

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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref JJ/PO/104/24

Llyr Gruffydd MS
Chair, Climate Change, Environment and Infrastructure Committee

SeneddClimate@Senedd.Wales

15 March 2024

Dear Llyr

Thank you for your letters of 11 January and 8 March asking for further information about the Ffos y Fran site. I apologise for the delay in responding.

1. It has been reported that the mining company had put aside only £15 million for restoration. In your letter, you refer to this as a “£15 million pound deposit” that “is intended to fund some restoration in the event the site operator fails to comply with the restoration conditions”. Is it the case that the mining company has put aside no funds beyond an initial deposit?

Only Merthyr (South Wales) Ltd know how much funding they have put aside to restore the site. According to the last accounts filed with Companies House, for the year ended 31 December 2021, the company was making provision for just over £71 million for liabilities. How much of that figure remains available for restoration is not clear, and it is also not clear whether it includes the £15 million held in escrow account by Merthyr Tydfil County Borough Council, which I referred to in my previous correspondence as a “£15 million pound deposit”. The company is reluctant to release details of the agreement it has with the council that would explain how the funds held in the escrow would be released. It remains a particular concern to me that the company is apparently unwilling to share information relating to the site’s operation and condition.

2. Estimated remediation costs for the site reportedly range from £120m to £175m. What, if any, assessment has the Welsh Government made of the total restoration cost for the Ffos-y-Fran site?

As part of their role monitoring operations under the planning permission, it has been a matter for the council to keep restoration plans under review. The Welsh Government has not made an assessment of the total restoration cost for the Ffos-y-Fran site beyond that

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

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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.

contained in the report 'Research into the Failure to Restore Opencast Coal Sites in South Wales' ("the research report"), which provides an estimate of costs based on information available at that time.

3. What measures are available to the Welsh Government to ensure the mining company fulfils its financial obligations for restoration? What contingency planning has taken place should the company fail to meet these obligations?

The policy and guidance in Planning Policy Wales (PPW) and Minerals Technical Advice Note 2 Coal (MTAN 2) is clear that operators must meet their restoration obligations. This is a key basis on which the granting of planning permission is possible.

Planning conditions are the main mechanism to ensure land affected by mineral extraction is restored to a high standard suitable for its agreed after use and at the earliest opportunity. Operators and landowners should ensure that sufficient finance is set aside to enable them to meet restoration obligations and the local planning authority should require financial guarantees, to ensure that restoration will be fully achieved. They can do this by way of a section 106 obligation as part of the approval of planning permission. Local Acts apply in certain areas (The Dyfed Act (1987), the West Glamorgan Act (1987), Mid Glamorgan County Council Act (1987)), which enable bonds and financial guarantee mechanisms to be imposed by condition on planning permissions for coal mines, so if no bond is in place, planning permission would not be given and companies not fulfilling their financial obligations can be prosecuted.

4. In your letter, you said that, in the absence of adequate funds, it would fall to the Council to make the site safe and, in the longer term, complete the restoration. You explained that multiagency talks are underway to prepare contingency arrangements should the site be abandoned. Could you provide an update on progress?

While it does fall to the council to secure the site and pursue restoration should the site operator and landowner enter administration, we have made offers of assistance and we believe they have all the information they need from us to prepare contingency arrangements. Multi-agency support for the council has continued through monthly meetings of officials.

5. What types of agreements exist across Wales to fund the restoration of sites after operations cease? Are you satisfied there are sufficient safeguards in place to ensure the funds are sufficient for full site restoration or remediation?

In my answer to question 3, I set out the mechanisms for securing restoration. The research report considered the effectiveness of the varying approaches and noted the difficulties involved in setting appropriate bond or insurance arrangements. While I consider the legislative framework would enable appropriate protection if new sites were to come forward. I am disappointed we are left to deal with the legacy resulting from bad practice. The privatisation arrangements put in place by UK Government to grant companies immunity from bond requirements for a 10 year period and the culture that this emboldened has had a profound effect on the ability of public bodies to secure sufficient funds and safeguards to deliver full restoration. Across the coalfields, companies appear to have put profit before responsibility to the communities they have operated in. There is a lack of funding affecting sites that will mean difficult and unsatisfactory decisions will need to be made about revised restorations plans.

6. Are there specific active or inactive opencast sites that raise particular concern that the monies accrued (through bonding and other mechanisms) fall short of the financial liabilities associated with restoration and aftercare to agreed planning conditions?

The research report looked at most opencast coal sites across Wales and identified the risks associated with restoration for those sites.

7. Has the Welsh Government undertaken any work on issues relating to opencast remediation since its 2014 report "Research into the failure to restore opencast coal sites in South Wales"? What, if any, action did the Welsh Government take in light of the report's findings?

In 2016, the Welsh Government and the Coal Authority worked with stakeholders to prepare best practice guidance on the calculation, accumulation and management of bonds which would seek to establish a consistent basis for negotiations across Wales.

<https://www.gov.wales/restoration-surface-coal-mines-guidance>

8. In your letter, you refer to several programs and initiatives intended to support former workers at the site. Can you provide an update on the progress of this work and its success so far in finding alternative employment for the workforce?

I understand that those made redundant have been highly sought after due to their skills and experience, so most people affected have already secured alternative employment.

Support organisations have engaged directly with the company and individual workers to signpost support and we remain committed to making sure that anyone who would benefit from that support is able to access it.

Yours sincerely



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