

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: JJ/PO306/2023

Llŷr Gruffydd MS
Chair
Climate Change, Environment and Infrastructure Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

15 September 2023

Dear Llŷr,

Thank you for your letter of 24 July seeking clarification on several issues relating to the ongoing situation at the Ffos-y-fran opencast site.

- *Given the potential for several more months of coal mining at the site, what measures is the Welsh Government considering to mitigate the environmental impact of the continued extraction?*

Ongoing legal action by Coal Action Network means I am limited in what I can say about the case. To inform the Welsh Ministers' consideration relating to enforcement action, I wrote to Merthyr Tydfil County Borough Council to request full details of the information taken into account by the Council in its approach to enforcement on the site. The Council's response is being considered.

- *We understand that the cost of restoring the land is estimated to be between £75m and £125m. It has been reported that the mining company has put aside only £15 million for this process. Can you confirm your understanding of the position? Can you confirm what steps you can take to ensure the mining company pays the full restoration costs?*

The planning permission granted to reclaim the site requires restoration of the site in accordance with a scheme agreed by the Council. The strategy for the progressive restoration and management of the land was approved by the Council on 4 November 2005. The £15 million pound deposit is intended to fund some restoration in the event the site operator fails to comply with the restoration conditions. In the meantime it is for the occupiers and landowners at the site to complete the restoration.

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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.

In the event the company ceases trading and therefore the site is abandoned, it would fall to the Council to make the site safe and in the longer term complete the restoration. Multi-agency talks are underway to prepare contingency arrangements should the site be abandoned. These have brought together the Welsh Government, Council, Natural Resources Wales and the Coal Authority.

- *The operator of Ffos-y-Fran has appealed the enforcement notice to stop coal extraction. Can you provide more insight into the appeal process and the factors that will be considered in making a decision?*

The grounds of appeal submitted by the company are below, however I cannot comment further to avoid prejudice to the proceedings:

- That planning permission should be granted for what is alleged in the notice;
 - That the breach of control alleged in the enforcement notice has not occurred as a matter of fact;
 - That there has not been a breach of planning control (for example, because permission has already been granted or it is “permitted development”);
 - The notice was not properly served on everyone with an interest in the land;
 - The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections;
 - That the time given to comply with the notice is too short.
- *The appeal could take 12 months or more to resolve. Is it your understanding that coal extraction will continue during this time?*

. The company has recently made a unilateral undertaking to the council that coal extraction will stop by the 30 November 2023. This gives the Council additional legal powers to ensure coal extraction does not progress beyond November but, in the meantime, they have decided not to pursue a stop notice because they consider some coal extraction is necessary to make the mine safe before it is closed.

The Welsh Ministers will be looking carefully at all the arguments put forward when they consider whether their planning enforcement powers should be used to stop coal extraction prior to 30 November.

- *What measures are available to the Welsh Government to expedite this appeal process and prevent further extraction?*

Once the Council decides whether or not it is expedient to take enforcement action, and in the event they choose not to, the Welsh Ministers will consider whether or not to use their enforcement powers.

- *The BBC has reported that the Welsh Government has said it cannot comment further on the appeal as it may “jeopardise any future decision Welsh ministers may have to make on the matter”. Can you clarify what this means and how it constrains the Welsh Government's ability to take action?*

The Welsh Ministers have two separate issues to consider, the appeal against the Council's enforcement notice and a request to use their enforcement powers.

The appellant has a legal right to a fair appeal hearing which requires the Welsh Ministers to hear all evidence about the grounds of appeal before reaching a decision. Prejudging the outcome of the appeal or appearing to do so may make any later decision unlawful. This situation constrains what ministers can say about the issues to help avoid making comments that could be construed as prejudicial to a fair hearing.

- Merthyr Tydfil Council *and* the Welsh Government have been accused of potentially acting unlawfully in failing to deal with the matter more urgently and issuing a "stop notice". What is your response to these accusations?

In view of the ongoing legal action by Coal Action Network I cannot comment further on this matter.

- According to BBC reports, the operator of Ffos-y-Fran has stated that it is in discussions with the local *authority* to ensure "a safe cessation of coaling". Can you provide more details of your involvement in these discussions and the measures being considered to ensure a safe cessation?

The Council, as the local planning authority, have been discussing with the site operator how the land should be restored so that land instability and adverse hydrological conditions are avoided. The Welsh Government is not directly involved in those discussions but has been monitoring their progress. I noted above the preparation of contingency arrangements should the site be abandoned.

- *The Ffos-y-Fran mine is a significant employer in the area, with about 180 staff. What plans does the Welsh Government have to support these workers and the local economy as the mine closes?*

A managed end to coal means ensuring mines are closed safely and restored. It also means employees and those communities and businesses affected by coal extraction must not disproportionately be affected by mine closures. *Delivering a just transition will mean, that as we move to a cleaner, stronger, fairer Wales. We will develop a clear understanding of the impacts of change, positive and negative, and how to make sure these are fairly distributed in society. In doing so, we have committed to building a future for Wales that supports a wellbeing economy.*

The Welsh Government works closely with key partners such as Working Wales, Jobcentre Plus, local authorities and Wales TUC to ensure that people who are affected by redundancy in Wales are provided with the information, advice and guidance about the support available to them. This multi-agency approach has been employed in a number of large redundancies to ensure that all barriers to employment are identified at an early stage and that appropriate support can be provided;

Advisers from Working Wales, Communities for Work Plus and Jobcentre Plus can arrange joint presentations to the workers affected and provide tailored, one-to-one support to those who need it. In addition, the Council delivers the Welsh Government's Communities for Work Plus employability support programme in their authority area.

Welsh Government's ReAct Plus programme is available to provide a vocational training grant to help those affected by redundancy to gain the skills that employers are looking for. ReAct Plus can also provide support with expenses such as travel to training courses and help with childcare costs during training.

Delivering a just transition will mean, that as we move to a cleaner, stronger, fairer Wales. We will develop a clear understanding of the impacts of change, positive and negative, and how to make sure these are fairly distributed in society. In doing so, we have committed to building a future for Wales that supports a wellbeing economy.

Yours sincerely,

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

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Minister for Climate Change