Issue date: - Effective Date: - Revocation Date: 7/9/2010
26G	402.0	SE	274790, 212490	Address: Swo No 11 Nr Glanyrafon Cwmlly, Swo No 11 Nr Glanyrafon Cwmlly Effluent Type: Sewage Discharges - Sewer Storm Overflow - Water Company Permit Number: BW1404001 Permit Version: 2	Receiving Water: Nant Llynfell Status: Varied Under Epr 2010 Issue date: 8/9/2010 Effective Date: 8/9/2010 Revocation Date: -
27	414.0	SE	274200, 211900	Address: Coedffaldau Chl.overflow, Coedffaldau Chl.overflow, Chl.overflow Effluent Type: Unspecified Permit Number: BP0176301 Permit Version: 1	Receiving Water: To Land Status: Consent Expired - Time Limit Issue date: 2/10/1989 Effective Date: 2/10/1989 Revocation Date: 14/3/1994

Records of Planning Hazardous Substance Consents and Enforcements within 500m of the study site: 0

Database searched and no data found.

2.2 Dangerous or Hazardous Sites

Records of COMAH & NIHHS sites within 500m of the study site: 0

Database searched and no data found.

2.3 Environment Agency Recorded Pollution Incidents

Records of National Incidents Recording System, List 2 within 250m of the study site: 0

Database searched and no data found.

Records of National Incidents Recording System, List 1 within 250m of the study site: 0

Database searched and no data found.

2.4 Sites Determined as Contaminated Land under Part IIA EPA 1990¹

How many records of sites determined as contaminated land under Section 78R of the Environmental Protection Act 1990 are there within 500m of the study site? 0

Database searched and no data found.

3. Landfill and Other Waste Sites Map

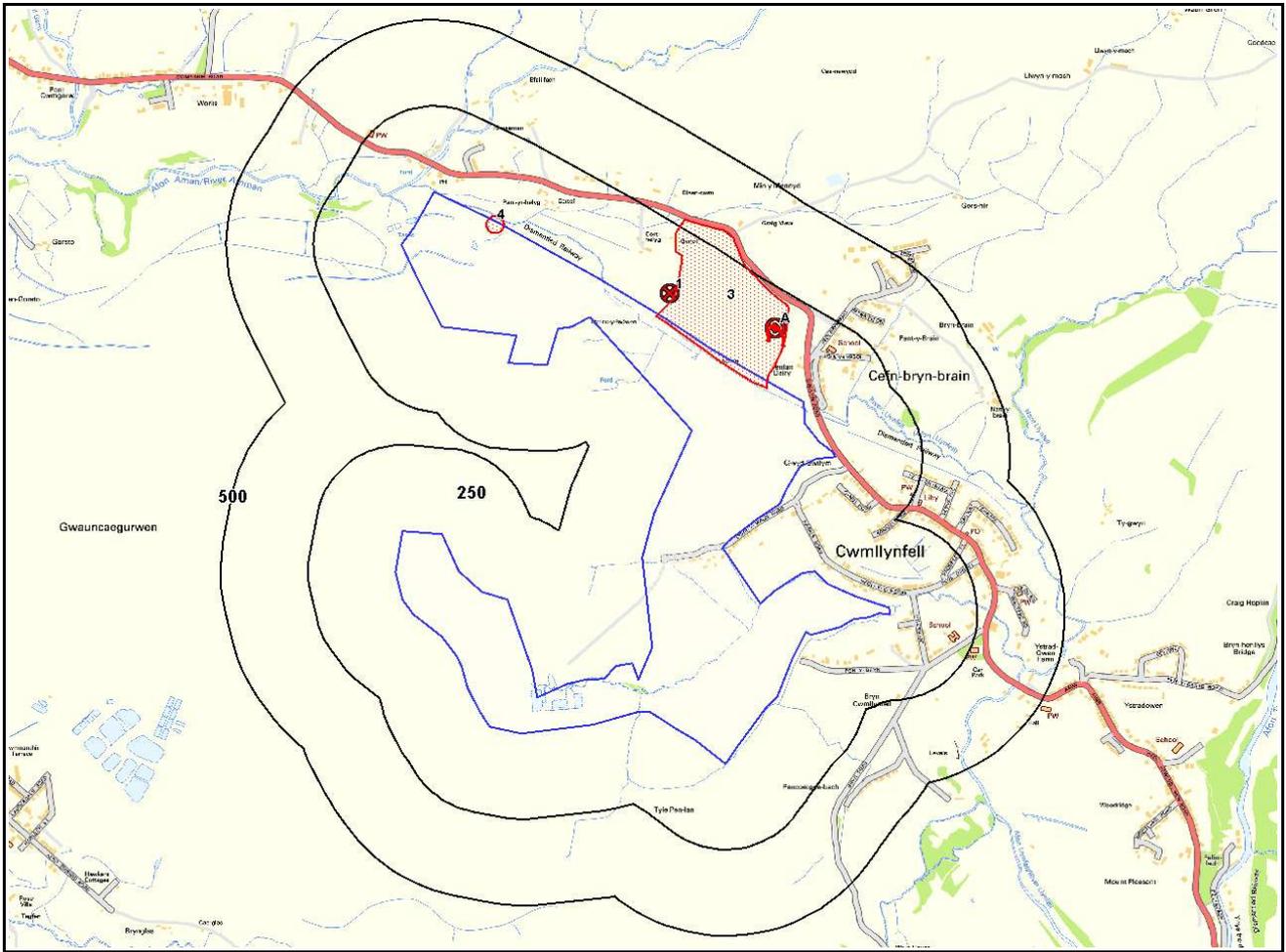
NW



NE

W

E



SW

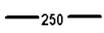
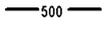


SE

Landfill & Other Waste Sites Legend



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-  Site Outline
-  250 Search Buffers (m)
-  500 Search Buffers (m)
-  E.A. Active Landfill
-  E.A. Historic Landfill (Area Data)
-  E.A. Historic Landfill (Point Data)
-  BGS / DoE Survey Landfill
-  Local Authority Landfill (Area Data)
-  Local Authority Landfill (Point Data)
-  Operational Waste Treatment Licence
-  Closed Waste Treatment Licence
-  REGIS Waste Licence
-  Operational Landfill
-  Closed Landfill

3. Landfill and Other Waste Sites

3.1 Landfill Sites

Records from Environment Agency landfill data within 1000m of the study site: 0

Database searched and no data found.

Records of operational landfill sites sourced from Landmark within 1000m of the study site: 0

Database searched and no data found.

Records of Environment Agency historic landfill sites within 1500m of the study site: 2

The following landfill records are represented as either points or polygons on the Landfill and Other Waste Sites map:

ID	Distance [m]	Direction	NGR	Details
3	0.0	On Site	273900, 213500	Site Address: Refuse Tip West of Cefn-bryn-brain, Cefn-bryn-brain, Cwmllynfell, Carmarthenshire Waste Licence: - Site Reference: - Waste Type: Inert, Industrial, Commercial, Household, Special, Regis Reference: - Licence Issue: - Licence Surrendered: - Licence Hold Address: - Operator: Llandeilo Rural District Council
4	0.0	On Site	273300, 213800	Site Address: Rhosamman, Pantyrhelyg Waste Licence: - Site Reference: - Waste Type: Industrial, Household, Regis Reference: - Licence Issue: - Licence Surrendered: - Licence Hold Address: - Operator: -

Records of non-operational landfill sites sourced from Landmark within 1000m of the study site: 1

The following landfill records are represented as points on the Landfill and Other Waste Sites map:

ID	Distance [m]	Direction	NGR	Details
1	69.0	NE	273800, 213600	Site Address: Brynbrain Waste Disp. Site, Ystradowen, Ystalyfera, SWANSEA, West Glamorgan, Landfill Licence: W2CADSAL Agency Reference: Waste Type: Difficult Waste Description: Difficult Landfill Known Restrictions: No known restriction on source of waste Record Date: 01-Jun-1977 Transfer Date: Modification Date: Status: Licence lapsed/cancelled/defunct/not applicable/surrendered Category: LANDFILL Regulator: EA - Welsh Region - South West Area (Swansea) Size: Undefined

Records of BGS/DoE non-operational landfill sites within 1500m of the study site: 1

The following landfill records are represented as points on the Landfill and Other Waste Sites map:

ID	Distance [m]	Direction	NGR	Details
2A	144.0	NE	274100, 213500	Address: Refuse Tip, Cefn Bryn, Brain, Carms BGS Number: 2588.0 Risk: No risk to aquifer Waste Type: N/A

Report Reference: 51000179079001

Records of Local Authority landfill sites within 1500m of the study site: 1

The following landfill records are represented as points or polygons on the Landfill and Other Waste Sites map:

ID	Distance [m]	Direction	Site Address	Source	Data Type
5A	101.0	NE	Refuse Tip	1961 mapping	Polygon

3.2 Other Waste Sites

Records of operational waste treatment, transfer or disposal sites within 500m of the study site: 0

Database searched and no data found.

Records of non-operational waste treatment, transfer or disposal sites within 500m of the study site: 0

Database searched and no data found.

Records of Environment Agency licensed waste sites within 1500m of the study site: 0

Database searched and no data found.

4. Current Land Use Map

NW

N

NE

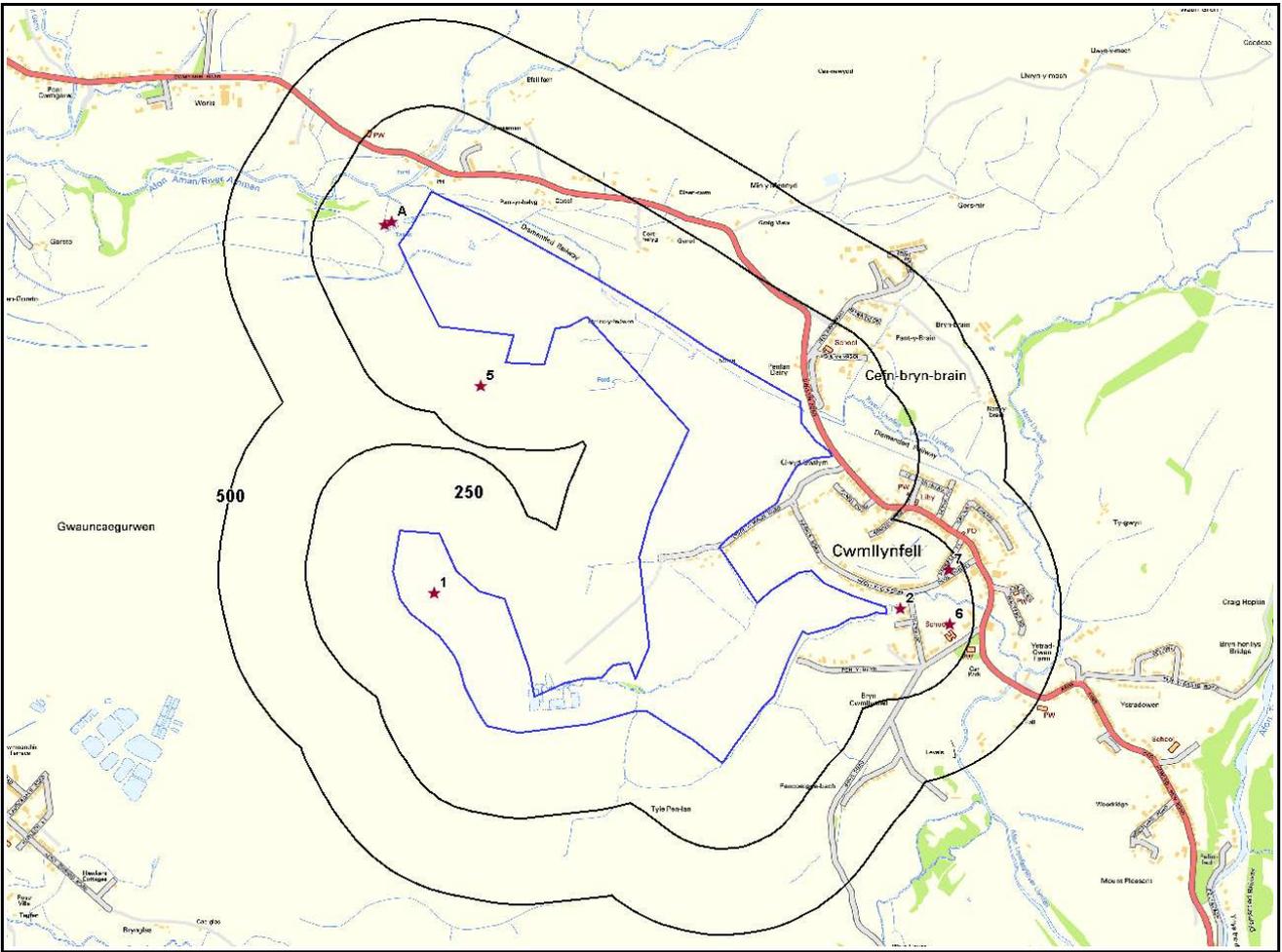
W

E

SW

S

SE



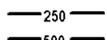
Current Land Use Legend



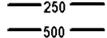
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 Site Outline

 Current Industrial Sites

 250 Search Buffers (m)

 Petrol & Fuel Sites

 500 Search Buffers (m)

 Underground High Pressure Oil & Fuel Pipelines

4. Current Land Uses

4.1 Current Industrial Data

Records of potentially contaminative industrial sites within 250m of the study site:

7

The following records are represented as points on the Current Land Uses map:

ID	Distance [m]	Direction	Company	Address	Activity	Category
1	0.0	On Site	Opencast Mine Workings	SA18	Unspecified Quarries Or Mines	Extractive Industries
2	40.0	E	Electricity Sub Station	SA9	Electrical Features	Infrastructure and Facilities
3A	54.0	NW	Tanks	SA18	Tanks (Generic)	Industrial Features
4A	66.0	NW	Tank	SA18	Tanks (Generic)	Industrial Features
5	98.0	SW	Opencast Mine Workings	SA18	Unspecified Quarries Or Mines	Extractive Industries
6	182.0	E	Electricity Sub Station	SA9	Electrical Features	Infrastructure and Facilities
7	209.0	NE	Electricity Sub Station	SA9	Electrical Features	Infrastructure and Facilities

4.2 Petrol and Fuel Sites

Records of petrol or fuel sites within 500m of the study site:

0

Database searched and no data found.

4.3 Underground High Pressure Oil and Gas Pipelines

Records of high pressure underground pipelines within 500m of the study site:

0

Database searched and no data found.

5. Geology

5.1 Artificial Ground and Made Ground

The database has been searched on site, including a 50m buffer.

LEX Code	Description	Rock Type
MGR-MGRD	MADE GROUND (UNDIVIDED)	ARTIFICIAL DEPOSIT
WGR-OPEN	WORKED GROUND (UNDIVIDED)	VOID
MGR-MGRD	MADE GROUND (UNDIVIDED)	ARTIFICIAL DEPOSIT
MGR-MGRD	MADE GROUND (UNDIVIDED)	ARTIFICIAL DEPOSIT

(Derived from the BGS 1:50,000 Digital Geological Map of Great Britain)

5.2 Superficial Ground and Drift Geology

The database has been searched on site, including a 50m buffer.

Lex Code	Description	Rock Type
GFDUD-SAGR	GLACIOFLUVIAL DEPOSITS, DEVENSIAN	SAND AND GRAVEL
PEAT-P	PEAT	PEAT
ALV-CSSG	ALLUVIUM	CLAY, SILT, SAND AND GRAVEL
TILLD-DMTN	TILL, DEVENSIAN	DIAMICTON
ALV-CSSG	ALLUVIUM	CLAY, SILT, SAND AND GRAVEL
PEAT-P	PEAT	PEAT
TILLD-DMTN	TILL, DEVENSIAN	DIAMICTON
PEAT-P	PEAT	PEAT

(Derived from the BGS 1:50,000 Digital Geological Map of Great Britain)

5.3 Bedrock and Solid Geology

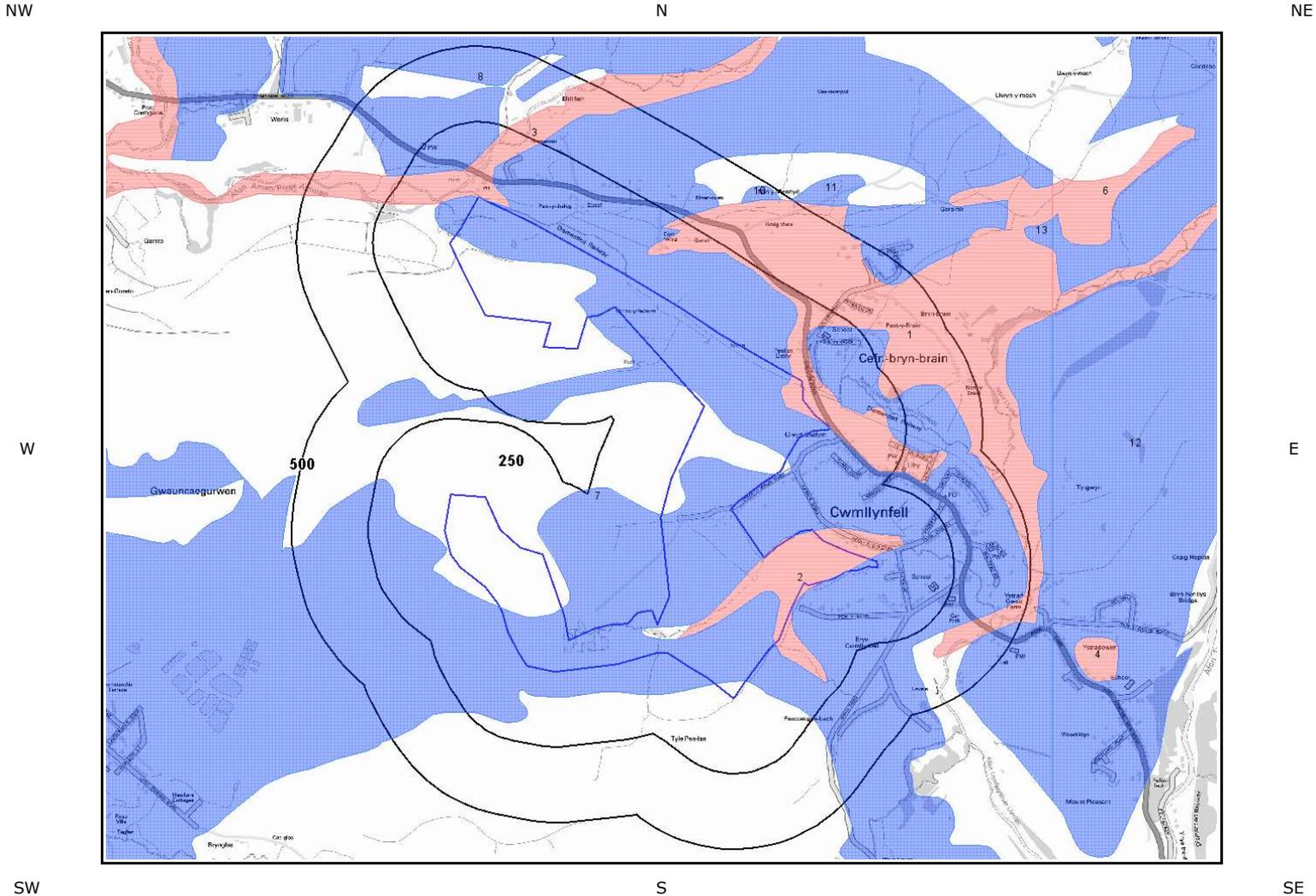
The database has been searched on site, including a 50m buffer.

LEX Code	Description	Rock Type
SWMCM-MDSS	SOUTH WALES MIDDLE COAL MEASURES FORMATION	MUDSTONE, SILTSTONE AND SANDSTONE
SWLCM-MDSS	SOUTH WALES LOWER COAL MEASURES FORMATION	MUDSTONE, SILTSTONE AND SANDSTONE
SWMCM-MDSS	SOUTH WALES MIDDLE COAL MEASURES FORMATION	MUDSTONE, SILTSTONE AND SANDSTONE
SWLCM-MDSS	SOUTH WALES LOWER COAL MEASURES FORMATION	MUDSTONE, SILTSTONE AND SANDSTONE

(Derived from the BGS 1:50,000 Digital Geological Map of Great Britain)

For more detailed geological and ground stability data please refer to the "GroundSure Geology and Ground Stability Report". Available from our website.

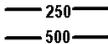
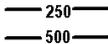
6a. Hydrogeology - Aquifer Within Superficial Geology



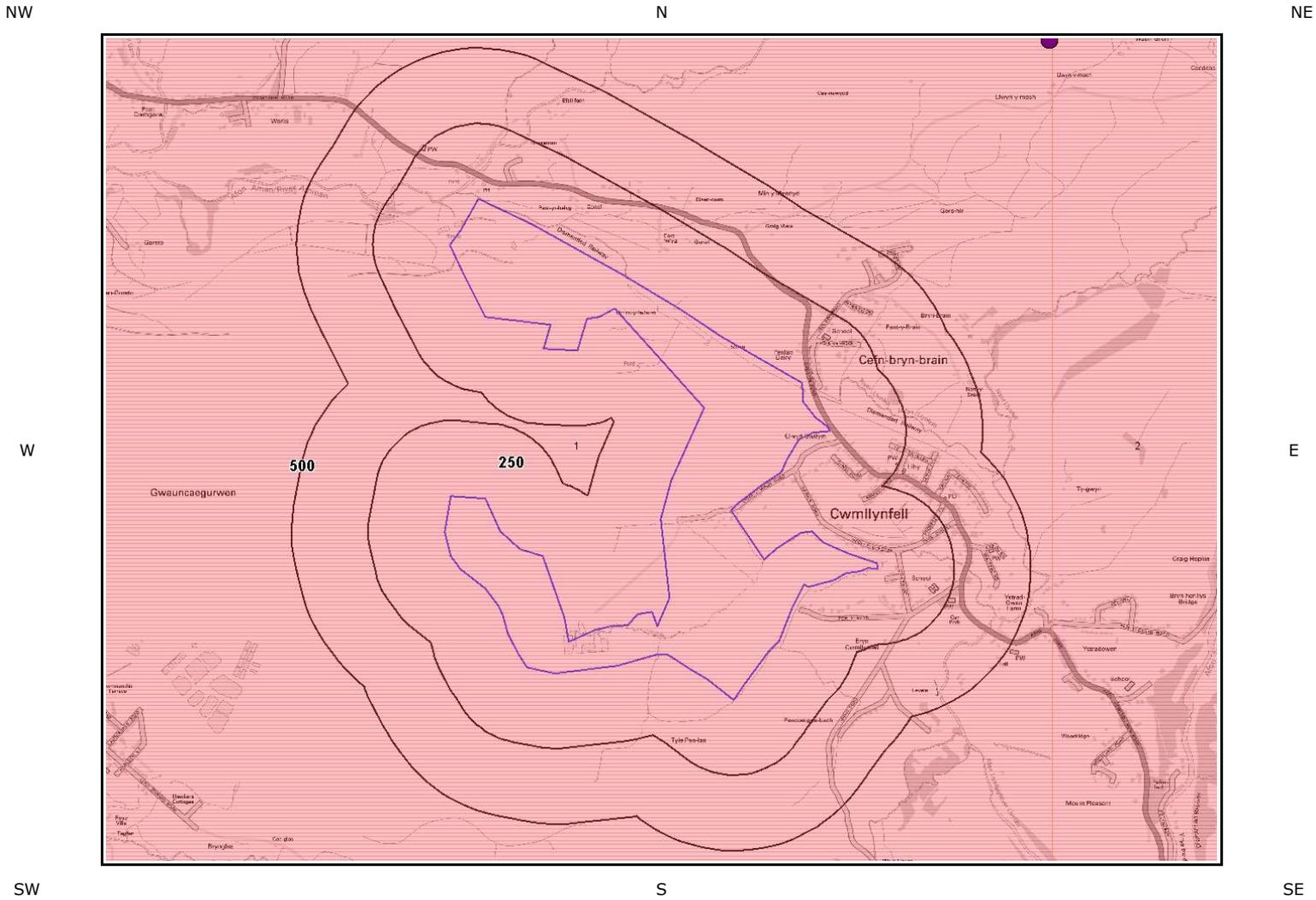
Aquifer Within Superficial Geology Legend



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	Site Outline		Principal Aquifer		Secondary Aquifer - Undifferentiated Layers
	Search Buffers (m)		Secondary (A) Aquifer - Permeable Layers		Unproductive
			Secondary (B) Aquifer - Lower Permeability Layers		Unknown (lakes and landslip)

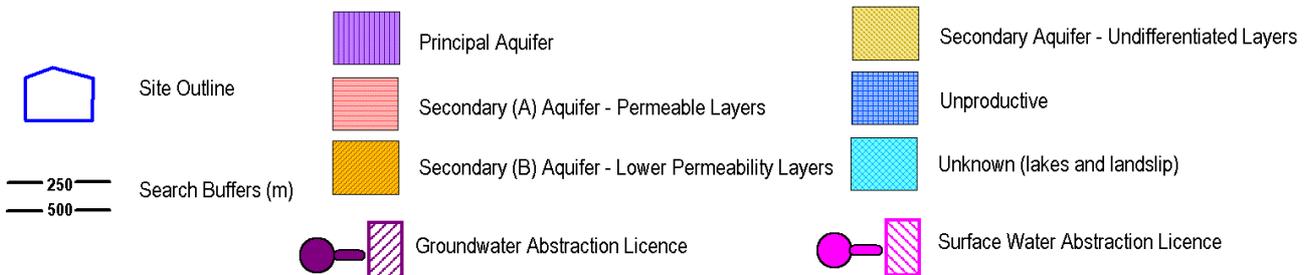
6b. Hydrogeology - Aquifer Within Bedrock Geology and Abstraction Licenses



Aquifer Within Bedrock Geology Legend



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6c. Hydrogeology – Source Protection Zones and Potable Water Abstraction Licenses

NW

N

NE

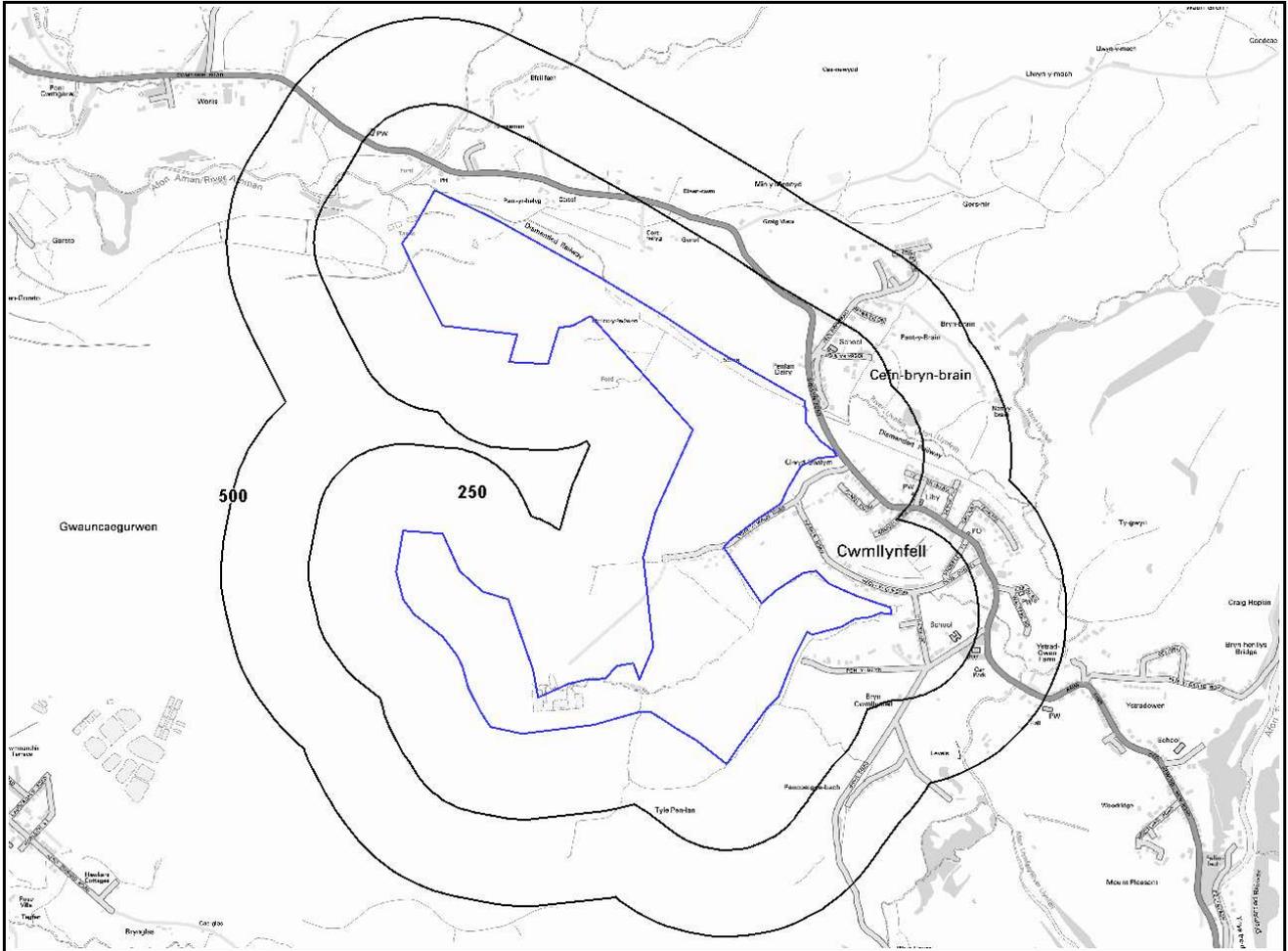
W

E

SW

S

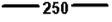
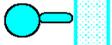
SE



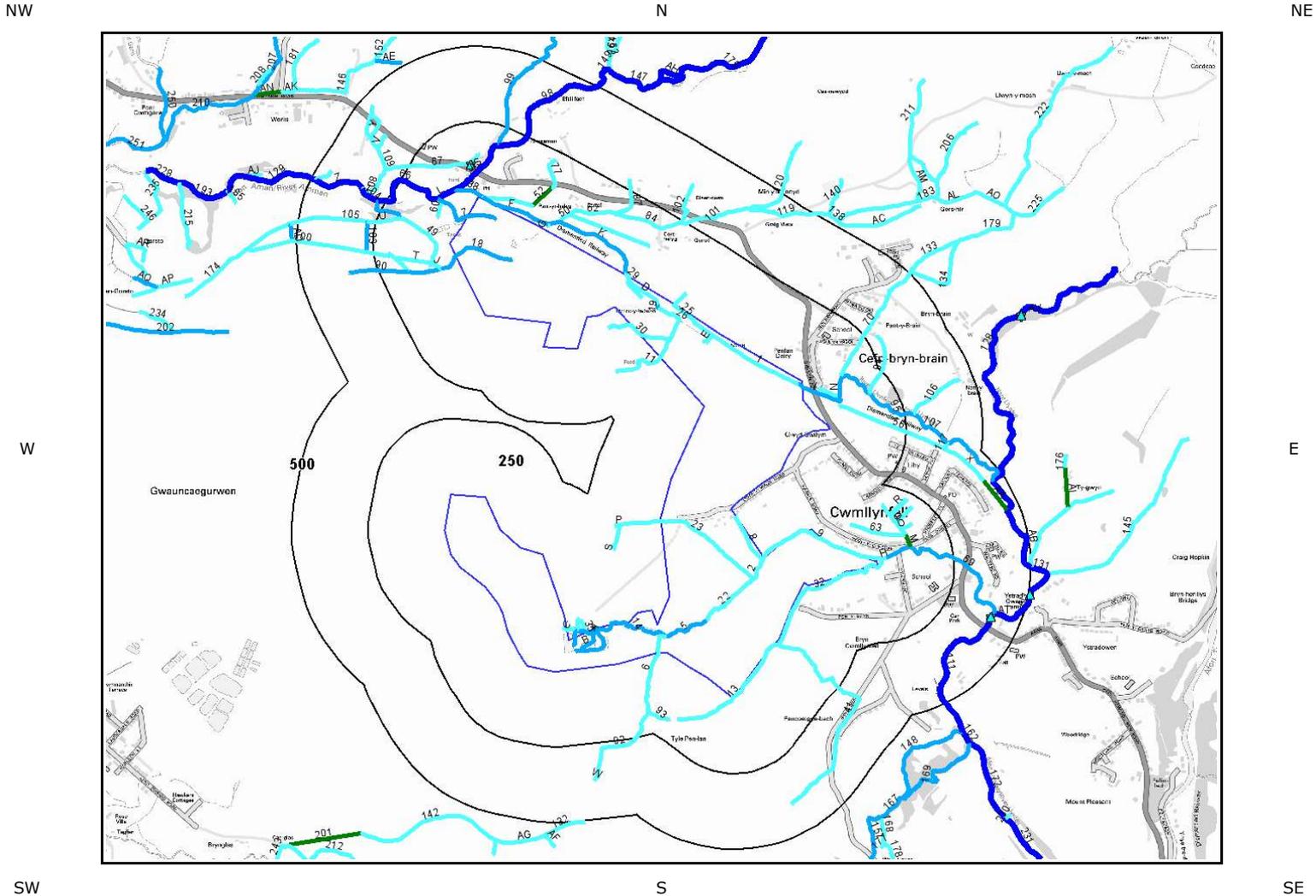
SPZ and Potable Water Abstraction Licenses Legend



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-  Site Outline
-  Source Protection Zone 1 - Inner Catchment
-  Source Protection Zone 2 - Outer Catchment
-  Source Protection Zone 3 - Total Catchment
-  Source Protection Zone 4 - Zone of Special Interest
-  250 Search Buffers (m)
-  500 Search Buffers (m)
-  Potable Water Abstraction Licence

6d. Hydrology – Detailed River Network and River Quality



Hydrology Legend

-  Site Outline
-  250 Search Buffers (m)
-  500 Search Buffers (m)
-  Primary River
-  Secondary River
-  Tertiary River
-  Lake/Reservoir
-  Underground River (inferred)
-  General Quality Assessment: Chemistry
-  Canal
-  Canal Tunnel
-  Extended Culvert (greater than 50m)
-  D/S of High Water Mark
-  D/S seaward extension
-  General Quality Assessment: Biology



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6. Hydrogeology and Hydrology

6.1 Aquifer within Superficial Deposits

Are there records of productive strata within the superficial geology at or in proximity to the property? **Yes**

From 1 April 2010, the Environment Agency's Groundwater Protection Policy has been using aquifer designations consistent with the Water Framework Directive. For further details on the designation and interpretation of this information, please refer to the GroundSure User Guide.

The following aquifer records are shown on the Aquifer within Superficial Geology Map (6a):

ID	Distance [m]	Direction	Designation	Description
1	0.0	On Site	Secondary A	Permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers. These are generally aquifers formerly classified as minor aquifers
2	0.0	On Site	Secondary A	Permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers. These are generally aquifers formerly classified as minor aquifers
3	0.0	On Site	Secondary A	Permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers. These are generally aquifers formerly classified as minor aquifers
7	0.0	On Site	Unproductive	These are rock layers or drift deposits with low permeability that have negligible significance for water supply or river base flow
8	102.0	NW	Unproductive	These are rock layers or drift deposits with low permeability that have negligible significance for water supply or river base flow
9	392.0	SE	Unproductive	These are rock layers or drift deposits with low permeability that have negligible significance for water supply or river base flow
10	400.0	NE	Unproductive	These are rock layers or drift deposits with low permeability that have negligible significance for water supply or river base flow
11	496.0	NE	Unproductive	These are rock layers or drift deposits with low permeability that have negligible significance for water supply or river base flow

6.2 Aquifer within Bedrock Deposits

Are there records of productive strata within the bedrock geology at or in proximity to the property? **Yes**

From 1 April 2010, the Environment Agency's Groundwater Protection Policy has been using aquifer designations consistent with the Water Framework Directive. For further details on the designation and interpretation of this information, please refer to the GroundSure User Guide.

The following aquifer records are shown on the Aquifer within Bedrock Geology Map (6b):

ID	Distance [m]	Direction	Designation	Description
1	0.0	On Site	Secondary A	Permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers. These are generally aquifers formerly classified as minor aquifers

6.3 Groundwater Abstraction Licences

Are there any Groundwater Abstraction Licences within 1000m of the study site?

No

Database searched and no data found.

6.4 Surface Water Abstraction Licences

Are there any Surface Water Abstraction Licences within 1000m of the study site?

No

Database searched and no data found.

6.5 Potable Water Abstraction Licences

Are there any Potable Water Abstraction Licences within 2000m of the study site?

No

Database searched and no data found.

6.6 Source Protection Zones

Are there any Source Protection Zones within 500m of the study site?

No

Database searched and no data found.

6.7 River Quality

Is there any Environment Agency information on river quality within 1500m of the study site?

Yes

Biological Quality:

Biological Quality data describes water quality in terms of 83 groups of macroinvertebrates, some of which are pollution sensitive. The results are graded from A ('Very Good') to F ('Bad').

The following Biological Quality records are shown on the Hydrology Map (6d):

ID	Distance [m]	Direction	NGR	River Details	Biological Quality Grade				
					2005	2006	2007	2008	2009
255AS	109.0	N	273100, 214000	River Name: Amman Reach: Conf. Nant Garw - Rhosaman R.b. End/Start of Stretch: Start of Stretch NGR	B	B	B	B	B
256AT	407.0	SE	274800, 212500	River Name: Llynfell Reach: Conf Twrch-conf Unnamed Stream Sn748125 End/Start of Stretch: Start of Stretch NGR	C	C	A	A	A

Report Reference: 51000179079001

257AT	407.0	SE	274800, 212500	River Name: Llynfell Reach: Conf Unnamed Stream - Brynbrain End/Start of Stretch: End of Stretch NGR	B	B	B	B	A
258AV	728.0	NE	274900, 213500	River Name: Llynfell Reach: Conf Unnamed Stream - Brynbrain End/Start of Stretch: Start of Stretch NGR	B	B	B	B	A
Not shown	1355.0	W	271700, 214000	River Name: Amman Reach: Conf.nant Pedol - Conf.nant Garw End/Start of Stretch: Start of Stretch NGR	B	B	B	B	B
Not shown	1355.0	W	271700, 214000	River Name: Amman Reach: Conf. Nant Garw - Rhosaman R.b. End/Start of Stretch: End of Stretch NGR	B	B	B	B	B

Chemical Quality:

Chemical quality data is based on the General Quality Assessment Headline Indicators scheme (GQAH). In England, each chemical sample is measured for ammonia and dissolved oxygen. In Wales, the samples are measured for biological oxygen demand (BOD), ammonia and dissolved oxygen. The results are graded from A ('Very Good') to F ('Bad').

The following Chemical Quality records are shown on the Hydrology Map (6d):

ID	Distance [m]	Direction	NGR	River Details	Chemical Quality Grade (Headline Indicator)				
					2005	2006	2007	2008	2009
261A S	109.0	N	273100, 214000	River Name: Amman Reach: Conf. Nant Garw - Rhosaman R.b. End/Start of Stretch: Start of Stretch NGR	A	A	A	A	-
262AT	407.0	SE	274800, 212500	River Name: Llynfell Reach: Conf Twrch-conf Unnamed Stream Sn748125 End/Start of Stretch: Start of Stretch NGR	A	A	A	A	-
263AT	407.0	SE	274800, 212500	River Name: Llynfell Reach: Conf Unnamed Stream - Brynbrain End/Start of Stretch: End of Stretch NGR	A	A	A	A	-
264A U	506.0	E	274927, 212574	River Name: Llynfell Reach: Conf Unnamed Stream - Brynbrain End/Start of Stretch: Sample Point NGR	A	A	A	A	-
265A V	728.0	NE	274900, 213500	River Name: Llynfell Reach: Conf Unnamed Stream - Brynbrain End/Start of Stretch: Start of Stretch NGR	A	A	A	A	-
Not shown	1355.0	W	271700, 214000	River Name: Amman Reach: Conf.nant Pedol - Conf.nant Garw End/Start of Stretch: Start of Stretch NGR	A	A	A	A	-
Not shown	1355.0	W	271700, 214000	River Name: Amman Reach: Conf. Nant Garw - Rhosaman R.b. End/Start of Stretch: End of Stretch NGR	A	A	A	A	-

6.8 Detailed River Network

Are there any Detailed River Network entries within 500m of the study site?

Yes

Report Reference: 51000179079001

The following Detailed River Network records are represented on the Hydrology Map (6d):

ID	Distance	Direction	Details		
1	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
2	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
3A	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO	Main River Status: Currently Undefined
4B	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO	Main River Status: Currently Undefined
5	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO	Main River Status: Currently Undefined
6	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
7	0.0	On Site	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: YES	Main River Status: Currently Undefined
8	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
9	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
10E	0.0	On Site	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES	Main River Status: Currently Undefined
11	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
12D	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
13	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
14	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO	Main River Status: Currently Undefined
15A	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO	Main River Status: Currently Undefined
16B	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO	Main River Status: Currently Undefined
17C	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO	Main River Status: Currently Undefined
18	0.0	On Site	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: YES	Main River Status: Currently Undefined

19	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
20I	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
21C	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
22	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
23	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
24D	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
25	0.0	On Site	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
26	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
27E	0.0	On Site	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
28E	0.0	On Site	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
29	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
30	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
31B	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
32	0.0	On Site	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
33F	2.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
34B	2.0	N	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
35	2.0	N	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
36K	4.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
37F	7.0	NE	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
38	7.0	NE	River Name: Amman Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined

39G	13.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
40B	14.0	N	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
41	14.0	SE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
42H	16.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
43C	20.0	N	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
44C	20.0	N	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
45G	22.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
46C	24.0	N	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
47C	24.0	N	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
48H	34.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
49	44.0	W	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
50	45.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
51I	49.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
52	53.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Extended Culvert (greater than 50m) Catchment: - Drain: NO Main River Status: Currently Undefined
53J	62.0	SW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
54J	62.0	SW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
55AS	64.0	NW	River Name: Amman Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
56	70.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
57L	80.0	NW	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: YES Main River Status: Currently Undefined
58J	81.0	SW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined

59T	81.0	SW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
60	82.0	NW	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
61K	85.0	NE	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
62	85.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
63	86.0	NE	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
64N	94.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
65L	97.0	NW	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: YES Main River Status: Currently Undefined
66	113.0	NW	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: YES Main River Status: Currently Undefined
67	118.0	N	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
68M	120.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Extended Culvert (greater than 50m) Catchment: - Drain: NO Main River Status: Currently Undefined
69	120.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
70	128.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
71M	128.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
72N	130.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
73O	132.0	NE	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
74O	132.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
75P	134.0	W	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
76P	134.0	W	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
77	134.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
78Q	141.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined

79Q	141.0	NE	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
80P	145.0	W	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
81P	145.0	W	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
82Q	157.0	N	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
83Q	157.0	N	River Name: Drains Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
84	157.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
85R	160.0	N	River Name: Drains Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
86R	160.0	N	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
87	160.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
88S	161.0	W	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
89S	161.0	W	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
90	162.0	SW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
91T	162.0	SW	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
92	167.0	S	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
93	167.0	S	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
94	171.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
95	171.0	NE	River Name: Llynfell Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
96U	182.0	NW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
97U	182.0	NW	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: YES Main River Status: Currently Undefined
98	185.0	N	River Name: River Amman Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined

99	185.0	N	River Name: Nant Fydd Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
100	201.0	W	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
101	243.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
102	243.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
103	271.0	W	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: YES Main River Status: Currently Undefined
104	271.0	NW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
105	278.0	W	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
106	278.0	E	River Name: Llynfell Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
107	278.0	E	River Name: (Afon Llynfell) Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined
108	299.0	NW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
109	307.0	NW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
110Z	338.0	NW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
111	354.0	SE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
112V	365.0	NW	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
113W	366.0	S	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
114V	368.0	NW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
115W	368.0	S	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
116X	379.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
117	379.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
118X	387.0	E	River Name: Llynfell Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Secondary River Catchment: - Drain: NO Main River Status: Currently Undefined

119	395.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
120	395.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
121Y	397.0	NW	River Name: Drain Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: YES Main River Status: Currently Undefined
122Y	397.0	NW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
123A U	413.0	E	River Name: (Afon Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
124A A	438.0	NE	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Extended Culvert (greater than 50m) Catchment: - Drain: NO Main River Status: Currently Undefined
125Z	452.0	NW	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined
126A B	457.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
127A A	458.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
128	462.0	NE	River Name: Llynfell Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
129	484.0	NW	River Name: River Amman Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Primary River Catchment: - Drain: NO Main River Status: Currently Undefined
130A B	500.0	E	River Name: - Water Course Name: - Welsh River Name: - Alternative Name: -	River Type: Tertiary River Catchment: - Drain: NO Main River Status: Currently Undefined

6.9 Surface Water Features

Are there any surface water features within 250m of the study site?

Yes

The following surface water records are not represented on mapping:

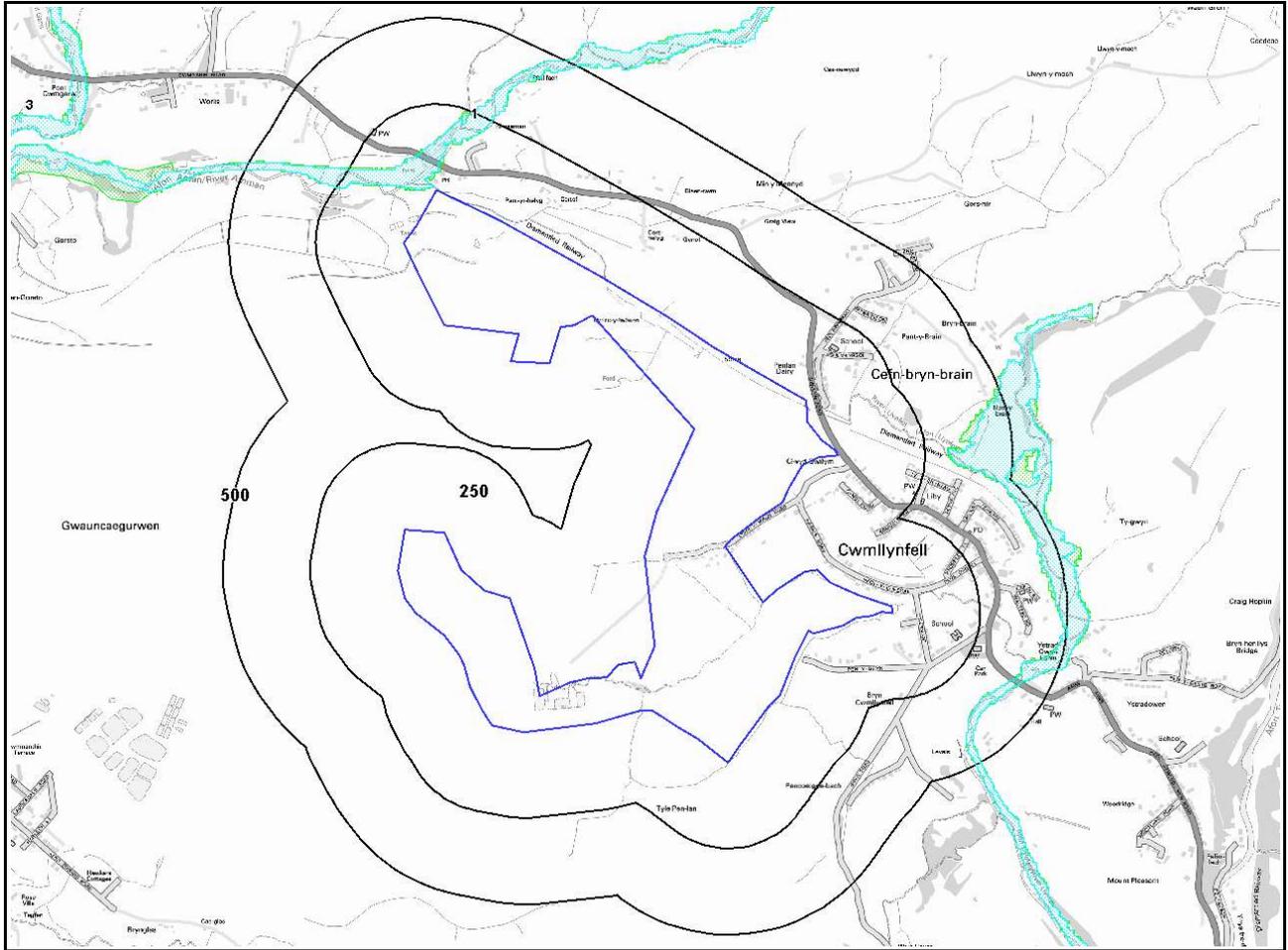
Distance to Surface Water (m)	on-site	0-50	51-250
Surface water features within 250m of the study site	Yes	Yes	Yes

7. River and Tidal Flood Map

NW



NE



W

E

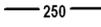
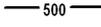
SW



SE

River and Tidal Flood Legend


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-  Site Outline
-  250 Search Buffers (m)
-  500 Search Buffers (m)
-  Zone 2 Floodplain
-  Zone 3 Floodplain
-  Flood Storage Area
-  Area Benefiting from Flood Defences
-  Flood Defences

7. Flooding

7.1 Zone 2 Flooding

Zone 2 floodplain estimates the annual probability of flooding as one in one thousand (0.1%) or greater from rivers and the sea but less than 1% from rivers or 0.5% from the sea. Alternatively, where information is available they may show the highest known flood level.

Is the site within 250m of an Environment Agency indicative Zone 2 floodplain? **Yes**

Guidance: More detailed information on flooding may be available by ordering a GroundSure Floodview report. Please contact GroundSure for further details.

The following floodplain records are represented as green shading on the Flood Map:

ID	Distance [m]	Direction	Update	Type
1	15.0	NW	03-Oct-2012	Zone 2 - (Fluvial Models)

7.2 Zone 3 Flooding

Zone 3 estimates the annual probability of flooding as one in one hundred (1%) or greater from rivers and a one in two hundred (0.5%) or greater from the sea. Alternatively, where information is available they may show the highest known flood level.

Is the site within 250m of an Environment Agency indicative Zone 3 floodplain? **Yes**

Guidance: More detailed information on flooding may be available by ordering a GroundSure Floodview report. Please contact GroundSure for further details.

The following floodplain records are represented as blue shading on the Flood Map:

ID	Distance [m]	Direction	Update	Type
3	15.0	NW	03-Oct-2012	Zone 3 - (Fluvial Models)

7.3 Flood Defences

Are there any Flood Defences within 250m of the study site ? **No**

7.4 Areas benefiting from Flood Defences

Are there any areas benefiting from Flood Defences within 250m of the study site? **No**

Guidance: More detailed information on flooding may be available by ordering a GroundSure Floodview report. Please contact GroundSure for further details.

7.5 Areas used for Flood Storage

Are there any areas used for Flood Storage within 250m of the study site? **No**

Report Reference: 51000179079001

Guidance: More detailed information on flooding may be available by ordering a GroundSure Floodview report. Please contact GroundSure for further details.

7.6 Groundwater Flooding Susceptibility Areas

Are there any British Geological Survey groundwater flooding susceptibility flood areas within 50m of the boundary of the study site?

Yes

What is the highest susceptibility to groundwater flooding in the search area based on the underlying geological conditions?

Very High

Guidance:

Where very high susceptibility is indicated, this means that given the geological conditions in the area groundwater flooding hazard should be considered in all land-use planning decisions. It is recommended that other relevant information e.g. records of previous incidence of groundwater flooding, rainfall, property type, and land drainage information be investigated in order to establish relative, but not absolute, risk of groundwater flooding.

7.7 Groundwater Flooding Confidence Areas

What is the British Geological Survey confidence rating in this result?

High

Notes:

Groundwater flooding is defined as the emergence of groundwater at the ground surface or the rising of groundwater into man-made ground under conditions where the normal range of groundwater levels is exceeded.

The **confidence rating** is on a threefold scale - Low, Moderate and High. This provides a relative indication of the BGS confidence in the accuracy of the susceptibility result for groundwater flooding. This is based on the amount and precision of the information used in the assessment. In areas with a relatively lower level of confidence the susceptibility result should be treated with more caution. In other areas with higher levels of confidence the susceptibility result can be used with more confidence.

8. Designated Environmentally Sensitive Sites Map

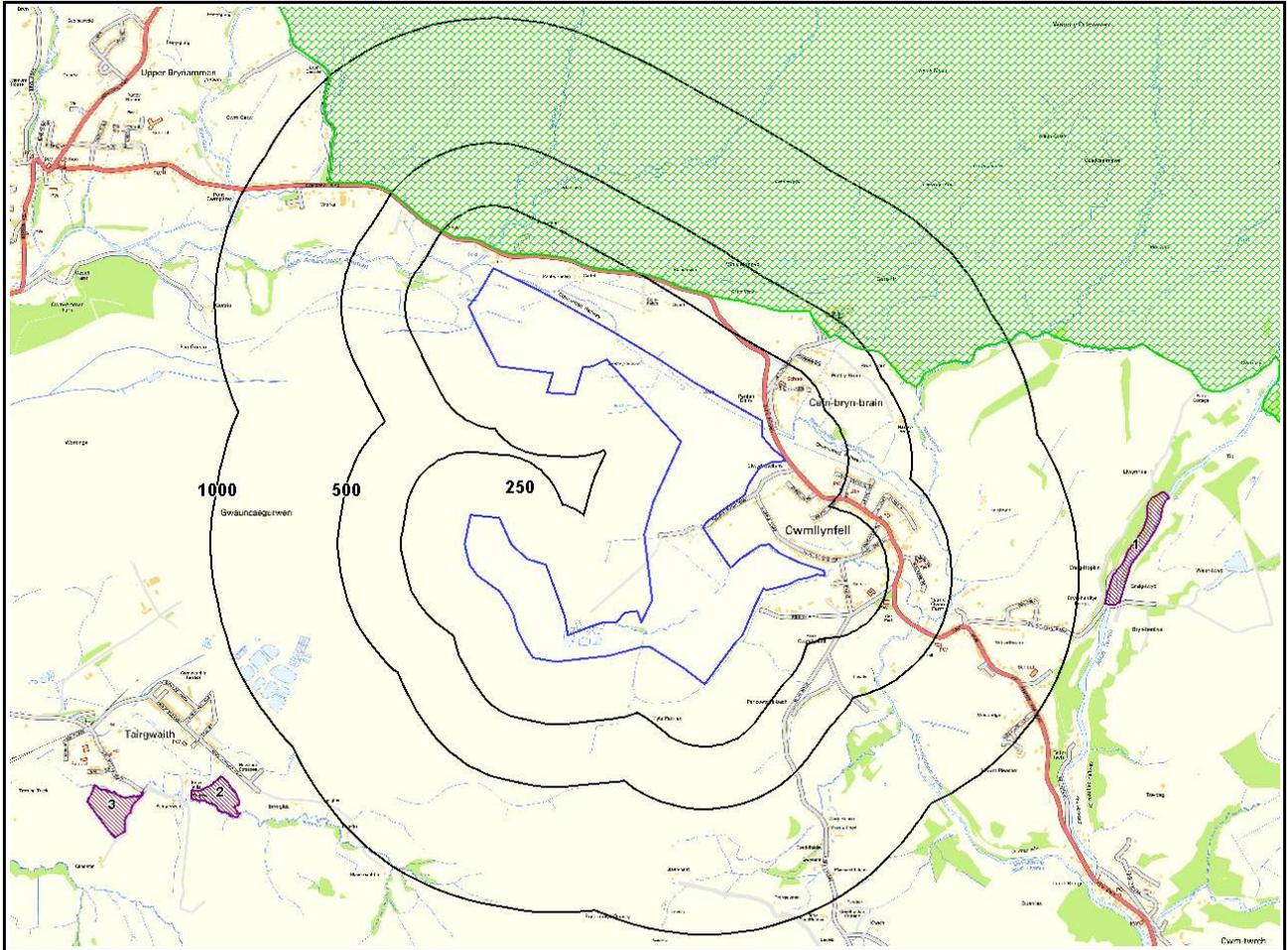
NW



NE

W

E



SW



SE

Designated Environmentally Sensitive Sites Legend



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- Site Outline
- SAC
- SSSI
- NNR
- World Heritage Sites
- Search Buffers (m)
- SPA
- Ramsar
- LNR
- Environmentally Sensitive Areas
- Areas of Outstanding Natural Beauty
- Nitrate Sensitive Areas
- National Parks

8. Designated Environmentally Sensitive Sites

Presence of Designated Environmentally Sensitive Sites within 2000m of the study site: **Yes**

Records of Sites of Special Scientific Interest (SSSI) within 2000m of the study site: **3**

The following Site of Special Scientific Interest (SSSI) records provided by Natural England/Countryside Council for Wales and Scottish Natural Heritage are represented as polygons on the Designated Environmentally Sensitive Sites Map:

ID	Distance [m]	Direction	SSSI Name	Data Source
1	1110.0	E	Cwm Twrch	CCW
2	1282.0	SW	Tairgwaith	CCW
3	1568.0	SW	Tairgwaith	CCW

Records of National Nature Reserves (NNR) within 2000m of the study site: **0**

Database searched and no data found.

Records of Special Areas of Conservation (SAC) within 2000m of the study site: **0**

Database searched and no data found.

Records of Special Protection Areas (SPA) within 2000m of the study site: **0**

Database searched and no data found.

Records of Ramsar sites within 2000m of the study site: **0**

Database searched and no data found.

Records of Local Nature Reserves (LNR) within 2000m of the study site: **0**

Database searched and no data found.

Records of World Heritage Sites within 2000m of the study site: **0**

Database searched and no data found.

Records of Environmentally Sensitive Areas within 2000m of the study site: **0**

Database searched and no data found.

Records of Areas of Outstanding Natural Beauty (AONB) within 2000m of the study site: **0**

Database searched and no data found.

Report Reference: [51000179079001](#)

Records of National Parks (NP) within 2000m of the study site:**1**

The following National Park (NP) records provided by Natural England/Countryside Council for Wales and Scottish Natural Heritage are represented as polygons on the Designated Environmentally Sensitive Sites Map:

ID	Distance [m]	Direction	NP Name	Data Source
4	77.0	N	Brecon Beacons	Countryside Council for Wales

Records of Nitrate Sensitive Areas within 2000m of the study site:**0**

Database searched and no data found.

9. Additional Information

9.1 Mobile Phone Transmitter Locations

GroundSure's unique mobile phone transmitter database.

Have any mobile phone transmitters been identified within 250m of the study site? No

Database searched and no data found.

9.2 Existing and potential OfCom Telecommunication Mast Locations

OfCom telecommunication base station and mast data, which details the height and proposed location of masts over 30 metres in height or with a power level exceeding 17dBW.

Have any OfCom telecommunication masts been identified within 250m of the study site? No

Database searched and no data found.

9.3 Pylons and Electricity Transmission Lines

Have any overhead transmission lines or pylons been identified in proximity to the study site? No

Database searched and no data found.

Guidance:None required.

10. Natural Hazards Findings

10.1 Detailed BGS GeoSure Data

BGS GeoSure Data has been searched to 50m. The data is included in tabular format. If you require further information, please obtain a GroundSure Geology and Ground Stability Report. Available from our website. The following information has been found:

10.1.1 Shrink Swell

What is the maximum Shrink-Swell* hazard rating identified on the study site? Very Low

The following natural subsidence information provided by the British Geological Survey is not represented on mapping:

Hazard

Ground conditions predominantly low plasticity. No special actions required to avoid problems due to shrink-swell clays. No special ground investigation required, and increased construction costs or increased financial risks are unlikely due to potential problems with shrink-swell clays.

10.1.2 Landslides

What is the maximum Landslide* hazard rating identified on the study site? Moderate

The following natural subsidence information provided by the British Geological Survey is not represented on mapping:

Hazard

Significant potential for slope instability with relatively small changes in ground conditions. Avoid large amounts of water entering the ground through pipe leakage or soak-aways. Do not cut or place large amounts of material on slopes without technical advice. For new build consider the potential and consequences of ground movement during excavations, or consequence of changes to loading or drainage. For existing property probable increase in insurance risk is likely due to potential natural slope instability after changes to ground conditions such as a very long, excessively wet winter.

10.1.3 Soluble Rocks

What is the maximum Soluble Rocks* hazard rating identified on the study site? Null - Negligible

Soluble rocks are not present in the search area. No special actions required to avoid problems due to soluble rocks. No special ground investigation required, and increased construction costs or increased financial risks are unlikely due to potential problems with soluble rocks.

10.1.4 Compressible Ground

What is the maximum Compressible Ground* hazard rating identified on the study site? High

The following natural subsidence information provided by the British Geological Survey is not represented on mapping:

Hazard

Very significant potential for compressibility problems. Avoid large differential loadings of ground. Do not drain or de-water ground near the property without technical advice. For new build consider possibility of compressible ground in ground investigation, construction and building design. Consider effects of groundwater changes. Construction may not be possible at economic cost. For existing property probable increase in insurance risk from compressibility especially if water conditions or loading of the ground change significantly.

Report Reference: 51000179079001

10.1.5 Collapsible Rocks

What is the maximum Collapsible Rocks* hazard rating identified on the study site? **Very Low**

The following natural subsidence information provided by the British Geological Survey is not represented on mapping:

Hazard

Deposits with potential to collapse when loaded and saturated are unlikely to be present. No special ground investigation required or increased construction costs or increased financial risk due to potential problems with collapsible deposits.

10.1.6 Running Sand

What is the maximum Running Sand* hazard rating identified on the study site? **Low**

The following natural subsidence information provided by the British Geological Survey is not represented on mapping:

Hazard

Possibility of running sand problems after major changes in ground conditions. Normal maintenance to avoid leakage of water-bearing services or water bodies (ponds, swimming pools) should reduce likelihood of problems due to running sand. For new build consider possibility of running sand into trenches or excavations if water table is high or sandy strata are exposed to water. Avoid concentrated water inputs to site. Unlikely to be an increase in construction costs due to potential for running sand. For existing property no significant increase in insurance risk due to running sand problems is likely.

* This indicates an automatically generated 50m buffer and site.

10.2 Radon

What is the maximum radon potential at the study site?
The property is in a Radon Affected Area, as between 3 and 5% of properties are above the Action Level

Is the property in an area where radon protection measures are required for new properties or extensions to existing ones as described in publication BR211 by the Building Research Establishment?
Basic radon protective measures are necessary

Guidance: The responses given on the level of radon protective measures required are based on a joint radon potential dataset from the Health Protection Agency (HPA) and the British Geological Survey (BGS). Basic radon protective measures need to be installed for new dwellings or extensions to existing dwellings, where between 3% but less than 10% of homes are estimated to exceed the Action Level. The joint HPA-BGS radon potential data forms the basis for the Building Research Establishment guidance on radon protective measures for new dwellings (BR211 2007).

11. Non CON29M Mining Information

11.1 Coal Mining

Are there any coal mining areas within 75m of the study site?

Yes

A Coal Authority CON29M Coal Mining and Brine Subsidence Claim Report is provided in Appendix 1 at the end of this report.

11.2 Shallow Mining

What is the hazard of subsidence relating to shallow mining on site (including a 150m buffer) ?

Low-Moderate

Guidance: Where low-moderate potential is indicated, this means that the rocks underlying the area are of a type known to have been mined at shallow depth in some parts of the UK, and that such working may be possible in your area. In these cases it is recommended that you seek further advice from a Royal Institute Chartered Surveyor (RICS), the local Building Control Officer, or by ordering a Geological Report from the BGS. It is also recommended that you obtain a Coal Authority mining search, which will provide a comprehensive search of former mining activity, including coal mining at deeper levels.

11.3 Brine Affected Areas

Are there any brine affected areas within 75m of the study site?

No

A Coal Authority CON29M Coal Mining and Brine Subsidence Claim Report is provided in Appendix 1 at the end of this report.

12. Contacts

The Coal Authority Property Search Services

200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire,
NG18 4RG

Email: groundstability@coal.gov.uk

Web: www.groundstability.com



British Geological Survey (England & Wales)

Kingsley Dunham Centre
Keyworth, Nottingham NG12 5GG
Tel: 0115 936 3143. Fax: 0115 936 3276. Email:

enquiries@bgs.ac.uk

Web: www.bgs.ac.uk

BGS Geological Hazards Reports and general geological enquiries



Environment Agency

Tel: 08708 506 506

South West

Maes Newydd - Llandarcy, Port Talbot, SA10 6JQ

Web: www.environment-agency.gov.uk

Email: enquiries@environment-agency.gov.uk



Health Protection Agency

Chilton, Didcot, Oxon, OX11 0RQ

Tel: 01235 822622 www.hpa.org.uk/radiation

Radon measures and general radon information and guidance



The Coal Authority

200 Lichfield Lane, Mansfield, Notts NG18 4RG

Tel: 0845 762 6848. DX 716176 Mansfield 5

www.groundstability.com

Coal mining reports and related enquiries



Ordnance Survey

Romsey Road
Southampton SO16 4GU

Tel: 08456 050505



Local Authority

Authority: Carmarthenshire County Council

Phone: 01267 234567

Web: www.sirgaerfyrddin.gov.uk

Address: County Hall, Carmarthen, Carmarthenshire, SA31 1JP

Get Mapping PLC

Virginia Villas, High Street, Hartley Witney, Hampshire RG27 8NW

Tel: 01252 845444



Acknowledgements

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- sets out minimum standards which firms compiling and selling search reports have to meet
- promotes the best practice and quality standards within the industry for the benefit of consumers and property professionals
- enables consumers and property professionals to have confidence in firms which subscribe to the code, their products and services.

By giving you this information, the search firm is confirming that they keep to the principles of the Code. This provides important protection for you.

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- monitor their compliance with the Code

COMPLAINTS

If you have a query or complaint about your search, you should raise it directly with the search firm, and if appropriate ask for any complaint to be considered under their formal internal complaints procedure. If you remain dissatisfied with the firm's final response, after your complaint has been formally considered, or if the firm has exceeded the response timescales, you may refer your complaint for consideration under The Property Ombudsman scheme (TPOs). The Ombudsman can award compensation of up to £5,000 to you if he finds that you have suffered actual loss as a result of your search provider failing to keep to the Code.

Please note that all queries or complaints regarding your search should be directed to your search provider in the first instance, not to TPOs or to the PCCB.

TPOs Contact Details:

The Property Ombudsman scheme
Milford House
43-55 Milford Street
Salisbury
Wiltshire SP1 2BP
Tel: 01722 333306
Fax: 01722 332296
Email: admin@tpos.co.uk

You can get more information about the PCCB from www.propertycodes.org.uk.

PLEASE ASK YOUR SEARCH PROVIDER IF YOU WOULD LIKE A COPY OF THE SEARCH CODE

COMPLAINTS PROCEDURE

If you want to make a complaint, we will:

- Acknowledge it within 5 working days of receipt.
- Normally deal with it fully and provide a final response, in writing, within 20 working days of receipt.
- Keep you informed by letter, telephone or e-mail, as you prefer, if we need more time.
- Provide a final response, in writing, at the latest within 40 working days of receipt.
- Liaise, at your request, with anyone acting formally on your behalf.

Complaints should be sent to: Operations Director, GroundSure Ltd, Lees House, 21 Dyke Road, Brighton, BN1 3FE.
Tel: 08444 159 000. Email: info@4C.groundsure.com

If you are not satisfied with our final response, or if we exceed the response timescales, you may refer the complaint to The Property Ombudsman scheme (TPOs): Tel: 01722 333306, E-mail: admin@tpos.co.uk.

We will co-operate fully with the Ombudsman during an investigation and comply with his final decision.

Standard Terms and Conditions

1 Definitions

In these conditions unless the context otherwise requires:

"**Beneficiary**" means the Client or the customer of the Client for whom the Client has procured the Services.

"**Commercial**" means any building which is not Residential.

"**Commission**" means an order for Consultancy Services submitted by a Client.

"**Consultancy Services**" mean consultancy services provided by GroundSure including, without limitation, carrying out interpretation of third party and in-house environmental data, provision of environmental consultancy advice, undertaking environmental audits and assessments, Site investigation, Site monitoring and related items.

"**Contract**" means the contract between GroundSure and the Client for the performance of the Services which arises upon GroundSure's acceptance of an Order or Commission and which shall incorporate these conditions, the relevant GroundSure User Guide, proposal by GroundSure and the content of any subsequent report, and any agreed amendments in accordance with clause 11.

"**Client**" means the party that submits an Order or Commission.

"**Data Provider**" means any third party providing Third Party Content to GroundSure.

"**Data Report**" means reports comprising factual data with no professional interpretation in respect of the level of likely risk and/or liability available from GroundSure.

"**GroundSure**" means GroundSure Limited, a company registered in England and Wales under number 03421028 and whose registered office is at Greater London House, Hampstead Road, London NW1 7EJ.

"**GroundSure Materials**" means all materials prepared by GroundSure as a result of the provision of the Services, including but not limited to Data Reports, Mapping and Risk Screening Reports.

"**Intellectual Property**" means any patent, copyright, design rights, service marks, moral rights, data protection rights, know-how, trade mark or any other intellectual property rights.

"**Mapping**" an historical map or a combination of historical maps of various ages, time periods and scales available from GroundSure.

"**Order**" means an order form submitted by the Client requiring Services from GroundSure in respect of a specified Site.

"**Order Website**" means online platform via which Orders may be placed.

"**Report**" means a Risk Screening Report or Data Report for commercial or residential property available from GroundSure relating to the Site prepared in accordance with the specifications set out in the relevant User Guide.

"**Residential**" means any building used as or suitable for use as an individual dwelling.

"**Risk Screening Report**" means one of GroundSure's risk screening reports, comprising factual data with interpretation in respect of the level of likely risk and/or liability, excluding "**Consultancy Services**".

"**Services**" means the provision of any Report, Mapping or Consultancy Services which GroundSure has agreed to carry out for the Client/Beneficiary on these terms and conditions in respect of the Site.

"**Site**" means the landsite in respect of which GroundSure provides the Services.

"**Third Party Content**" means any data, database or other information contained in a Report or Mapping which is provided to GroundSure by a Data Provider.

"**User Guide**" means the relevant current version of the user guide, available upon request from GroundSure.

2 Scope of Services

2.1 GroundSure agrees to carry out the Services in accordance with the Contract and to the extent set out therein.

2.2 GroundSure shall exercise all the reasonable skill, care and diligence to be expected of experienced environmental consultants in the performance of the Services.

2.3 The Client acknowledges that it has not relied on any statement or representation made by or on behalf of GroundSure which is not set out and expressly agreed in the Contract.

2.4 Terms and conditions appearing on a Client's order form, printed stationery or other communication, including invoices, to GroundSure, its employees, servants, agents or other representatives or any terms implied by custom, practice or course of dealing shall be of no effect and these terms and conditions shall prevail over all others.

2.5 If a Client/Beneficiary requests insurance in conjunction with or as a result of the Services, GroundSure shall use reasonable endeavours to procure such insurance, but makes no warranty that such insurance shall be available from insurers or offered on reasonable terms. GroundSure does not endorse or recommend any particular insurance product, policy or insurer. Any insurance purchased shall be subject solely to the terms of the policy issued by insurers and GroundSure will have no liability therefor. The Client/Beneficiary should take independent advice to ensure that the insurance policy requested and/or offered is suitable for its requirements.

2.6 GroundSure's quotations/proposals are valid for a period of 30 days only. GroundSure reserves the right to withdraw any quotation at any time before GroundSure accepts an Order or Commission. GroundSure's acceptance of an Order or Commission shall be effective only where such acceptance is in writing and signed by GroundSure's authorised representative or where accepted via GroundSure's Order Website.

3 The Client's obligations

3.1 The Client shall ensure the Beneficiary complies with and is bound by the terms and conditions set out in the Contract and shall provide that GroundSure may in its own right enforce such terms and conditions against the Beneficiary pursuant to the Contracts (Rights of Third parties) Act 1999. The Client shall be liable for all breaches of the Contract by the Beneficiary as if they were breaches by the Client. The Client shall be solely responsible for ensuring that the Report/Mapping ordered is appropriate and suitable for the Beneficiary's needs.

3.2 The Client shall (or shall procure that the Beneficiary shall) supply to GroundSure as soon as practicable and without charge all information necessary and accurate relevant data including any specific and/or unusual environmental information relating to the Site known to the Client/Beneficiary which may pertain to the Services and shall give such assistance as GroundSure shall reasonably require in the performance of the Services (including, without limitation, access to a Site, facilities and equipment as agreed in the Contract).

3.3 Where Client/Beneficiary approval or decision is required, such approval or decision shall be given or procured in reasonable time as not to delay or disrupt the performance of any other part of the Services.

3.4 The Client shall not and shall not knowingly permit the Beneficiary to, save as expressly permitted by these terms and conditions, re-sell, alter, add to, amend or use out of context the content of any Report, Mapping or, in respect of any Services, information given by GroundSure. For the avoidance of doubt, the Client and Beneficiary may make the Report, Mapping or GroundSure's findings available to a third party who is considering acquiring the whole or part of the Site, or providing funding in relation to the Site, but such third party cannot rely on the same unless expressly permitted under clause 4.

3.5 The Client is responsible for maintaining the confidentiality of its user name and password if using GroundSure's internet ordering service and accepts responsibility for all activity that occurs under such account and password.

4 Reliance

4.1 Upon full payment of all relevant fees and subject to the provisions of these terms and conditions, the Client and Beneficiary are granted an irrevocable royalty-free licence to access the information contained in a Report, Mapping or in a report prepared by GroundSure in respect of or arising out of Consultancy Services. The Services may only be used for the benefit of the Client and those persons listed in clauses 4.2 and 4.3.

4.2 In relation to Data Reports, Mapping and Risk Screening Reports, the Client shall be entitled to make Reports available to (i) the Beneficiary, (ii) the Beneficiary's professional advisers, (iii) any person providing funding to the Beneficiary in relation to the Site (whether directly or as part of a lending syndicate), (iv) the first purchaser or first tenant of the Site (v) the professional advisers and lenders of the first purchaser or tenant of the Site. Accordingly GroundSure shall have the same duties and obligations to those persons in respect of the Services as it has to the Client and those persons shall have the benefit of any of the Client's rights under the Contract as if those persons were parties to the Contract. For the avoidance of doubt, the limitations of GroundSure's liability as set out in clauses 7 and 11.6 shall apply.

4.3 In relation to Consultancy Services, reliance shall be limited to the Client, Beneficiary and named parties on the Report.

4.4 Save as set out in clauses 4.2 and 4.3 and unless otherwise agreed in writing with GroundSure, any other party considering the information supplied by GroundSure as part of the Services, including (but not limited to) insurance underwriters, does so at their own risk and GroundSure has no legal obligations to such party unless otherwise agreed in writing.

4.5 The Client shall not and shall not knowingly permit any person (including the Beneficiary) who is provided with a copy of any Report, (except as permitted herein or by separate agreement with GroundSure) to: (a) remove, suppress or modify any trade mark, copyright or other proprietary marking from the Report or Mapping; (b) create any product which is derived directly or indirectly from the data contained in the Report or Mapping; (c) combine the Report or Mapping with, or incorporate the Report or Mapping into any other information data or service; or (d) re-format or otherwise change (whether by modification, addition or enhancement) data or images contained in the Report or Mapping.

4.6 Notwithstanding clause 4.5, if the Client acts in a professional capacity, it may make reasonable use of a Report and/or findings made as a result of Consultancy Services to advise Beneficiaries. However, GroundSure shall have no liability in respect of any opinion or report given to such Beneficiaries by the Client or a third party.

5 Fees and Disbursements

5.1 GroundSure shall charge the Client fees at the rate and frequency specified in the Contract together, in the case of Consultancy Services, with all proper disbursements incurred by GroundSure in performing the Services. For the avoidance of doubt, the fees payable for the Services are as set out in GroundSure's written proposal, Order Website or Order acknowledgement form. The Client shall in addition pay all value added tax or other tax payable on such fees and disbursements in relation to the provision of the Services.

5.2 Unless GroundSure requires prepayment, the Client shall promptly pay all fees disbursements and other monies due to GroundSure in full without deduction, counterclaim or set off together with such value added tax or other tax as may be required within 30 days from the date of GroundSure's invoice or such other period as may be agreed in writing between GroundSure and the Client ("**Payment Date**"). GroundSure reserves the right to charge interest which shall accrue on a daily basis from 30 days after the date of Payment Date until the date of payment (whether before or after judgment) at the rate of five per cent per annum above the Bank of England base rate from time to time.

5.3 In the event that the Client disputes the amount payable in respect of GroundSure's invoice it shall notify GroundSure no later than 28 days after the date thereof that it is in dispute. In default of such notification the Client shall be deemed to have agreed the amount thereof. As soon as reasonably practicable following receipt of a notification in respect of any disputed invoice, a member of the management team at GroundSure shall contact the Client and the parties shall use all reasonable endeavours to resolve the dispute.

6 Intellectual Property and Confidentiality

6.1 Subject to the provisions of clause 4.1, the Client and the Beneficiary hereby acknowledge that all Intellectual Property in the Services and Content are and shall remain owned by either GroundSure or the Data Providers and nothing in these terms purports to transfer or assign any rights to the Client or the Beneficiary in respect of the Intellectual Property.

6.2 The Client shall acknowledge the ownership of the **Third Party Content** where such **Third Party Content** is incorporated or used in the Client's own documents, reports, systems or services whether or not these are supplied to a third party.

6.3 Data Providers may enforce any breach of clauses 6.1 and 6.2 against the Client or Beneficiary.

6.4 The Client acknowledges that the proprietary rights subsisting in copyright, database rights and any other intellectual property rights in respect of any data and information contained in any Report are and shall remain (subject to clause 11.1) the property of GroundSure and/or any third party that has supplied data or information used to create a Report, and that these conditions do not purport to grant, assign or transfer any such rights in respect thereof to a Client and/or a Beneficiary.

6.5 The Client shall (and shall procure that any recipients of the Report as permitted under clause 4.2 shall):

(i) not remove, suppress or modify any trademark, copyright or other proprietary marking belonging to GroundSure or any third party from the Services;

(ii) use the information obtained as part of the Services in respect of the subject Site only, and shall not store or reuse any information obtained as part of the Services provided in respect of adjacent or nearby sites;

Report Reference: 51000179079001

- (iii) not create any product or report which is derived directly or indirectly from the data contained in the Services (save that those acting in a professional capacity to the Beneficiary may provide advice based upon the Services);
 - (iv) not combine the Services with or incorporate such Services into any other information data or service; and
 - (v) not reformat or otherwise change (whether by modification, addition or enhancement), data contained in the Services (save that those acting in a professional capacity to the Beneficiary shall not be in breach of this clause 6.5(v) where such reformatting is in the normal course of providing advice based upon the Services), in each case of parts (iii) to (v) inclusive, whether or not such product or report is produced for commercial profit or not.
- 6.6 The Client and/or Beneficiary shall and shall procure that any party to whom the Services are made available shall notify GroundSure of any request or requirement to disclose, publish or disseminate any information contained in the Services in accordance with the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or any associated legislation or regulations in force from time to time.
- 6.8 Save as otherwise set out in these terms and conditions, any information provided by one party ("**Disclosing Party**") to the other party ("**Receiving Party**") shall be treated as confidential and only used for the purposes of these terms and conditions, except in so far as the Receiving Party is authorised by the Disclosing Party to provide such information in whole or in part to a third party.

7 Liability

THE CLIENT'S ATTENTION IS DRAWN TO THIS PROVISION

- 7.1 Subject to the provisions of this clause 7, GroundSure shall be liable to the Beneficiary only in relation to any direct losses or damages caused by any negligent act or omission of GroundSure in preparing the GroundSure Materials and provided that the Beneficiary has used all reasonable endeavours to mitigate any such losses.
- 7.2 GroundSure shall not be liable for any other losses or damages incurred by the Beneficiary, including but not limited to:
- (i) loss of profit, revenue, business or goodwill, losses relating to business interruption, loss of anticipated savings, loss of or corruption to data or for any special, indirect or consequential loss or damage which arise out of or in connection with the GroundSure Materials or otherwise in relation to a Contract;
 - (ii) any losses or damages that arise as a result of the use of all or part of the GroundSure Materials in breach of these terms and conditions or contrary to the terms of the relevant User Guide;
 - (iii) any losses or damages that arise as a result of any error, omission or inaccuracy in any part of the GroundSure Materials where such part is based on any Third Party Content or any reasonable interpretation of Third Party Content. The Client accepts, and shall procure that any other Beneficiary shall accept, that it has no claim or recourse to any Data Provider in relation to Third Party Content; and/or
 - (iv) any loss or damage to a Client's computer, software, modem, telephone or other property caused by a delay or loss of use of GroundSure's internet ordering service.
- 7.3 GroundSure's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the GroundSure Materials or otherwise in relation to the Contract shall be limited to £10 million in total (i) for any one claim or (ii) for a series of connected claims brought by one or more parties.
- 7.4 For the duration of the liability periods set out in clauses 7.5 and 7.6 below, GroundSure shall maintain professional indemnity insurance in respect of its liability under these terms and conditions provided such insurance is readily available at commercially viable rates. GroundSure shall produce evidence of such insurance if reasonably requested by the Client. A level of cover greater than GroundSure's current level of cover may be available upon request and agreement with the Client.
- 7.5 Any claim under the Contract in relation to Data Reports, Mapping and Risk Screening Reports, must be brought within six years from the date when the Beneficiary became aware that it may have a claim and in no event may a claim be brought twelve years or more after completion of such a Contract. For the avoidance of doubt, any claim in respect of which proceedings are notified to GroundSure in writing prior to the expiry of the time periods referred to in this clause 7.5 shall survive the expiry of those time periods provided the claim is actually commenced within six months of notification.
- 7.6 Any claim under the Contract in relation to Consultancy Services, must be brought within six years from the date the Consultancy Services were completed.
- 7.7 The Client accepts and shall procure that any other Beneficiary shall accept that it has no claim or recourse to any Data Provider or to GroundSure in respect of the acts or omissions of any Data Provider and/or any Third Party Content provided by a Data Provider.
- 7.8 Nothing in these terms and conditions:
- (i) excludes or limits the liability of GroundSure for death or personal injury caused by GroundSure's negligence, or for fraudulent misrepresentation; or
 - (ii) shall affect the statutory rights of a consumer under the applicable legislation.

8 GroundSure right to suspend or terminate

- 8.1 In the event that GroundSure reasonably believes that the Client or Beneficiary as applicable has not provided the information or assistance required to enable the proper performance of the Services, GroundSure shall be entitled on fourteen days written notice to suspend all further performance of the Services until such time as any such deficiency has been made good.
- 8.2 GroundSure may additionally terminate the Contract immediately on written notice in the event that:
- (i) the Client shall fail to pay any sum due to GroundSure within 28 days of the Payment Date; or
 - (ii) the Client (being an individual) has a bankruptcy order made against him or (being a company) shall enter into liquidation whether compulsory or voluntary or have an Administration Order made against it or if a Receiver shall be appointed over the whole or any part of its property assets or undertaking or if the Client is struck off the Register of Companies or dissolved; or
 - (iii) the Client being a company is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or being an individual appears unable to pay his debts within the meaning of Section 268 of the Insolvency Act 1986 or if the Client shall enter into a composition or arrangement with the Client's creditors or shall suffer distress or execution to be levied on his goods; or
 - (iv) the Client or the Beneficiary breaches any material term of the Contract (including, but not limited to, the obligations in clause 4) incapable of remedy or if remediable, is not remedied within 14 days of notice of the breach.

9 Client's Right to Terminate and Suspend

- 9.1 Subject to clause 10.2, the Client may at any time after commencement of the Services by notice in writing to GroundSure require GroundSure to terminate or suspend immediately performance of all or any of the Services.
- 9.2 The Client waives all and any right of cancellation it may have under the Consumer Protection (Distance Selling) Regulations 2000 (as amended) in respect of the Order of a Report/Mapping. This does not affect the Beneficiary's statutory rights.

10 Consequences of Withdrawal, Termination or Suspension

- 10.1 Upon termination or any suspension of the Services, GroundSure shall take steps to bring to an end the Services in an orderly manner, vacate any Site with all reasonable speed and shall deliver to the Client/Beneficiary any property of the Client/ Beneficiary in GroundSure's possession or control.
- 10.2 In the event of termination/suspension of the Contract under clauses 8 or 9, the Client shall pay to GroundSure all and any fees payable in respect of the performance of the Services up to the date of termination/suspension. In respect of any Consultancy Services provided, the Client shall also pay GroundSure any additional costs incurred in relation to the termination/suspension of the Contract.

11 General

- 11.1 The mapping contained in the Services is protected by Crown copyright and must not be used for any purpose outside the context of the Services or as specifically provided in these terms.
- 11.2 GroundSure reserves the right to amend these terms and conditions. No variation to these terms shall be valid unless signed by an authorised representative of GroundSure.
- 11.3 No failure on the part of GroundSure to exercise and no delay in exercising, any right, power or provision under these terms and conditions shall operate as a waiver thereof.
- 11.4 Save as expressly provided in clauses 4.2, 4.3, 6.3 and 11.5, no person other than the persons set out therein shall have any right under the Contract (Rights of Third Parties) Act 1999 to enforce any terms of the Contract.
- 11.5 The Secretary of State for Communities and Local Government acting through Ordnance Survey may enforce breach of clause 6.1 of these terms and conditions against the Client in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 11.6 GroundSure shall not be liable to the Client if the provision of the Services is delayed or prevented by one or more of the following circumstances:
- (i) the Client or Beneficiary's failure to provide facilities, access or information;
 - (ii) fire, storm, flood, tempest or epidemic;
 - (iii) Acts of God or the public enemy;
 - (iv) riot, civil commotion or war;
 - (v) strikes, labour disputes or industrial action;
 - (vi) acts or regulations of any governmental or other agency;
 - (vii) suspension or delay of services at public registries by Data Providers; or
 - (viii) changes in law.
- 11.7 Any notice provided shall be in writing and shall be deemed to be properly given if delivered by hand or sent by first class post, facsimile or by email to the address, facsimile number or email address of the relevant party as may have been notified by each party to the other for such purpose or in the absence of such notification the last known address.
- 11.8 Such notice shall be deemed to have been received on the day of delivery if delivered by hand, facsimile or email and on the second working day after the day of posting if sent by first class post.
- 11.9 The Contract constitutes the entire contract between the parties and shall supersede all previous arrangements between the parties.
- 11.10 Each of the provisions of the Contract is severable and distinct from the others and if one or more provisions is or should become invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be tainted or impaired.
- 11.11 These terms and conditions shall be governed by and construed in accordance with English law and any proceedings arising out of or connected with these terms and conditions shall be subject to the exclusive jurisdiction of the English courts.
- 11.12 If the Client or Beneficiary has a complaint about the Services, notice can be given in any format eg writing, phone, email to the Compliance Officer at GroundSure who will respond in a timely manner.

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Appendix 1

**The Coal Authority CON29M Coal
Mining and Brine Subsidence Claim
report**

The COAL AUTHORITY

Issued by:

The Coal Authority, Property Search Services, 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire, NG18 4RG

Website: www.groundstability.com Phone: 0845 762 6848 DX 716176 MANSFIELD 5

**SLR CONSULTING
FULMAR HOUSE
OCEAN WAY
CARDIFF
CF24 5HF**

Our reference: **51000179079001**
Your reference: **407.03894.00003**
Date of your enquiry: **05 November 2012**
Date we received your enquiry: **05 November 2012**
Date of issue: **08 November 2012**

This report is for the property described in the address below and the attached plan.

Non-Residential Enviro All-in-One - On Coalfield

EAST PIT SITE, NEW ROAD, TAIRGWAITH, AMMANFORD, DYFED, SA18 1UP

This report is based on and limited to the records held by, the Coal Authority, and the Cheshire Brine Subsidence Compensation Board's records, at the time we answer the search.

Coal mining	See comments below
Brine Compensation District	No

Information from the Coal Authority

Underground coal mining

Past

The property is in the likely zone of influence from workings in 6 seams of coal at shallow to 370m depth, and last worked in 1973.

The property is in the likely zone of influence from workings in 1 seam of fireclay at 260m to 270m depth, and last worked in 1929.

Present

The property is not in the likely zone of influence of any present underground coal workings.

Future

The property is not in an area for which the Coal Authority is determining whether to grant a licence to remove coal using underground methods.

The property is not in an area for which a licence has been granted to remove or otherwise work coal using underground methods.

The property is not in an area that is likely to be affected at the surface from any planned future workings.

However, reserves of coal exist in the local area which could be worked at some time in the future.

No notice of the risk of the land being affected by subsidence has been given under section 46 of the Coal Mining Subsidence Act 1991.

Mine entries

Within, or within 20 metres of, the boundary of the property there are 32 mine entries, the approximate positions of which are shown on the attached plan.

Our records disclose the following information:

- 273213-025. No treatment details.
- 274213-006. No treatment details.
- 273213-009. No treatment details.
- 273213-064. No treatment details.
- 274213-011. No treatment details.
- 273213-020. No treatment details.
- 273213-060. This mine entry may have been partially or wholly excavated during past opencast mining.
- 273213-024. No treatment details.
- 274213-010. No treatment details.
- 273213-035. No treatment details.
- 274213-007. No treatment details.
- 274213-012. No treatment details.
- 273213-015. No treatment details.
- 273213-057. No treatment details.
- 273213-036. No treatment details.
- 273213-017. This mine entry may have been partially or wholly excavated during past opencast mining.
- 274213-019. No treatment details.
- 274213-003. This mine entry was filled at some time in the past. There is no details of the quality or type of material used..
- 273213-074. No treatment details.
- 273213-061. No treatment details.
- 273213-026. No treatment details.
- 274213-008. No treatment details.
- 274213-009. No treatment details.
- 273213-008. No treatment details.
- 274213-005. No treatment details.
- 274213-004. This mine entry was filled at some time in the past. There are no details of the quantity or type of materials used..
- 273213-033. No treatment details.
- 273213-070. No treatment details.
- 273213-010. No treatment details.
- 273213-034. No treatment details.
- 273213-058. No treatment details.
- 273213-051. No treatment details.

Records may be incomplete. Consequently, there may exist in the local area mine entries of which the Coal Authority has no knowledge.

For an additional fee, the Coal Authority will provide a supplementary Mine Entry Interpretive Report. The report will provide a separate assessment for the mine entry (entries) referred to in this report. It will give details based on information in the Coal Authority's possession, together with an opinion on the likelihood of mining subsidence damage arising from ground movement as a consequence of the existence of the mine entry/entries. It will also give details of the remedies available for subsidence damage where the mine entry was sunk in connection with coal mining.

Please note that it may not be possible to produce a report if the main building to the property cannot be identified from Coal Authority plans (ie. for development sites and new build).

For further advice on how to order this additional information visit www.groundstability.com or telephone 0845 7626 848.

Coal mining geology

The Authority is not aware of any evidence of damage arising due to geological faults or other lines of weakness that have been affected by coal mining.

Opencast coal mining

Past

The property is within the boundary of an opencast site from which coal has been removed by opencast methods.

Present

The property lies within 200 metres of the boundary of the East Pit East Revised opencast site from which coal is being removed by opencast methods.

Future

The property is not within 800 metres of the boundary of an opencast site for which the Coal Authority is determining whether to grant a licence to remove coal by opencast methods.

The property is not within 800 metres of the boundary of an opencast site for which a licence to remove coal by opencast methods has been granted.

Coal mining subsidence

The Coal Authority has not received a damage notice or claim for the subject property, or any property within 50 metres, since 31st October 1994.

There is no current Stop Notice delaying the start of remedial works or repairs to the property.

The Authority is not aware of any request having been made to carry out preventive works before coal is worked under section 33 of the Coal Mining Subsidence Act 1991.

Mine gas

There is no record of a mine gas emission requiring action by the Coal Authority within the boundary of the property.

Hazards related to coal mining

The property has not been subject to remedial works, by or on behalf of the Authority, under its Emergency Surface Hazard Call Out procedures.

Withdrawal of support

The property is not in an area for which a notice of entitlement to withdraw support has been published.

The property is not in an area for which a notice has been given under section 41 of the Coal Industry Act 1994, revoking the entitlement to withdraw support.

Working facilities orders

The property is not in an area for which an Order has been made under the provisions of the Mines (Working Facilities and Support) Acts 1923 and 1966 or any statutory modification or amendment thereof.

Payments to owners of former copyhold land

The property is not in an area for which a relevant notice has been published under the Coal Industry Act 1975/Coal Industry Act 1994.

Comments on Coal Authority information

The attached plan shows the approximate location of the disused mine entry/entries referred to in this report. For reasons of clarity, mine entry symbols may not be drawn to the same scale as the plan.

Property owners have the benefit of statutory protection (under the Coal Mining Subsidence act 1991*). This contains provision for the making good, to the reasonable satisfaction of the owner, of physical damage from disused coal mine workings including disused coal mine entries. A leaflet setting out the rights and the obligations of either the Coal Authority or other responsible persons under the 1991 Act can be obtained by telephoning 0845 762 6848 or online at www.coal.decc.gov.uk/en/coal/cms/services/claims.

If you wish to discuss the relevance of any of the information contained in this report you should seek the advice of a qualified mining engineer or surveyor. If you or your adviser wish to examine the source plans from which the information has been taken these are normally available at our Mansfield office, free of charge, by prior appointment, telephone 01623 637235. Should you or your adviser wish to carry out any physical investigations that may enter, disturb or interfere with any disused mine entry the prior permission of the owner must be sought. For coal mine entries the owner will normally be the Coal Authority.

The Coal Authority, regardless of responsibility and in conjunction with other public bodies, provide an emergency call out facility in coalfield areas to assess the public safety implications of mining features (including disused mine entries). Our emergency telephone number at all times is 01623 646333.

*Note, this Act does not apply where coal was worked or gotten by virtue of the grant of a gale in the Forest of Dean, or any other part of the Hundred of St. Briavels in the county of Gloucester.

In view of the mining circumstances a prudent developer would seek appropriate technical advice before any works are undertaken.

Therefore if development proposals are being considered, technical advice relating to both the investigation of coal and former coal mines and their treatment should be obtained before beginning work on site. All proposals should apply good engineering practice developed for mining areas. No development should be undertaken that intersects, disturbs or interferes with any coal or mines of coal without the permission of the Coal Authority. Developers should be aware that the investigation of coal seams/former mines of coal may have the potential to generate and/or displace underground gases and these risks both under and adjacent to the development should be fully considered in developing any proposals. The need for effective measures to prevent gases entering into public properties either during investigation or after development also needs to be assessed and properly addressed. This is necessary due to the public safety implications of any development in these circumstances.

Information from the Cheshire Brine Subsidence Compensation Board

The property lies outside the Cheshire Brine Compensation District.

Additional Remarks

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Issued by:	The Coal Authority, 200 Lichfield Lane, Mansfield, Nottinghamshire, NG18 4RG
Tax Point Date:	05 November 2012
Issued to:	SLR CONSULTING FULMAR HOUSE OCEAN WAY CARDIFF CF24 5HF
Property Search for:	EAST PIT SITE, NEW ROAD, TAIRGWAITH, AMMANFORD, DYFED, SA18 1UP
Reference Number:	51000179079001
Date of Issue:	08 November 2012
Cost:	£785.00
VAT @ 20%:	£157.00
Total Received:	£942.00
VAT Registration	598 5850 68

Map images are being sent under separate cover



In the City

Seriously Fraught Office

SERIOUS Farce Office director David Green has just been presented with another big potential legal bill – to go with the multi-million bills payable to the brothers Tchenguiz – just as the fraudbuster's future is in home secretary Theresa May's sights and on the line with next year's Libor (and then the probable Forex) rate-rigging prosecutions.

The proposed prosecution of directors, solicitors and a QC involved in running and advising the South Wales opencast miner Celtic Energy was thrown out for a second time earlier this month. But unlike Tchenguiz, this was a prosecution launched by Green himself, rather than his predecessor Richard Alderman, so there is no legacy alibi for the embarrassing and expensive failure which raises questions of legal competence.

The now dropped prosecution revolved around the decision in 2010 by privately-owned Celtic Energy, the largest Welsh coal producer, to sell the freeholds of four opencast sites to British Virgin Islands companies, Oak Regeneration and its subsidiaries, secretly controlled by two Celtic directors, to avoid or reduce the required obligation to restore the sites and to free up cash reserves held by Celtic for that purpose. Substantial payments were made to the six defendants.

It was claimed that the £100m-plus cost of restoring the land could not be met by the BVI companies, which had minimal cash assets, potentially leaving local councils and taxpayers with most of the bill. The four sites are on land covered by Neath Port Talbot, Bridgend and Powys local authorities.

The defendants were charged with conspiracy to defraud in January last year after an investigation launched in 2011. The case was first dismissed by the trial judge in February this year. The SFO then took the rare step of effectively appealing that decision by asking the high court to restore the charges via a voluntary bill of indictment. This was rejected two weeks ago by Lord Justice Fulford.

The seven-day high court hearing saw the six defendants represented by no fewer than eight QCs (three representing the accused QC Stephen Davies), including some of the most prominent and expensive at the criminal Bar, while the SFO itself fielded two QCs.

These did not include the originally expected prosecuting QC Ian Winter – hired even though he had previously advised Celtic. "A somewhat curious choice as an adviser to the SFO", remarked trial judge Mr Justice Hickinbottom.

The SFO's failure – highlighted by the Hickinbottom and Fulford judgments – was due to it changing its case against the defendants three times before the trial and then again before the high court. It was found to be wrong in law. "I fear the SFO in this case failed at the outset to identify the proper legal underpinnings of the charges," Lord Justice Fulford stated, "and instead it varied its case in law against the accused as the arguments unfolded."

The trial judge had accused the SFO of not approaching the case "with particular analytical precision". Fulford described that criticism as mild. Rejecting the SFO's request to overrule Hickinbottom, he was damning of its whole approach to the Celtic prosecution.

Fulford said: "The effect of granting a bill of indictment on this occasion would be to allow the prosecution to treat the original proceedings 'for all practical purposes as a dummy run', and, having realised they had – on more than one occasion – chosen the wrong legal basis, to permit the SFO 'to bring virtually the same proceedings but in a form in which they could have been brought if proper thought had been given by the prosecution to them in the first place'."

The legal issues mainly concerned whether the three local councils were or could be victims of an alleged deception by the offshore transfer; whether Celtic and Oak were or could be victims

of their owners; whether the conspiracy involved a legal or illegal agreement; and the extent to which the sale of the freeholds removed the restoration liabilities from Celtic. The SFO was said to be wrong on all counts.

The four freeholds were transferred for £1 each, plus a reverse premium of £1.25m paid by Celtic to Oak. The restoration cost was estimated by Celtic at more than £100m.

The transfer took place after Stephen Davies QC provided an opinion that the scheme was legal, commercial and transferred responsibility for restoration to the BVI companies – after providing an initial opinion that it did not. This change of mind followed payment of a £250,000 fee. Davies' clerk, upon being told of the size of the fee for the second opinion negotiated by Davies personally, was quoted as declaring: "Fuck me, that's a serious amount of money."

The second opinion made no reference to the first and less expensive negative opinion – an opinion that had also been agreed by Ian Winter QC, the proposed likely prosecutor, whose advice had been sought previously.

Davies denied that he knew the transaction was not at arm's length, claimed his second opinion was legally correct and that the fee was justified. Evidence given during the pre-trial hearing raised doubts about the SFO's view that the Davies opinion was either wrong or "bogus" – an initial foundation for the prosecution.

All the now acquitted defendants always denied the allegations of fraud and claimed that the freehold transfer was legal. However, the Hickinbottom and Fulford judgments contain unflattering details about both the deal and some of those involved.

The SFO relied on "evidence of documents being produced by the solicitor defendants for use in the BVI which, falsely, indicated that the BVI company was truly independent of Celtic and was buying the sites at proper value with a view to developing them with alternative uses in the future". There were good reasons too for choosing the BVI. "The company laws of the BVI prize confidentiality, privacy and indeed secrecy. Using BVI companies would make it difficult for anyone to investigate the dealings, true ownership and real financial worth of the purchasing company."

Solicitor Eric Evans was said to have explained the "real underlying intentions" of the plan – which he called "the Big Picture" – to a fellow solicitor in his Cardiff law firm M & A this way:

"Eric said it took on average two years to obtain disclosure of the ownership of a BVI company and that as he had set up nine companies with their ownership hidden, then in theory, it would take eighteen years to establish the true owners and by which time he felt he would not be around to face the music. I recall him telling me that after some 18 months or so had elapsed he would simply put the BVI Company into liquidation and the liability for filling the holes would then fall back on the Local Authorities. I told him that the Local Authorities 'were all clients of the firm' and he simply replied 'fuck them'."

After the sale Celtic's owner Richard Walters and finance director Leighton Humphreys were paid bonuses of £6.9m and £1.7m by a BVI company they owned. Evans and assistant solicitor Frances Bodman received loans of £160,000 from a BVI company owned by Evans, which was paid £650,000. Another BVI company owned by senior partner David Whiteley was paid £450,000.

These arrangements were kept secret, said

NUMBER CRUNCHING

£60m Fine given to Royal Bank of Scotland last week for software failure which had disastrous effects for 6.5m customers in 2012

£600m Bonus pot shared among Royal Bank of Scotland staff in 2012

EU-phemisms

"Britain has brought us all together on the subject of migration of people"



We've agreed they can bugger off

the SFO. All the defendants but Davies had "signed a confidentiality agreement under which they agreed severely to restrict disclosure of information in relation to the transaction to advisers, bankers, etc," recorded Hickinbottom.

"The (SFO) evidence is that the conspirators entered into a confidentiality agreement on 16 June 2010, thereafter going to great lengths of subterfuge to keep the true nature of the transaction secret, and leave a paper trail for those who might later investigate it indicating the transaction was a normal arm's-length commercial transaction with an independent company; and putting distance between themselves (notably Walters and Humphreys, and their company Celtic) and the BVI company."

Lord Justice Fulford was keen to take no view of that evidence. "This decision should not be taken as any kind of comment on my part as regards the suggested criminality of the proposed defendants. Whether or not any of them committed a criminal offence is a question that falls wholly outside the remit of this application."

Celtic continues mining operations at three of the four sites. At two it is believed restoration will take place at no public cost; restoration of the other two sites remains under negotiation. Meanwhile the SFO and David Green have to wait to see how much this latest legal blunder will cost them and the taxpayer.

Friends on the move

THE planned Aviva takeover of Friends Life did not entirely surprise everyone in the City, to judge by the share price movement in previous weeks.

From 292p in mid-October, the price had reached 335p by the week before last Friday's after-hours announcement. The price started to accelerate upwards the previous day and had closed at 347p. The bid is worth just under 400p a share. Is this a case for examination by the Financial Conduct Authority? Its own report, meanwhile, is still awaited into how it zapped the Friends price last March by misleading the stock market, via a bungled "leak" to the *Daily Telegraph* about its plans for annuity companies.

Rolls reeling

FURTHER developments in the SBM/Petrobras corruption story since *Eye* 1378 will increase nervousness at Rolls Royce about its relationship with former Brazilian agent, Julio Faerman.

The US Department of Justice has dropped its probe into the listed Dutch production services group SBM Offshore; but both it and the Securities & Exchange Commission have reportedly opened an investigation into its major customer, the state-owned Brazilian oil giant, Petrobras. Petrobras did gas turbine business with Rolls Royce. The DoJ – like our own SFO – is already on the Rolls Royce case regarding its activities in the Far East.

Then on 14 November, Brazilian police

See over...

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PLG

Mike O'Brien MP
MINISTER FOR ENERGY AND E-COMMERCE

14 December 2004

The Rt Hon Rhodri Morgan AM
First Minister for Wales
Welsh Assembly Government
Cardiff Bay
Cardiff
CF99 1NA

Dear Rhodri

FFOS Y FRAN RECLAMATION SITE

I understand that the Welsh Assembly Planning Branch has now received the report of the Inspector on Miller Argent's application for planning permission for the above site, which was 'called in' by the Assembly in November 2003, and that a summary report will shortly be provided to a Planning Decisions Committee of the Assembly.

I am sure you are fully aware of the potential importance of this site to security of energy supplies in South Wales. Its expected output could help to ensure that local coal meets around half the 3.5 million tonnes (Mt) forecast requirement of Aberthaw power station if its operators decide to fit the flue gas desulphurisation (FGD) equipment which will enable it to continue operating to 2016 and beyond in compliance with current and impending emissions control legislation.

Remaining local deep mines (assisted by Coal Investment Aid) and existing opencast sites are expected to be producing around 1.1 Mt of coal in 2008. With its ability to bring in coal from elsewhere constrained by port and railway capacity limits, this level of local output could be insufficient to keep Aberthaw in operation until 2016. Lack of assured local supplies could lead its operators to decide not to fit FGD, in which case it would have to close by that date under the Large Combustion Plants Directive, but it could close sooner. Early closure of Aberthaw would not only remove the market for most remaining local coal, it could also put additional pressure on electricity supply in South Wales, and hence also on its scope for local economic growth. The need to compensate for the loss of Aberthaw could also affect electricity supplies in the rest of the UK.

Department of Trade and Industry

These are important issues which the Planning Decisions Committee will wish to consider when reaching a decision on Miller Argent's application. A prompt decision is particularly important for Ffos y Fran since, if development is approved, the initial site work must take place between April and July for habitat protection reasons, so a few weeks' delay could mean another year lost on a project which should bring environmental and economic benefits to its locality and which has been in the planning system for more than a decade.

May I take this opportunity to say how pleased I was to hear that the East Pit opencast development has been approved at the end of a similar process. The Planning Decision Committee's acceptance of the Inspector's conclusions that the need for the coal and the economic benefits would outweigh the harm to the environment and the amenity of local residents is particularly noteworthy. I hope that these arguments will also carry weight with the Committee which decides the Ffos y Fran application, where the benefits of reclamation of hazardous, derelict land and recovery of landfill and other waste at the developer's expense must also be important factors in their decision.

I hope the eventual success of the East Pit application will encourage plans currently at a preliminary stage for other new deep and opencast mines in South Wales, such as the Margam coking coal project. Current Coal State Aids rules constrain Member States' ability to assist deep mines which were not in operation in July-December 2002, but my officials stand ready to raise this issue with the European Commission if a viable project is brought to us. In the meantime, they will continue to maintain close contact with your officials dealing with this sector.

I am copying this letter to Peter Hain.

Yours sincerely



Mike O'Brien

Document is Restricted



URBAN TRANSPORT GROUP

Written submission

Bus franchising

Climate Change, Environment and Infrastructure
Committee

Senedd Cymru

April 2024

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Policy and Research Advisor

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1 About the Urban Transport Group

- 1.1 The Urban Transport Group (UTG) is the UK's network of transport authorities. UTG represents the seven largest city region strategic transport bodies in England, which, between them, serve over twenty million people in Greater Manchester (Transport for Greater Manchester), London (Transport for London), the Liverpool City Region (Merseytravel), Tyne and Wear (Nexus), the Sheffield City Region (South Yorkshire Mayoral Combined Authority), the West Midlands (Transport for West Midlands) and West Yorkshire (West Yorkshire Combined Authority).
- 1.2 Our wider associate membership includes Cambridgeshire and Peterborough Combined Authority, Nottingham City Council, Strathclyde Partnership for Transport, Tees Valley Combined Authority, West of England Combined Authority, Translink (Northern Ireland) and Transport for Wales.
- 1.3 We are a thought leader in urban and local transport policy, bringing together stakeholders across the transport sector to advocate for policies that deliver affordable, trusted, green transport networks that enrich and connect people and places.



2 Overview of bus operations in England

- 2.1 Bus services outside London were deregulated in 1986. Since then, there have been two systems of bus provision – one for London and one for the rest of Great Britain, with Greater Manchester currently introducing a franchised network across their region.
- 2.2 In London, Transport for London (TfL, which is accountable to the Mayor) uses bus franchising to specify in detail what bus services are to be provided. TfL decides the routes, timetables and fares – everything down to the colour of the buses. The services themselves are operated by private companies through a competitive tendering process. There is no on-road competition¹.
- 2.3 Greater Manchester is the first Mayoral Combined Authority to use the powers granted in the Bus Services Act 2017 and the MCA's Devolution deal to franchise its bus network. We explore the progress and impact of this later in this note.
- 2.4 In the rest of the country, it is a deregulated market. Anyone (subject to minimum safety and operating standards) can operate a bus service. Operators are free to run whatever services they like as well as decide the fares they will charge and the vehicles they will use.
- 2.5 Local transport authorities (LTAs) outside of London cannot directly plan bus networks, they can only fill the gaps in commercial networks. LTAs have the power to subsidise routes that are not considered by bus operators to be commercially viable but are deemed socially necessary. This is almost always done through a contract with a bus company.
- 2.6 LTAs have been increasingly called upon to support socially necessary bus routes as commercial networks shrink, with COVID accelerating an existing pattern of decline. At the same time, pressures on local authority budgets have made it difficult to preserve and maintain these routes².
- 2.7 The 2017 Bus Services Act introduced new ways in which services can be improved within the existing deregulated market through formalising the way in which operators work with transport authorities in voluntary partnership³. These include Enhanced Partnership Schemes, where a local transport authority and multiple commercial bus operators agree a Bus Plan. An EP is a statutory partnership between one or more LTAs and their local bus operators, setting out how they will work together to improve bus services. Unlike franchising, bus operators continue to take fares revenue and make decisions on how bus services are run.

¹UTG (2023) A Smoother Ride - Reviewing the Bus Services Act 2017 to empower local areas

² Transport Committee (2019) Bus Services in England outside London

³ DfT (2017) The Bus Services Act 2017



3 Bus Franchising in England

- 3.1 The Bus Services Act 2017 also allowed LTAs to franchise bus networks (or parts of the network). Under franchising, the local deregulated bus market is reformed, and bus operators instead compete to provide services under contract to the LTA.
- 3.2 Under the Act, powers to pursue franchising were automatically granted to Mayoral Combined Authorities (MCAs) whilst other LTAs must seek permission from the Secretary of State (SoS) to proceed.
- 3.3 Once an authority has obtained franchising powers, there is an extensive process before a franchising scheme can be enacted⁴. The authority must produce an assessment or 'business case' for the proposed franchise scheme using data gathered from incumbent bus operators in its area. The business case consists of a five case model (analysing the strategic, economic, financial, commercial and management case). These must be compared against alternative courses of action and the benefits, impacts, costs and risks of each considered.
- 3.4 A consultation is then needed on the franchising proposals, which allows a range of stakeholders including passengers, local businesses and existing bus operators to provide their comments. Finally, at least a six-month transition period is needed before the scheme is implemented, giving time for both new and incumbent operators to transition.

Benefits

- 3.5 As in London, franchising enables LTAs to plan, develop and regulate bus services for their areas and offer passengers simpler, integrated ticketing and guaranteed levels of service quality. Under franchising, LTAs can determine, for example, what bus services are to be provided, when and where; fares that are charged; and the standards those services should meet (for example, on emissions, passenger experience, branding). Operators then compete through a procurement process to deliver those services in line with the LTA's specifications. No other services may operate in the area without the agreement of the LTA.
- 3.6 London's franchising scheme has delivered a world-class, comprehensive bus network. Over 99% of Londoners are within 600 metres of a bus stop. It benefits from a fully accessible and modern vehicle fleet as well as integrated, smart and simple ticketing⁵.
- 3.7 Given only one Authority outside of London has so far introduced franchising, it is too early to estimate the direct impact of franchising. However, latest punctuality data for Greater Manchester's Bee Network services in the first franchised area shows improving performance⁶. To date, the costs for franchise contracts have been

⁴ UTG (2023) A Smoother Ride - Reviewing the Bus Services Act 2017 to empower local areas

⁵ [https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/planning-bus-services-3#:~:text=Transport%20for%20London's%20\(TfL's\)%20bus,assess%20comprehensiveness%20and%20network%20coverage](https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/planning-bus-services-3#:~:text=Transport%20for%20London's%20(TfL's)%20bus,assess%20comprehensiveness%20and%20network%20coverage)

⁶ Been Network Bus Punctuality Reports - <https://tfgm.com/ways-to-travel/bus/punctuality-report>



competitive, particularly when compared to the costs of tendering individual services. Revenue for franchised services continues to exceed forecast⁷.

3.8 From the passenger perspective, franchising enables:

- Simple, unified and integrated ticketing and products under one brand.
- A single identity for bus services and potentially other public transport modes, which is easy to understand for new and existing users.
- Unified, easy to use network of integrated public transport services.
- Consistent standards of service, including vehicle, driver and customer care standards.
- One accountable body, integrated real time information and a single point of contact for customers.

3.9 From a transport authority perspective, franchising enables the LTA to:

- Plan, develop and regulate bus services for their areas and offer passengers simpler, integrated ticketing and guaranteed levels of service quality.
- Take a strategic approach to planning the bus network.
- Integrate the bus network with other modes to help ensure that services support wider goals for an area, based on the needs of local communities and the local economy.
- Have and provide certainty, as opposed to the uncertainty under deregulation where bus operators may decide to deregister any bus service no longer considered profitable and LTAs face a decision on whether they can step in and fund that service.
- Deliver a more integrated network, which is easier to use and to market to new customers and visitors, encouraging patronage growth which in turn can help drive up revenue.
- Help reduce car dependency, emissions and highway congestion as more people make use of an integrated public transport network and active travel modes (cycling and walking)
- Cross-subsidise less remunerative services using revenue from more commercial routes.
- Enables existing resources and subsidies to be pooled efficiently, driving better value.
- As public bodies, reinvest any surpluses generated in the network in support of wider goals and network development.

3.10 From an operator perspective, franchising offers:

- A growing, stable and enduring market.
- Certainty and long-term stability of income with no revenue risk.

⁷ 21st March 2024, Bee Network Committee report



- The freedom to focus on service delivery, making sure buses run reliably and punctually, enhancing customer care and delivering on contractually guaranteed service standards – such as cleanliness, reliability and safety and security.

4 Authorities progressing franchising in England

4.1 Since 2017, only one MCA – the Greater Manchester Combined Authority - has enacted bus franchising, although other MCAs are now taking their first steps towards franchising or are actively considering it.

Greater Manchester Combined Authority

4.2 In the case of Greater Manchester, the total time taken between announcing its intention to prepare an assessment, to the first franchised buses commencing operation was over six years. **(See Annex 1 for a table of GM's timeline)**

4.3 First mover disadvantage and COVID both contributed to these timelines. However, without COVID (and the complications this added) we estimate that the first franchised buses could have entered service by around May 2021, at the earliest⁸.

4.4 The costs for Greater Manchester's five-year bus-franchising transition process were estimated at roughly £135m⁹.

4.5 Greater Manchester has set out targets for the franchised network¹⁰. By 2030 their ambition is for:

- A 30% increase in bus patronage from 2022/23 levels.
- Buses to run at least every 12 minutes on key orbital and radial routes.
- 90% of the entire Greater Manchester population to be able to access a 30-minute frequency bus or Metrolink service on weekdays within 400m of their home. Other options (e.g. DRT) will be put in place in parts of the city region where this is not possible.
- On-street bus improvements across 70km of high frequency, strategic bus routes across Greater Manchester by 2030.

4.6 The first franchised bus services entered service in Bolton, Wigan and Salford and Bury in September 2023. Services have since been added in Oldham, Rochdale and parts of north Manchester. Under the final round of contracts, there will be a total of nine franchises (five large and four small) across the south of Greater Manchester, covering 248 different services¹¹.

⁸ UTG (2023) A Smoother Ride - Reviewing the Bus Services Act 2017 to empower local areas

⁹ GMCA (2019) Bus Franchising in Greater Manchester Assessment

¹⁰ TfGM (2023) Greater Manchester Bus Strategy

¹¹ GMCA (February 2024) Delivering the Bee Network: Bus Franchising Implementation Update



Liverpool City Region Combined Authority

- 4.7 Following public consultation in summer 2023, Liverpool City Region Mayor Steve Rotherham made the decision to move to a bus franchising model in the region.
- 4.8 A three-year transition period will now take place to allow network improvement measures – such as bus prioritisation infrastructure and the reintroduction of bus lanes in Liverpool – to be introduced before the first franchised services begin. Franchising in Liverpool will be introduced in phases, with the first franchised buses starting to run in St Helens by late 2026 and the move to a fully franchised system across the whole of the Liverpool City Region by the end of 2028¹².

West Yorkshire Combined Authority

- 4.9 In 2023, West Yorkshire Combined Authority's Franchising Assessment Report, reviewed by an independent auditor, explored the options for bus reform and concluded that bus franchising would offer clear strategic benefits to the region. This report was followed by a public consultation into franchising that closed in January 2024. Mayor Tracy Brabin announced the decision to proceed with franchising on 14 March.
- 4.10 The proposed franchising scheme is expected to come into operation in June 2026, with franchised buses on the road from March 2027. The scheme will see the region broken into ten zones based around the existing large depots. Rollout is expected to be completed by early 2028¹³.
- 4.11 The MCA has assumed that there will be an initial cost of £20m to set up franchising (consultancy, mobilisation and management) and investment in depots (£85.5million) and fleet (£252 million) over a 15 year period, with the ongoing costs covered through a mix of fare revenue and the existing Transport Levy¹⁴.

South Yorkshire Mayoral Combined Authority

- 4.12 In 2022, the Mayor and Leaders at the Mayoral Combined Authority Board approved the recommendation to prepare an assessment of a proposed bus franchising scheme.
- 4.13 The subsequent Franchising Assessment Report found that over the past decade, bus mileage in the region declined by 42 per cent and concluded that buses in the region should be franchised, with depots and fleet owned by the Mayoral Combined Authority being the preferred option¹⁵.
- 4.14 The progression of the proposed franchising scheme was approved in March 2024. Currently an independent audit is being undertaken on the scheme and proposals, following which the MCA Board will need to make a decision on whether to continue

¹² LCRCA (October 2023) The Liverpool City Region Franchising Scheme for Buses 2023

¹³ WYCA (March 2024) West Yorkshire Bus Reform Report on Franchising Decision

¹⁴ WYCA (March 2024) Bus Reform Assessment

¹⁵ SYMCA (March 2024) Mayoral Combined Authority Board - South Yorkshire Bus Reform



with the process. If a decision to continue were to be made, the MCA would need to undertake a 12-week public consultation, ahead of a final decision being made on implementing the scheme.

Cornwall

- 4.15 In 2015, Cornwall Council became the first shire county to receive London-style bus franchising powers upon signing a devolution deal with the government¹⁶.
- 4.16 The Council launched an enhanced supported network with a uniform Transport for Cornwall red livery, saying it would only use its franchising powers as a last resort if partnership did not work¹⁷.
- 4.17 All supported services are branded Transport for Cornwall, a partnership between the council, the Go-Ahead subsidiary and its three subcontractors. The council also adopted the name as the new title for its One Public Transport System for Cornwall partnership.

5 UTG recommendations to improve England's approach

- 5.1 Learning from the experience of our members, who are currently at various stages of their franchising journeys, below we outline the key changes we believe need to take place to improve franchising in England. This builds on our report 'A Smoother Ride: Reviewing the Bus Services Act 2017 to empower local areas'.

Grant powers to all

- 5.2 The DfT describes franchising as 'a big decision which – as well as creating new opportunities – can have significant implications for existing bus operators and passengers and potentially expose local authorities to significant financial risks.¹⁸ This is the reasoning behind the Department's decision for franchising powers to be only available automatically to MCAs. Other types of authorities can request the powers, but secondary legislation is required to confer them, and the consent of the Secretary of State (SoS) is required before they can begin to use the powers. This effectively puts a restriction on those towns and rural areas that are not MCAs that may wish to pursue franchising¹⁹.
- 5.3 All areas should be given automatic rights to bus franchising powers, not just Mayoral Combined Authorities. The requirement for the Secretary of State for Transport's

¹⁶ Cornwall Council (2015) 2015 Cornwall Devolution Deal

¹⁷ <https://www.keybuses.com/article/cornwall-does-things-differently>

¹⁸ DfT (2017) The Bus Services Act 2017: Franchising Scheme Guidance

¹⁹ UTG (2023) A Smoother Ride - Reviewing the Bus Services Act 2017 to empower local areas



approval for non-Mayoral Combined Authorities for franchising is counter to the principles of devolution.

De-risk and simplify process

- 5.4 Considering the Greater Manchester experience, there is a strong case for further simplifying the process, reviewing the experience of the use of the legislation as it stands and how it could be improved. This should be reflected in the provision of up-to-date guidance, models and templates (e.g. model contracts) to help simplify, streamline and minimise risks and delays²⁰.
- 5.5 The Bus Services Act 2017 guidance effectively requires an authority to carry out an enhanced five case business case model (analysing the strategic, economic, financial, commercial and management case) arguably going beyond what would be required for a typical capital scheme.
- 5.6 The process includes developing all five cases for options other than the preferred option. Any process must, of course, carefully weigh-up the merits of what is a significant policy decision. It must also properly consider the impacts on incumbent operators to avoid risks of challenge either at legislation or assessment stage. However, further simplification, templates and frameworks to support assessment would help, including a more proportionate approach depending on the scale of the proposals.

Guarantee data access

- 5.7 Section 19 of the Bus Services Act requires operators to disclose information about revenue and patronage to the local transport authority when an operator cancels a service²¹.
- 5.8 Whilst the information provisions in the Transport Act 2000 allow for provision of relevant information about local bus services from operators, in Greater Manchester's case, this took time to obtain. Data was requested from operators at the start of the assessment process (June 2017) but was not forthcoming. An appeal to the Traffic Commissioner was required and a ruling was not received until over a year later. More recent experience post-COVID suggests that operators are now becoming more accustomed to sharing data with LTAs and government, however, greater clarity as to expectations (e.g. level of detail, format, timescales) and enforcement rights within the legislation could provide helpful reassurance²².
- 5.9 Further standardised open book data requirement for operators could also be introduced to simplify and de-risk the franchising journey, ensuring LTAs have the data

²⁰ UTG (2023) A Smoother Ride - Reviewing the Bus Services Act 2017 to empower local areas

²¹ DfT (2017) The Bus Services Act 2017

²² UTG (2023) A Smoother Ride - Reviewing the Bus Services Act 2017 to empower local areas



and information they need from operators (at the right level of detail and in the right format) when they need it, backed by an enforcement regime.

Improve LTA capacity

5.10 Overall LTA transport team capacity has declined over time due to a shortage of qualified individuals and reliance on long-service staff members approaching retirement²³. There is therefore an expectation that the main gaps will be filled through outsourcing and consultancy support. Further support in addressing staff capacity must be considered to ensure LTAs can undertake franchising in a manner that rebuilds their capacity and ensures value for money.

Simplify and devolve funding

5.11 Support provided to bus operators from local and central government, typically amounts to around 40 per cent of total revenues, although during the height of the COVID epidemic, rose as high as 70 per cent for a short period of time²⁴. A substantial part of the tax-payer derived support is to cover the costs of concessionary travel, so is better understood as a fare subsidy for passengers. Another portion of it derives from LTAs offering tenders to run services that otherwise would not be run commercially, so again is not a straightforward subsidy. And finally, Bus Service Operator Grant (BSOG) provides operators with financial support linked to their fuel costs. Noting the complexity of the current regime of revenue support, the actual direct public subsidy into bus service provision is relatively modest. LGA analysis conducted in 2023 found that the DfT spends more than £4.50 on subsidising rail passenger services for every £1 it spends on bus subsidy²⁵.

5.12 Current funding arrangements are far from the model of certainty that LTAs require to progress with EPs or franchising and invest in vital bus infrastructure. Sufficient and predictable funding, applied in a progressive manner, year-on-year would both drive down costs and provide better services to the passenger. Timescale and cost challenges due to overly complex processes and incomplete powers are further compounded by restrictive, siloed and piecemeal funding pots. This puts further pressure on local authorities to retrofit their ambitions to make these fit with national funding pot conditions and limitations.

5.13 For authorities embarking on franchising, having full control and accountability for a simplified and overarching funding pot would enable them to focus on delivering the desired local outcomes of improved services and the corresponding economic and societal benefits. This would give confidence to elected decision makers locally and

²³ DfT (2021) National Bus Strategy: Capacity and Capability

²⁴ Bus Expert Roundtable, DfT June 2022, data from the University of Southampton

²⁵ LGA (2023) Thousands of bus routes at risk amid funding uncertainty, News Release 16/02/23



centrally, as well as Treasury and the DfT, that every penny spent goes directly towards delivering better services and outcomes.

- 5.14 Therefore, we believe, that fair, transparent and timely allocation of funding that reflects local need and seeks to reduce regional inequalities must be established. The current siloed, competition-based or overly restrictive funding pots must be reviewed to move to a single devolved, long-term and simple capital and revenue funding stream for bus. This should ultimately become a part of a devolved long-term transport settlement that supports integrated transport planning.

Support for franchised networks

- 5.15 Currently, franchising legislation significantly limits LTAs' ability to make changes to the franchised bus network in their area without delay. The option for scheme variation within existing franchises should be introduced to give LTAs more flexibility to implement network changes over time, without the need for time consuming statutory variation mechanisms.
- 5.16 Furthermore, currently, the only way for LTAs to be able to prosecute fare evaders is for the franchise operators to give their consent and nominate LTA officers as inspectors under their operating licence. LTAs should be given prosecution powers.
- 5.17 Similarly, franchising authorities cannot currently introduce byelaws to tackle anti-social behaviour both on vehicle and within bus stations and at bus stops. Franchising authorities must be given their own powers to introduce byelaws to effectively tackle ASB on the bus network in the same way they can enforce such behaviour on the light rail network.

6 Further issues for Wales to be aware of

- 6.1 Within the franchising model, the transfer of powers and revenues from a deregulated market back to a public body is complex and presents risks. The risks will become clearer as more areas take up these powers. But through learning and exchange these risks should also be reduced. Below we briefly highlight some of the key risks Welsh decisionmakers ought to be aware of in the scrutiny of Welsh franchising plans.

Revenue risk

- 6.2 Revenue risk is an important consideration for any area planning on progressing with bus franchising. If fare income falls and operating costs rise, it is the Transport Authority assuming the direct revenue risk.
- 6.3 However, all authorities in England embarking on the franchising journey have concluded that "they cannot afford not to franchise"²⁶. In the case of Liverpool, for

²⁶ [Bus Franchising Final.pdf \(greatermanchester-ca.gov.uk\)](#)



example, about 15% of the services in the region have been deemed commercially unviable by operators and rely on subsidy from the local authority to run, costing about £14m a year²⁷ Greater Manchester, following the introduction of tranche one of franchising in the region, have concluded that to date, the costs for franchise contracts have been competitive, particularly when compared to the costs of tendering individual services²⁸.

- 6.4 Franchising also enables both public and private stakeholders to have 'skin in the game,' which is important for incentives and collaborative working. Highways authorities have an important role to play in supporting the smooth running of bus services, including through the provision of bus priority infrastructure, which can reduce the operating costs of services.
- 6.5 In the longer term it is important to note that smarter funding and financing models for fleets will be needed. Particularly for the transition to Zero Emission Bus (ZEB) fleets. The availability of commercial financing for buses is limited and smaller operators as well as transport authorities find it difficult to afford the significant upfront costs.

Need for investment

- 6.6 The results of bus franchising in London over the last two decades are extremely impressive. But this transformation has required very significant, ongoing investment in the bus system over many years.
- 6.7 Outside of London, many areas' deregulated bus networks have seen significant underinvestment over the same period. In order to bring these systems up to the same standard as the UK capital, significant additional investment (both capital and revenue) is likely to be required.

Operators' sustainability

- 6.8 A further risk to be aware of is the long-term sustainability of operators, even in a franchised network. This includes their viability to update fleet and assets and cover the cost of capital. This is particularly significant given plans for fleet decarbonisation. Similarly, the increasing level of skills shortage in the sector will continue to present a challenge to operators and the franchise authority.

Sustaining networks

- 6.9 A clear risk in the managing the transition to the Proposed Franchising Scheme also must be noted. Given the length of the franchising process, a risk of service deregistration in the transition period is present. If there were significant withdrawals of services, this would require the transport authority to provide a significant number of

²⁷ LCRCA (April 2023) Bus Franchising in the Liverpool City Region: assessment

²⁸ [Bus Franchising Final.pdf \(greatermanchester-ca.gov.uk\)](#)



interim services. There is thus a balance to be struck between reducing the adverse impact on introduction of the Proposed Franchising Scheme of operators deregistering services quickly, impacting the bus network, and the instability that this would create, and any potential adverse impact on any operator running the service.

- 6.10 Approaches to de-risking the transition period should be explored, learning lessons from Greater Manchester's experience.

SMEs

- 6.11 The last few years has been difficult for SMEs in the market, given the uncertainty of future funding, the cost of transitioning to zero-emission vehicles and capacity constraints²⁹. SMEs have also been vocal about their concerns in the lead up to franchising across England³⁰.
- 6.12 In response to these concerns, Greater Manchester set up small bus franchise lots aimed at SME operators, also setting out how, in conducting the procurement process for the provision of local services, the authority will facilitate the involvement of small and medium sized operators³¹.
- 6.13 The bus reform assessment published by WYCA states that the 'lotting' process that it expects to adopt – which will utilise large lots and small lots – is aimed at promoting competition and enabling SMEs³². This includes a gradual move to franchising with the smaller lots, including an initial letting of contracts on “substantially the same basis” as current gross-cost supported services.
- 6.14 Issues around long-term uncertainty can be overcome if long term certainty over funding plans for buses is provided by central governments, including assisting with the transition to zero-emission, while franchising authorities can make it simpler for SMEs to bid and give support in procurement.

Cross boundary services

- 6.15 Provision of cross boundary services is an issue facing all areas progressing franchising in England.
- 6.16 Under franchising, operators are required to apply to the franchise authority for a Service Permit to run bus services into the area. The permits require operators to meet the area's operational standards (e.g. environmental, accessibility, safety etc), provide

²⁹ Passenger Transport (2022) The ALBUM Report 2022

³⁰ [West Yorkshire bus franchising worry for SME operators is aired - routeone \(route-one.net\)](#)

³¹ GMCA (September 2019) Commercial Case Market Engagement Supporting Paper

³² WYCA (March 2024) Bus Reform Assessment



appropriate levels of passenger information that can integrate with the local systems (e.g. real time information) and accept and sell LTA tickets within the area's boundary.

- 6.17 Services seeking a permit must also be judged to benefit bus passengers within the local area and not have an adverse effect on franchised services. This approach is in place and working well in relation to cross boundary services to/from the Tranche 1 area in Greater Manchester³³.
- 6.18 To a larger extent this is an approach that Wales is likely to need to take for its cross boundary services. We would urge early cooperation and engagement with neighbouring English authorities and the operators providing the cross-boundary services as the franchising scheme is developed.
- 6.19 UTG would be happy to further support the committee in its inquiry, including by providing further detail on the points raised above or providing oral evidence in further stages of the enquiry.

³³ [Bus Franchising Final.pdf \(greatermanchester-ca.gov.uk\)](#)

The process - The Greater Manchester journey to franchising

The process for setting up a franchising scheme is set out below along with timelines for each stage, based on Greater Manchester's experience, as well as identified areas where time could be saved in the future:

Actions	Timeline based on Greater Manchester experience	Potential to save time in the future
1 Preparation of an assessment of the proposed franchising scheme (akin to a business case). The authority can obtain data from incumbent operators to develop this assessment	June 2017-June 2019	The length of time taken at this stage can, to some extent, be attributed to first-mover disadvantage. The experience and lessons learnt from Greater Manchester could result in a speedier process for those that follow. A proportionate approach, simplification and frameworks to support assessments would be helpful in reducing the time taken.
2 Key elements of the assessment are assured by an independent auditor	June 2019-October 2019	
3 The LTA consults on the proposals	First consultation (October 2019 – January 2020) 86% of respondents support bus franchising Government announces measures to deal with COVID (March 2020) Second consultation conducted to explore how COVID may affect the proposals and business case (December 2020-January 2021) 82% of respondents support bus franchising	The consultation period would usually be 3 months. The second consultation was related to COVID impact assessment.

4 Decision taken by Mayor or authority to implement franchising.	Decision announced (March 2021) Two operators submit claims for judicial review centred around how COVID may affect the case for reform (March 2021) High Court rules that the decision and process to franchise bus services was lawfully carried out (April 2022) One bus operator seeks leave to appeal, which is granted on two technical points. Court of Appeal rejects the appeal (April 2022-July 2022)	Without COVID we can reasonably estimate that the Manchester decision would have been made in March/April 2020 (allowing 2-3 months to analyse consultation responses).
5 Procurement and award of contracts	First operators to be awarded contracts announced (December 2022)	The period up to the awarding of contracts is the procurement process, the length of which depends on LTA procedures. In the case of Greater Manchester, this took around five months.
6 Mobilisation and transition period (minimum of six months) to allow incumbent and new operators to adapt to the franchising arrangements	December 2022-September 2023	In Greater Manchester, the assessment process determined that 9 months was required.
7 Franchising implemented	First franchised buses enter service (September 2023) Tranche two enter service (March 2024) Tranche three enter service (January 2025)	

Senedd Cymru Committee on Climate Change, Environment and Infrastructure: Bus Franchising

Submission of Transport for Greater Manchester

Stephen Rhodes, Director of Bus, April 2024

Bus Franchising – Greater Manchester’s Experience

As the first place in the United Kingdom to use the powers in the Bus Services Act 2017 and the first place outside of London to run franchised bus services, Greater Manchester is uniquely well-placed to describe the benefits and opportunities of franchising, as well as some of the challenges inherent to a structural change of this magnitude.

Context

Buses are a critical part of Greater Manchester’s transport system, but they have not been performing to their full potential for many years.

In the almost four decades since deregulation, bus journeys in Greater Manchester fell, from around 355 million in 1986 to 182 million in 2019. The bus network also shrank in this period: in 1977, buses here travelled 137 million kilometres, compared to 85 million kilometres in 2022.

If Greater Manchester is to meet its target of carbon neutrality by 2038 and deliver on its ambitions for a fairer and more prosperous city region, our bus system will need to carry more people for more journeys.

A rigorous assessment of the bus system set out that bus franchising – i.e. local control of routes, fares and service levels and the ability to integrate buses with other transport modes – would provide the biggest benefits for Greater Manchester. In March 2021, the Mayor of Greater Manchester made the decision to implement bus franchising here.

Transition

Greater Manchester is now seven months into franchised bus operations, with around half the conurbation’s bus network franchised and the remaining 50% due to be franchised in January 2025. This has been a very significant undertaking, with the public sector taking control of 10 large bus depots and procuring hundreds of vehicles.

It has also required a huge effort by operators (both incoming and outgoing) and their staff to support an orderly transition to the new arrangements that ensures services are maintained for the travelling public.

Greater Manchester has worked hard to minimise disruption during this period of change but the complexities of moving to a franchised system are significant.

Current position

Franchised services in Greater Manchester are now, on average, more punctual than they were in the equivalent period twelve months ago and are regularly outperforming services on the non-franchised network.

Patronage on franchised services has grown steadily, with more than 250,000 passengers being carried each weekday, and nearly 290,000 on some days.

Revenue for franchised services has continued to exceed forecast. Revenue increased further throughout February and year to date was 24% above budget. However, increased revenue is being offset by higher than anticipated costs.

Since January 2024, TfGM has publicly reported Bee Network bus performance every week on its website, for services that have been franchised since September 2023. In the most recent report:

- In the week 7 to 13 April: more Bee Network bus services were on time compared to both non-franchised and pre-franchised services (in the same period last year)
- In the six weeks ending 13 April: in every week, Bee Network services were more punctual than they were in the equivalent period pre-franchising; and
- In every week, Bee Network services were more punctual than non-franchised services in GM.

Initial interventions

On routes where performance has been particularly poor, franchising has allowed TfGM to make changes to timetables and improve reliability for bus users. Changes of this kind have been made in both January and April 2024.

We are also acting on customer feedback:

- Some changes to service numbers have come into effect to make the network easier to understand.
- Further updates to the app, including journey planning and bus tracking.

Developing the network

In the future, local control means that elected members, residents and other stakeholders will rightly expect the network to do more to support the city region's policy priorities and longer-term ambitions.

In July 2023, we published our [Bus Strategy](#), which set out how we want to use our newly franchised bus system to support Greater Manchester in the future. Our key targets by 2030 are:

- A 30% increase in bus patronage from 2022/23 levels, with Bee Network targets to be confirmed through the Local Transport Plan process.
- For buses to run at least every 12 minutes on key orbital and radial routes.
- To provide 90% of the entire Greater Manchester population with a 30-minute frequency bus or Metrolink service on weekdays within 400m of their home. Other options (e.g. Demand Response Transport) will be put in place in parts of the city region where this is not possible.
- To deliver on-street bus improvements across 70km of high frequency, strategic bus routes across Greater Manchester.
- To keep fares as low as possible across the Bee Network and reinvest any surplus back into the transport system.

Network Reviews are the mechanism through which Greater Manchester will develop its bus network in a coordinated, planned and consistent manner, as part of the wider Bee Network – our integrated transport system.

Operational changes can (and have) been introduced outside of this process, but where network or strategic changes are required, it is the intention that we will use the Network Review process to ensure consistency and accountability.

The first Network Review – of services in the Bolton area – is already underway.

Agenda Item 6.1

**Pwyllgor Newid Hinsawdd,
yr Amgylchedd a Seilwaith**

—
**Climate Change, Environment,
and Infrastructure Committee**

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Councillor Geraint Thomas

Leader of Merthyr Tydfil County Borough Council

Ellis Cooper

Chief Executive of Merthyr Tydfil County Borough Council

30 April 2024

Dear Geraint and Ellis,

I am writing as Chair of the Senedd's Climate Change, Environment, and Infrastructure Committee regarding a short inquiry we are undertaking on opencast mining, including the site at Ffos-y-Frân.

The Committee's secretariat has contacted officials in your organisation to invite them to attend a meeting of the Committee. Unfortunately, our invitation has been declined.

From our discussions so far, it is clear that the Council's input is vital to understanding the issues concerning the site at Ffos-y-Frân and how they can be resolved. I would sincerely ask that you reconsider our invitation and agree that council representatives, either elected representatives, officials, or both, can attend a meeting of the Committee to discuss these matters further.

The Committee's next meeting is on 22 May and is scheduled to take place between 9.30 am and 12 pm. If this meeting is not convenient, please liaise with the Committee secretariat, and we will do everything we can to find an alternative opportunity.

Given the significant public interest in this matter, the Committee is determined that the Council has the opportunity to state its position and explain the latest developments. The Committee has power at its disposal under the Government of Wales Act 2006 to require persons to attend proceedings for the purpose of giving evidence. Our preferred option is, of course, for a positive response to this invitation.

I would be grateful if you could respond to this invitation by **8 May**.

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment, and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.



Merthyr Tydfil Heritage Trust

'Heritage Park' should be retained in Ffos y Fran restoration

Ref: htlt370-04-24

Llyr Gruffydd MS
Climate Change, Environment, and Infrastructure Committee
Senedd Cymru
SeneddClimate@senedd.wales

Wednesday, 24 April 2024

Ffos y Fran opencast aftercare – heritage, public access and wildlife concerns

Dear Llyr Gruffydd,

Merthyr Tydfil Heritage Trust shares the concerns that have been raised in submissions to the Climate Change, Environment and Infrastructure Committee about the devastation of East Merthyr through 17 years of opencast mining operations.

We are aware that the committee is this morning discussing what must now be accepted as the total failure of the Ffos y Fran Land Reclamation scheme.

However we would like to draw attention to important features of the 2007 Ffos y Fran Restoration Strategy¹ adopted as a condition of planning approval. These include provision for:

- the preservation of heritage sites
- the conservation of wildlife and
- the re-instatement of a network of public rights of way and footpaths.

Can we ask that the committee calls for the Welsh Government to intervene to make sure Merthyr Tydfil County Borough Council has the best possible support and advice immediately? This so that any revision of the Restoration Strategy does not fail the present and future generations of our town.

Kind regards,

Rob Thomson

Projects Officer

Merthyr Tydfil Heritage Trust

¹Restoration-Strategy-Consented-Scheme-Revised-Dates-22.05.2007.pdf (coalaction.org.uk)

Ein cyf/Our ref: MA/HIDCC/05086/24

Llŷr Gruffydd MS
Chair
Climate Change, Environment, and Infrastructure Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

24 April 2024

Dear Llŷr,

I wish to inform the Committee of the intention to consent to the UK Government making and laying The Phytosanitary Conditions (Amendment) Regulations 2024 (“The Regulations”) by 9 May 2024.

I received a letter from Lord Douglas-Miller, Minister for Biosecurity, Animal Health and Welfare, requesting consent to the Regulations. The Regulations will be made by the Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred by Articles 5(3), 30(1), 37(5) and (5A), 40(3), 41(3), 72(3) and 105(6) of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants. Article 2a(2) of Regulation (EU) 2016/2031 provides that such Regulations can be made by the Secretary of State with the consent of the Welsh Ministers.

The purpose of the Regulations is to update aspects of the Phytosanitary Conditions Regulations (PCR) to introduce the following changes:

- Introduce measures against the import of host plants, wood, and woodchips, for pests *Chrysobothris femorata* and *C. mali*, from the USA and Canada to prevent the introduction of the pests into GB.
- Regulate the seed of *Solanum sisymbriifolium* (“sticky nightshade”) as a host of the regulated non-quarantine pest (“RNQP”), potato spindle tuber viroid (“PSTVd”), after it was recently found to harbour this pest.
- Every year, a small number of culturally significant Norwegian Christmas trees are gifted to the UK government by the Norwegian government and municipalities. The Regulations will provide a specific import requirement for the introduction of these spruce Christmas trees, not intended to be placed on the market, from Norway for short term display only.

Bae Caerdydd • Cardiff Bay
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- Alter the regulatory status of some pests following a technical review of their current risk to GB biosecurity.
- Correct some errors detected in the Phytosanitary Conditions Regulation.

The Statutory Instrument (SI) is subject to the negative procedure and is due to be laid before UK Parliament on 9 May 2024.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the Regulations to be laid by UK Government. The Regulations relate to a devolved area, however, they impact on imports of plant and plant products GB-wide. Many of the changes in the Regulations relate to the importation of plants and plant products. Most of these goods which enter Wales come through English ports and would be subject to their importation legislation. Introducing separate regulations in Wales and England may cause additional burden on the Animal and Plant Health Agency (APHA), business, traders and growers. Regulating on a GB-wide basis ensures a coherent and consistent statute book with the regulations being accessible in a single instrument with no risk of legislative divergence in Great Britain. Additionally, doing Wales-only Regulations for some provisions within this SI would likely have implications for notifying the World Trade Organisation (WTO) of the changes.

I would like to reassure this Committee it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. Therefore, I am giving my consent to these Regulations. There is no policy divergence between the Welsh and UK Government in this matter.

I have written similarly to Sarah Murphy MS, the Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely,



Huw Irranca Davies AS/MS

Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig
Cabinet Secretary for Climate Change and Rural Affairs

Huw Irranca-Davies MS

Cabinet Secretary for Climate Change and Rural Affairs

2 May 2024

Dear Huw,

At our meeting on 24 April 2024, we considered the correspondence informing the Committee that the previous Minister for Rural Affairs and North Wales, and Trefnydd had given her consent to the Minister for Biosecurity, Animal Health and Welfare to lay the Environment and Rural Affairs (Revocation and Consequential Provision) Regulations 2024.

You will be aware that the Committee has followed developments relating to retained EU law (REUL), now assimilated law, since the Retained EU Law (Revocation and Reform) Bill was introduced in the UK Parliament in September 2022.

The Committee agreed to seek your views on the following matters:

- Your assessment of the Retained EU Law (Revocation and Reform) Act 2023 on environmental law in Wales.
- Your view on the implications for environmental governance in Wales.
- You will be aware of our previous exchanges with the former Minister for Climate Change, who told us that the Welsh Government wished to retain elements of the National Emission Ceilings Regulations which the UK Government had included on Schedule 1 for automatic revocation on 31 December 2023.
 - i. Could you provide an update on the intergovernmental discussions regarding these regulations?
 - ii. Will the Welsh Government use the powers available to Welsh Ministers under the Act, or other powers available to Welsh Ministers, to reinstate the NEC Regulations, in whole or in part?
 - iii. Whether the revocation of the NEC Regulations had any practical impact or effect?

- Your view on the expiration of general principles of EU law at the end of 2023 and the implications for environmental law in Wales.
- Your view on the plans set out by the UK Government in its [first REUL report](#) to the UK Parliament as they relate to areas of this Committee's remit, particularly its timetable, the capacity of the Welsh Government to respond and implications for environmental law in Wales.
 - i. Could you confirm what role, if any, the Welsh Government had in the preparation of this report.
- Whether the Welsh Government is aware of additional upcoming changes under the Act to environmental assimilated law?
- Whether WG themselves has any current plans to use powers in the REUL Act in relation to the environment?
- Any further views or information you consider it would be important to share with the Committee.

I am copying this letter to Sarah Murphy MS, Chair of the Legislation, Justice and Constitution Committee.

I should be grateful for a response as soon as possible, and by 30 May at the latest

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Document is Restricted