

Ein cyf/Our ref: CAS-275294-H0Z5
Eich cyf/Your ref: P/25/0037

Hugh Towns
Merthyr Tydfil County Borough
Council
Unit 5 Triangle Business Park
Pentrebach
CF48 4TQ

Dyddiad/Date: 17 April 2025

Annwyl Hugh/Dear Hugh,

BWRIAD/PROPOSAL: Variation of conditions 4 (Duration of Restoration), 6 (Approved Plans) and 50 (Restoration Strategy) of planning permission APP/U6925/A/10/2129921 involving a revision to the restoration scheme.

LLEOLIAD/LOCATION: Ffos Y Fran, Merthyr Tydfil.

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 21 February 2025.

We have reviewed the following documents:

- Environmental Statement (ES) Volume 1 – Technical Report by Richards Moorehead & Laing Ltd Dated January 2025 (Rev 2, Ref: 3274-11).
- Environmental Statement Volume 3 – Appendix 8: Ffos-Y-Fran Final Restoration Scheme – Hydrogeology Technical Report. Dated: 24/01/2025.
- Environment Statement Volume 3 – Appendix 10B: Baseline and Preliminary Water Framework Directive (WFD) Assessment.
- Ffos-y-Fran Final Restoration Strategy 2025. Environment Statement – Non Technical Summary. By Richards, Moorehead and Laing Ltd. Rev V1, dated 07/02/2025.
- Ecological Impact Assessment (EclA) by Richards, Moorehead and Laing Ltd. December 2024. Rev 0.
- Ffos-y-Fran Final Restoration Strategy 2025 - Green Infrastructure Statement. Dated February 2025.
- Drawing number 3274-RML-DR-L-54: Restoration and Aftercare. Dated January 2025.
- Figure 11C titled *GCN Surveys Pond Location Plan* dated June 2024.

We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding land contamination,

pollution prevention and European protected species. If this information is not provided, we would object to this planning application. Further details are provided below.

We also advise that based on the information submitted to date, conditions regarding land contamination and pollution prevention should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.

Land Contamination

Geotechnical Engineering

From the information provided, we note that the extension of the originally permitted mine workings has brought the eastern sidewall boundary closer to the active Trecatti Landfill site. Sections of the eastern and southern sidewalls will now be exposed with revised reprofiling restoration works to the sidewalls and spoil tip OB1. Therefore, we advise that a stability risk assessment is provided as part of the restoration plan to consider potential impacts of the proposed restoration works and finished profile to the short and long term stability of Trecatti Landfill.

Hydrogeology

Section 11.9.9 of the ES proposes a reduction of the pit lake level via pumping, 'before pushing soil forming material down the bank slopes to partially fill the base.' However no further details are provided within the ES or supporting Hydrogeology Technical Report. Further details should therefore be provided regarding how the pumping will be resumed within the void from the pit lake. This should include, but not be limited to, abstraction rate, pumping duration, monitoring of the groundwater levels around the site (i.e. water features and piezometers) as well as discharge points.

The ongoing maintenance of the pit lake level and groundwater modelling of the site relies heavily on the presence of Dowlais Free Drainage System (DFDS), which we assume drains the whole area by a network of adits (although this is not clear). There is little information presented on how the underdrainage works and where connections are present. There are discharge points noted, but it is unclear how connected these are. A plan showing the discharge points with flows, elevations and cross sections with the pit void should be provided to understand the potential or relative connections. An assessment of the risk of the DFDS failing should also be considered. Therefore, we advise that a risk assessment is provided to understand the risk of a blow out occurring, and what effect this would have on the pit lake/local water features and how the ongoing success of the DFDS will be monitored during the aftercare phase.

The groundwater level or piezometer data should be presented in hydrographs, either individually or as a full record on one hydrograph. A timeline graphic showing when each piezometer is active should also be provided, as well as details on the depths of the piezometers (monitored screened sections and the ground units intersected) and what information was used in the modelling.

Clarification is also required regarding the calibration of the groundwater levels with the piezometer data. Section 8.5.6 of the ES states 'a one year period where there is no pit void to generate an initial distribution of groundwater heads'. This suggests that the simulated

baseline condition reflects the pre-quarrying condition. Confirmation is required on how ground water levels for the pre-quarrying condition were derived. Calibration representations should be provided in graphical form (e.g. measured vs simulated groundwater levels).

The aftercare phase, post restoration, is only a 5 year period. Further detail regarding the ongoing monitoring of the site is required, including groundwater levels, pit lake levels, stream flow (spot gauging or regular monitoring with data loggers) and water quality sampling. Monitoring locations, frequency and details of conditions (e.g. elevated above baseline) which would trigger mitigation or contingency actions to be put in place. We advise your authority to secure the ongoing monitoring of the site, particularly with regards to the pit lake level and discharge points from the DFDS to any permission granted, through a condition on the new consent, or another appropriate planning control mechanism.

General Comments on ES

There are a number of inconsistencies within the ES and supporting reports which the applicant may wish to resolve. This includes incorrect references to Water Resources Act 2001 (which should be 1991) and the Groundwater Regulations 2009 (which were superseded by the Environmental Permitting Regulations 2016 under Schedule 22).

Please note, any plans submitted with the ES should be a sufficient file size to allow for closer inspection.

Pollution Prevention

We previously advised, during the scoping stage of the application (response ref: CAS-261856-N7M9, dated 9th September 2024), a number of points which still remain outstanding as part of the current application. We have detailed these below.

- No further details provided regarding post restoration monitoring – please refer to comments above regarding the need for planning control in relation to this. We note that the sampling undertaken on site has identified elevated concentrations of some heavy metals and ammonia in the void and in water around the site, which are said to be treated by the onsite lagoons. It is therefore crucial that these lagoons are managed and monitored into the future, or a suitable alternative is proposed.
- Concerns remain regarding the 2023 baseline used within the ES. There have already been substantial changes to the ecology, hydrology and hydrogeology of the site prior to this date as a result of mining activities. We are aware that historical data is available from approximately 10 years ago. We strongly advise this information is used, unless it can be justified that this information is not suitable. If possible, the baseline data should be taken from the period prior to mining operations commencing.
- Site drainage has not been adequately addressed within the application. From the information submitted, we have concerns regarding a potentially significant amount of surface water being funnelled into the void. Details should be provided on the retention time of the waterbody, whether this surface water will be lost within the catchment if it is to sit within the void, and what the impact of this would be for the catchment during dry weather periods and what impacts this will have on flow variability within the downstream watercourses.

General Comments on Final Restoration Strategy

- Further detail should be provided on how the operator intends to reduce the water level in the pit void for the proposed restoration works. The operator should be aware that this is likely to require a change to their abstraction licence or discharge permits.
- We note reference within the EclA to issues with ochre from the historic mining on site, however no detail is provided within the submission on how this will be managed going forward.
- We note the proposal to expand a naturally forming shallow waterbody on top of OB2. We have concerns that this could cause integrity issues in the future and potentially lead to a slip. Further details regarding this should be provided.
- We note the suggestion of a Construction Environment Management Plan (CEMP) for the restoration works. We advise that submission and approval of a final CEMP is secured through condition on any planning permission granted.

Water Framework Directive (WFD) Assessment

- Insufficient information has been provided on impact to flows, water quality and biology as a result of the change to the surface water drainage catchment.
- Insufficient information on the impact of the poor groundwater quality of the void and runoff and how this will impact surface water quality and biology. Please note, any mitigation proposal should be supported by a management/maintenance programme.
- The assessment states that there would be 'reduced contaminants' in the waterbodies, but has not detailed how the restoration programme would achieve this.
- No consideration has been given to the in-combination impacts of reduced flow (as a result of diverted drainage) and poor water quality (from run off and the void) on the surface water quality and biology.

European Protected Species (EPS)

With regards to EPS on site, the EclA states that eDNA results from 2024 indicate presence of GCN in 17 of the 30 ponds sampled. Desk studies also found records of otters south of the site and the EclA states that *'as the species has been recorded in the river catchment, travel routes could theoretically include animals wandering up into the site when crossing between watercourses'* (Table 10, Page 52).

Legislation and Policy

Great crested newts and otters, as well as their breeding sites and resting places, are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where these species are present and where a development proposal is considered likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- i. The proposed works to be authorised satisfy an appropriate derogation purpose, which in the case of development are for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- ii. There is no satisfactory alternative; and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any EPS on the site or that, in its opinion, all three tests for the eventual grant of a licence are likely to be satisfied. Please note, for the purposes of providing advice at the planning application stage, our comments are limited to compliance with the third test only.

Great Crested Newts (GCN)

As part of our previous scoping advice, we advised a number of points with regards to GCN which do not appear to have been included as part of the submitted ES. We have detailed these below:

- Reference to the previous long-term commitments in respect of GCN associated with the previous licences for this site and an assessment of how these will align with the project and any new mitigation necessary.
- Clarification as to whether the GCN surveys have included all waterbodies within 250 meters of the site.
- Updated presence/absence surveys, following positive eDNA results. We previously advised that these should follow best practice guidance.
- Detailed assessment of the impacts of the scheme on GCN aquatic and terrestrial habitat and mitigation proposals.
- Proposal does not appear to make provision for additional water bodies required to be delivered as mitigation to support GCN.
- Long term management of site with regards to GCN. This should incorporate ponds created in the Central Ecological Area, Site of Importance for Nature Conservation (SINC), Cwm Bargoed Disposal Point and Cwm Golau Ecological Areas, which formed part of previous commitments and the EPS licence for this site.

We welcome that ponds with positive eDNA samples will be retained, protected and where required, enhanced. With regards to Ponds 1 to 9, we note the following:

- Pond 1 is noted as being most at risk of negative impacts as a result of proximity to proposed earthworks. Whilst negative for eDNA in 2024, the pond is located within close proximity to a number of other ponds for which eDNA samples were positive. Given its proximity, we consider it probable that GCN will use the pond at times, as well as the terrestrial habitat between pond 1 and these other eDNA positive ponds. Therefore any impacts to the pond or its surrounding terrestrial habitat could lead to harm to GCN.
- Pond 9 returned a positive eDNA result. We note that the proposed removal workshops and heavy plant storage units are within 30 meters of the pond and therefore could impact GCN, especially during their terrestrial phase.

In considering the above, we advise that a fence, trap and clear scheme is devised and implemented ahead of any operations which could adversely affect GCN at these locations.

Furthermore, we advise that a Conservation Plan for GCN is submitted prior to determination of the application. We advise that the Conservation Plan includes (but is not limited to) the following:

- An assessment of impacts of the development. This assessment should include:
 - Tabulated review of the extent, distribution and quality of GCN habitat to be removed, retained, enhanced and created, supported by drawings as appropriate; and
 - Risks of incidental injury or killing.
- Submission of further details concerning GCN mitigation and compensation, including avoidance measures; extent of habitat retention and creation; and details of timing, phasing and duration of restoration activities and conservation measures.
- Submission of the principles of a long-term site management plan that seeks to manage appropriate parts of the restoring and restored site for GCN, particularly the ponds. We advise this includes: defined aims and objectives; habitat management prescriptions; surveillance; contingency measures if fish or invasive non-native species (INNS) are detected; licensing requirements; current and any proposed changes to tenure of the site; persons or bodies responsible for undertaking management and surveillance; long-term financial considerations; reporting requirements and proposed dates for updating or revising the plan.

We advise that the Conservation Plan includes the long-term commitments associated with previous licences for this site and provides an assessment of how these will align with the project and any new mitigation necessary.

Otters

Given the likely use of the site by otters crossing between watercourses, we advise that pre-works surveys are carried out during restoration. The EcIA should propose when these should be undertaken and therefore secured through the approved plan if permission is granted.

Other Matters

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

If you have any queries on the above, please do not hesitate to contact us.

Yn gywir / Yours faithfully

Eleanor Sullivan

Cynghorydd - Cynllunio Datblygu/Advisor - Development Planning
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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi./Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.