

FAO Judith Jones
Chief Officer Planning, Engineering and Estates
Planning and Neighbourhood Services
Merthyr Tydfil County Borough Council
Civic Centre
Castle St
Merthyr Tydfil
CF47 8AN

Copied to:

David Cross – Principal Planning Officer, MTCBC

By email only:

[REDACTED]

cc:

[REDACTED]

19th April 2024

Dear Ms. Jones,

Re: Ffos Y Fran Land Reclamation Scheme, East of A4060 Slip Road, Merthyr Tydfil, Wales

1. We write to both amplify the voice of the local community – to ensure that their valid concerns are being heard and acted upon by yourselves, and to ensure that the enforcement of extant conditions linked to the mine remains a priority for Merthyr Tydfil County Borough Council; especially in the context of the recent flooding of the mining void, to the north west of the site.

MATTER A) FOI/EIR E-Mail exchange between Natural Resources Wales (NRW) and MTCBC 2013/14)

2. We have been informed of the escalating situation with flooding of the mining void by local residents, as well as on-going dialogue with the Coal Action Network (CAN). CAN has also shared EIR/FOI attained email correspondence between yourselves and Natural Resources Wales (NRW) including discussion on the possible leaching of poor-quality coal seams into the void water (and possibly into wider water network); its limited potential to be classed as a 'large raised reservoir' under the Reservoirs Act 1975 – as well as other issues (see **Appendix A**).
3. Fundamentally, the correspondence (as seen) raises new concerns for us, many of which MTCBC is, no doubt, exploring with your legal, environmental health (and other relevant) departments to find solutions linked to your statutory responsibilities. While we understand the principal duty in resolving/ mitigating these issues also lies with the operator, it remains that MTCBC does have statutory powers at its disposal (including planning enforcement, EHO etc). We trust MTCBC will use them to force both a more equitable interim (and more urgent)

resolution to risks posed by the filling of the void – to satisfy valid local concerns - and to steer the operator towards a sustainable and final restoration outcome.

4. It's also evident from the email exchange that you continue to hold "weekly meetings" with Merthyr (South Wales) Limited (MSW). Despite this, we find it slightly troubling that in the council's response to NRW in February of this year, the operator's mix of ambivalence and disinterest in the fate of the void is clearly inferred, but equally no suitable remedy is proposed by your representative to challenge and curb such poor operator behaviour. This suggests an unhealthy power imbalance between MSW and yourselves, and we'd recommend its redefining being needed if the restoration of the site is to include any of the original community benefits intended:

'...The undertaker is yet to provide us with the information on their plans for the void, or any survey information so we have not been able to provide specific advice and guidance. We continue to request a range of information from the operator to aid in understanding on a range of hydrogeological-related aspects but like other parties, are continually finding that the information is not forthcoming.'

5. Despite the above impasse, further separate correspondence between MTCBC and local Merthyr resident Mr Chris Austin and MTCBC's Mr David Cross (14th March 2014) shows some progress eventually being made with the operator, but at the same time, **raises further key questions we would like MTCBC to respond to as a matter of urgency:**

- **In response to what MSW is doing to mitigate the range of risks of the void flooding:**

'..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.' (Mr Cross)

Q1: Noted, but can we know has been appointed, when will their report(s) be published and what will it/they address? Will this include land stability? leaching? flood risk?

Q2: Should MTCBC not be requiring that an interim report on the current risks posed by the void filling with water (re issues raised above) is needed more urgently? While a separate report linked to the forthcoming restoration of the site will be forthcoming from MSW, the above wording sounds like the two will be conjoined, leading to further delay. An interim report is needed much more urgently to alleviate the warranted concerns of local residents. We would appreciate more specific timeframes on this ASAP.

- **In response to the council's view on the perceived risks associated with the void (flooding/instability, leaching of water supplies etc):**

*'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....'* (Mr Cross)

Q3: Quite clearly, if no such investigation and report analysis has yet been produced by MSW as to the risks, and presumably the council hasn't undertaken its own impartial analysis - we would like to know to what evidence MTCBC is basing its position? If you are simply awaiting findings from MSW - and we assume you don't have the in-house capacity yourselves - then what robust professional evidence points to these conclusions? If such findings exist, please can you forward us a copy and any associated risk assessments (including the date they were completed), via email urgently.

On the other hand, if no such objective evidence exists, we obviously question the validity of Mr Cross' conclusions in the first instance and ask MTCBC to immediately commission its own report into land stability, leaching and flood risk AND lean more heavily on MSW to issue its own interim findings ASAP - especially due to the unknown nature of risk(s) being posed to the environment, local communities (and possibly), wider public health).

- **In response to future restoration plans:**

'...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'.

Q4: We view the submission of a further variation application under the current circumstances - essentially where MSW has initiated a form of 'fait accompli' in allowing the void to flood to then seek to revise its restoration scheme around what is an alien landscape feature - as highly inappropriate; especially compared to the original restoration scheme and wider community benefits that were originally envisaged - although this is less surprising considering MSW's previous behaviour. Is MTCBC pushing back on this approach at all? or has it given up any prospect of a non-water body theme in the re-submission of such plans?

Q5: Such dates seem vague. If the mining operations had finished on time (i.e. 6th September 2022) we would surely have had such detail by now. As MSW did not finish mining till over a year past this date, surely the council is well within its rights to ask for a revised restoration scheme to be submitted ASAP

MATTER B) Request to see other documentation associated with extant planning conditions:

6. Despite mining having - more or less - ceased, and with the pumps turned off last year by the operators, our view is that the site red line remains under the constraints of planning conditions from 2011 (Appeal Ref: APP/U6925/A/10/2129921) i.e. the meaning of "the duration of the development". Those conditions most relevant to the flooding of the void are given below, together with '**Actions**' (where we would be obliged if you could send us relevant planning documents and details via email):

7. Condition 44 - Groundwater monitoring and protection:

'Once the development hereby permitted starts the groundwater monitoring scheme (GMS) approved by the Local Planning Authority in accordance with condition 44 of permission APP 152-07-014 shall continue for the duration of the development'.

(Reason: "to prevent water pollution into the environment".)

Action: Friends of the Earth would welcome a copy of the Ground Water Monitoring scheme from yourselves, especially as no copy is on the website. We note the condition wording states that the GWMS shall “continue for the duration of the development” and does not differentiate between periods of cessation of mining and restoration in this context.

8. Condition 42 – Environmental Management Plan: This mentions the need for an environmental management plan (EMP) to be agreed and signed off by the LPA before commencement of development, and the EMP to be implemented as such.

Action: Again, please send us a copy via email at your earliest convenience.

9. Condition 51: Site Restoration.

Action: Please send us a copy of the restoration plan at your earliest convenience.

10. Condition 59: Environmental Liaison Officer: states: ‘Once the development hereby permitted starts the site operator shall continue to employ an environmental liaison officer approved in writing by the Local Planning Authority who shall oversee all soil stripping/storage, the restoration scheme, habitat re-creation and landscaping works, as required by condition 59’

(Reason: To ensure that the site is reclaimed in an acceptable manner and to a condition capable of beneficial afteruse, in the interests of the protection of residential and visual amenity, and for general public benefit.)

Action: We would welcome details of the assigned environmental liaison officer for the site, and any email exchanges between the council and that party, particularly linked to the void, as well as on site restoration more generally. The reasoning for the condition is indicative of why we are requesting this detail, also”. (N.B We can also seek copies these emails via EIR/FOI request separately, if needed).

11. Overall, we await answers to both **Matter A** and our requests in **Matter B** (above) at your earliest convenience, so we can undertake a full review of the information.
12. We appreciate your cooperation in advance and look forward to your response shortly.

Yours sincerely,

[REDACTED]
Senior Planner
[REDACTED]