

## Restoration of opencast mining sites

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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)

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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.
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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'.

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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.

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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

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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.

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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.

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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

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### 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.

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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?

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- 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

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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.

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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

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