

DMQTWB 06 - Evidence from: Friends of the Earth Cymru

Senedd Cymru | Welsh Parliament

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

Bil Tomenni Mwyngloddiau a Chwareli Nas Defnyddir (Cymru) | Disused Mine and Quarry Tips (Wales) Bill

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

We strongly support this urgently needed legislation. The issue of dangerous tips and quarries has been well known for decades in Wales, and of course in particular since the tragic coal tip disaster of Aberfan in 1966.

But in recent years it has become even more apparent and urgent as extreme weather events caused by climate change become more frequent and more extreme, causing unprecedented tip destabilisation – including in Tylorstown and most recently in Cwmtillery. This will only increase as the impact of climate change is felt in Wales as throughout the world. There have also been welcome steps taken to assess the scale of the problem in recent years.

However we believe the scale of the problem and the sensitivity of the areas, as well as the impact on communities and on nature, requires a public authority and public funding to deal with dangerous tips and make them safe.

Individual local authorities have neither the capacity, expertise nor funding necessary to do this on their own, leaving a dangerous gap which could see private companies step in and propose ‘solutions’ based on financial gain from removing and selling the coal, rather than taking an approach which puts safety and welfare first and prioritising tips that put communities at risk.

We are already seeing this situation arise with 2 of the tips at Bedwas in Caerphilly Council area, and fear that this could escalate into a dangerous new coaling industry – as we have seen with opencast coal mining and its repercussions and legacy on communities and landscapes in recent decades. We cannot let this happen again, as this committee’s report ‘Restoration of Opencast Mining Sites’ published in August 2024 evidenced and made recommendations regarding.

2. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

▪ Part 1 - The Disused Tips Authority for Wales (sections 1 to 5 and Schedule 1)

In general we support these provisions.

Given the impact and interest of communities and other groups in the role of the Authority and the situation of disused tips, we would encourage it to proactively engage with communities and collaborate with relevant interested parties.

▪ Part 2 - Assessment, registration and monitoring of disused tips (sections 6 to 32 and Schedule 2)

No comment.

▪ Part 3 - Dealing with tip instability and threats to tip stability (sections 33 to 54 and Schedule 3)

No comment.

▪ Part 4 - Supplementary (sections 55 to 70)

In terms of the list of public authorities that can be required to provide information we would be interested in whether the Crown and UK Government Departments could and should be included as well as the devolved public sector. They could be relevant as landowners or bodies that hold information on relevant land.

▪ Part 5 - General (sections 71 to 88)

We welcome that the definition of "threat to human welfare" in section 82 makes reference to food, water, energy and fuel supplies and facilities for transport. We would welcome clarification on whether it would include threat by fire and flood, which could also have a significant impact on nature and biodiversity, and whether disruption of water supplies includes the contamination of water.

3. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

A significant barrier to effective implementation of the Bill's provisions is financing its provisions – not only the setting up of a new public authority, which is taken account of, but the cost of making tips and quarries safe when this has been assessed as necessary.

The risk of not having funding secured is that private industry takes advantage of the situation and proposes to remediate or develop coal tip sites in a way that prioritises profit for the corporation rather than public interest and community safety.

We believe that the UK Government has a moral and historic responsibility to cover the cost of dealing with the legacy dangerous tips, which pre-date devolution and should have been dealt with decades ago.

We understand that this is not a matter to be included on the face of the bill, but would seek reassurances and commitments from the UK Government during the scrutiny of the bill and its passage through the Senedd.

Another barrier that has been seen in dealing with opencast restoration is with the strength and suitability of enforcement powers, in particular requiring owners of land and sites to act. We understand that there has been significant work to ensure that there are robust requirements on owners under this bill, but would urge the committee to scrutinise and ensure that enforcement will be possible under the wording of this bill.

4. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

No comment.

5. Are any unintended consequences likely to arise from the Bill?

As referred to in reply to previous questions, we are greatly concerned that an unintended consequence of this bill could be to create a new coal industry in Wales if there is a push to restore sites without the public funding or capacity to

deliver on this – with a danger of private companies seizing the opportunity to step in and a repeat of the tragic situation we face with legacy opencast sites.

In light of the stated intention to deal with coal policy and related matters after this bill is passed, and the current loopholes in the Welsh Government's coal policy which sees us face applications such as those currently live for opencast coal mining in Glan Lash in Carmarthenshire and mining coal from 2 of the Bedwas coal tips in Caerphilly, this shows that the current regulatory set up is not strong or clear enough to convince industry that there will be no more coal extracting in Wales.

Unless coal policy and related matters are dealt with during the process of this bill we are concerned that the bill could be seen as an opportunity for further coal mining opportunities in Wales, flying in the face of our carbon targets, global responsibilities and intention of our energy, coal and planning policies.

We would also like to see a full climate impact assessment of this bill, taking account of this unintended consequence.

Another unintended consequence could be the destruction of some of our most biodiverse and unique wildlife sites in Wales (see question 20 for more information - question 11 in the template response) under the guise of making coal tips safe. This is more likely to happen if profit-making companies are involved.

Public safety must come first, but the impact on wildlife and biodiversity must always be considered and preserved and protected as much as possible. At a time when one in six species in Wales is at risk of extinction, it is incumbent on us to do our utmost to protect biodiversity hotspots.

There is currently no reference to environmental legislation on the face of this bill, and although we understand that the government's intention is that existing environmental legislation would apply we would welcome a reference to that on the face of the bill.

6. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

We have no comment on the direct financial implications of establishing and running the Authority that would come about as a result of this bill.

However, the finance needed to make dangerous tips safe is much higher than has so far been committed by the Welsh Government and from the UK Government. We need a commitment from the UK Government to fund this legacy issue.

7. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

We understand that this bill has a relatively narrow legal basis linked to establishing a new public authority and threats to human welfare, due to the complexities of the measures needed to set up this new regime.

However we would like to raise the following issues and would urge the committee to investigate how these can be addressed as a matter of urgency, as a part of this bill or in related provisions.

- Prohibiting coal extraction

This bill does not include any measures to change the coal regime or coal policy, although there has been recognition by Welsh Government that this is needed. We believe that these are urgently required to save communities from being exploited with companies either testing loopholes in current coal policy which is intended to stop coal extraction, or to usher in a new coal industry in the form of mining coal from coal tip sites, as set out further in reply to question 18 above (question 9 in the template response).

We urge the committee to investigate whether revising and updating the current coal and mining regime, and removing loopholes in current policies, could be addressed during the course of this bill rather than after its implementation, with provision introduced to prohibit coal extraction in Wales.

If this is not possible in terms of capacity, or is outside the remit of the bill, we

would like to see a provision in the bill to prohibit coal extraction for commercial gain from disused coal tips.

- Dealing with legacy opencast sites

It is our understanding that the remit of this bill would include disused mines such as East Pit and Margam/Parc Slip, but not sites which are deemed to remain 'active' such as Ffos y Fran and Glan Lash. However all of these sites and the communities that they impact need to be properly and safely restored, as highlighted in the committee's report 'Restoration of Opencast Mining Sites' (August 2024) and proposed in its Recommendation 15.

We urge the Committee to press these issues during the bill scrutiny process, and to ensure a safe restoration and justice for all the communities impacted.

- Nature and biodiversity

Welsh coal tips often support habitats and wildlife of considerable local, regional, and national importance. Across Wales, colliery spoil sites provide a refuge for diverse communities of birds, mammals, amphibians, reptiles, plants, fungi, lichens, and invertebrates.

There are currently 99 coal tips in Wales that are within designated Sites of Special Scientific Interest (SSSI), and a further 32 that are Special Areas of Conservation (SAC) (<https://stateofnature.org.uk/countries/wales>).

Restoration proposals could transform the character of sites - altering soil conditions, topography and vegetation, with significant impacts on habitats and biodiversity.

Public safety must come first, but impact on nature must be considered and minimised.

- Community involvement and impact

Too often mining and quarrying work has been undertaken without adequate involvement of the communities, to the detriment of welfare and wellbeing of these often socio-economically disadvantaged communities. Following on from the community evidence witnessed by the committee in its inquiry into opencast sites, we would urge the committee to champion the involvement of

communities at all stages of dealing with disused mine and quarry tips, ensuring minimal disruption where work is essential, and taking into account issues such as noise and air pollution and access to green spaces.