

S.73 APPLICATION TO VARY CONDITIONS 3 AND 4

ENVIRONMENTAL STATEMENT ADDENDUM

CHAPTER 2: ENVIRONMENTAL ASSESSMENT PROCESS

**Ffos-y-Fran Land Reclamation Scheme, East of Merthyr Tydfil
CF48 4AE**

Merthyr (South Wales) Limited

SLR Ref: 419.08882.00002
Version No: FINAL
August 2022



BASIS OF REPORT

This document has been prepared by SLR Consulting Limited with reasonable skill, care and diligence, and taking account of the manpower, timescales and resources devoted to it by agreement with Merthyr (South Wales) Limited (the Client) as part or all of the services it has been appointed by the Client to carry out. It is subject to the terms and conditions of that appointment.

SLR shall not be liable for the use of or reliance on any information, advice, recommendations and opinions in this document for any purpose by any person other than the Client. Reliance may be granted to a third party only in the event that SLR and the third party have executed a reliance agreement or collateral warranty.

Information reported herein may be based on the interpretation of public domain data collected by SLR, and/or information supplied by the Client and/or its other advisors and associates. These data have been accepted in good faith as being accurate and valid.

The copyright and intellectual property in all drawings, reports, specifications, bills of quantities, calculations and other information set out in this report remain vested in SLR unless the terms of appointment state otherwise.

This document may contain information of a specialised and/or highly technical nature and the Client is advised to seek clarification on any elements which may be unclear to it.

Information, advice, recommendations and opinions in this document should only be relied upon in the context of the whole document and any documents referenced explicitly herein and should then only be used within the context of the appointment.

CONTENTS

2.1.0 INTRODUCTION	1
S.73 Application Context	1
Purpose and Structure of Chapter	1
2.2.0 BASIS OF ASSESSMENT	2
Applicable Regulations	2
Approach to ESA.....	2
Scope of ESA.....	2
2.3.0 METHODOLOGY & SCOPE OF ASSESSMENT	4
Methodology	4
Scope of Assessment.....	7

DOCUMENT REFERENCES

TABLES

Table 2-1: Example Significance Matrix.....	6
Table 2-2: Technical Scope of ESA.....	7

2.1.0 Introduction

S.73 Application Context

- 2.1.1 Planning permission for the operational surface coal mine at Ffos-y-Fran was originally granted under planning permission ref. A-PP 152-07-014 ('the original application'). The description of development was as follows:

"Application by Miller Argent (south Wales) Limited for the Ffos-y-Fran Land Reclamation Scheme, incorporating the extraction of coal by open cast methods, and being the final phase of the east Merthyr Reclamation Scheme."

- 2.1.2 The above permission was subsequently varied under a S.73 planning application (application ref. P/08/0316) which sought consent for:

"[The] Variation of condition 37 of planning permission A-PP 152-07-014 to permit the limited dispatch by road of up to 5% of the annual output of coal from the Ffos-y-Fran land reclamation scheme or a maximum of 50,000 tonnes of coal per annum (whichever is the lesser) via Cwmbargoed Disposal Point."

- 2.1.3 The application was refused by Merthyr Tydfil County Borough Council but the proposals were subsequently allowed at Appeal (Appeal ref. APP/U6925/A/10/2129921). The Appeal Decision was issued by an appointed Inspector on the 11th of March 2011 and contained a comprehensive list of updated conditions, thereby superseding the original planning permission for the site as detailed above (permission ref. A-PP 152-07-014).

- 2.1.4 The purpose of this S.73 application is to allow for an extension to the lifespan of the mine. As such, the application seeks to vary the following conditions as contained within Appeal ref. APP/U6925/A/10/2129921:

- **Condition 3** – "All coal extraction from the development hereby permitted shall cease no later than 06 September 2022"; and
- **Condition 4** – "Final restoration of the land shall be completed no later than 06 December 2024 and aftercare shall be undertaken for a period of not less than 5 years upon certification of completion of each phase of the progressive restoration scheme."

- 2.1.5 The S.73 application, as submitted, seeks to extend the lifespan of the minerals extraction by a further 9 months. As such, the timescales stipulated within the above conditions will be varied to match this extended life span for the mine. No alterations are proposed to the extraction area or working practices at the mine as previously consented.

Purpose and Structure of Chapter

- 2.1.6 The purpose of this chapter is to describe the methodology that has been applied in the undertaking of the Environmental Statement Addendum (ESA). In so doing, it describes the approach that has been used to identify, evaluate, and mitigate environmental effects when considering the original Environmental Statement prepared in 2003 and any subsequent applications or monitoring information prepared since this date. It also sets out the proposed temporal, spatial, and technical scope of the EIA

2.2.0 Basis of Assessment

Applicable Regulations

- 2.2.1 The Applicable Regulations at the time of the original ES were the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- 2.2.2 However, at the time of writing this ESA, the applicable regulations are the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (as amended).

Approach to ESA

- 2.2.3 The purpose of this ESA is to inform the determining authority (Merthyr Tydfil County Borough Council) of any significant changes to the content and findings of the original ES when considering the proposed S.73 application seeking to vary Conditions 3 and 4.
- 2.2.4 Copies of the original ES are freely available on the Merthyr Tydfil County Borough Council website but are too large to be appended to this ESA.
- 2.2.5 Consideration was given to the environmental topics contained within the original ES and whether the proposed S.73 application seeking to vary Conditions 3 and 4 was likely to result in changes to the scope of the assessment or potential significant effects identified therein.
- 2.2.6 As the proposed variation will not alter the extent or type of development, nor will it alter the working practices or requirements associated therein, this ESA primarily comprises of a 'compliance review' for each of the environmental topics contained within the original ES. For each environmental topic, this ESA has sought to identify:
- Changes in legislation, guidance and policy;
 - Any methodology related considerations (i.e. study area, sensitivity criteria, magnitude of change, significance of effect, mitigation hierarchy etc.);
 - Changes in baseline conditions;
 - Changes in the assessment of effects;
 - Requirements for additional mitigation and/or monitoring; and
 - Changes in residual effects.
- 2.2.7 Further information regarding the above is contained within each of the environmental chapters contained within this ESA (Chapters 6-20).

Scope of ESA

- 2.2.8 This ESA has been prepared in accordance with Regulation 17(3) of the EIA Regulations which states that:

"An environmental statement is a statement which includes at least—

- (a) a description of the proposed development comprising information on the site, design, size and other relevant features of the development;*
- (b) a description of the likely significant effects of the proposed development on the environment;*
- (c) a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;*
- (d) a description of the reasonable alternatives studied by the applicant or appellant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the significant effects of the development on the environment;*
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and*
- (f) any additional information specified in Schedule 4 relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected."*

2.2.9 Regulation 17(4) continues by stating that:

"An environmental statement must—

- (a) be prepared by persons who in the opinion of the relevant planning authority or the Welsh Ministers, as appropriate, have sufficient expertise to ensure the completeness and quality of the statement;*
- (b) contain a statement by or on behalf of the applicant or appellant describing the expertise of the person who prepared the environmental statement;*
- (c) where a scoping opinion or direction has been issued in accordance with regulation 14 or 15, be based on the most recent scoping opinion or direction issued (so far as the proposed development remains materially the same as the proposed development which was the subject of that opinion or direction);*
- (d) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment; and*
- (e) take into account other relevant environmental assessments required under Union legislation or any other provision of domestic legislation, with a view to avoiding duplication of assessment."*

2.3.0 Methodology & Scope of Assessment

Methodology

- 2.3.1 As outlined above, this ESA has primarily concentrated on undertaking a compliance review of the original ES in consideration of the proposed variation to Conditions 3 and 4. Nevertheless, each individual environmental topic chapter has, where appropriate, set out topic specific EIA methodology relevant to this ESA.
- 2.3.2 The EIA Regulations require an ES to report on those environmental effects arising from a project that are considered likely to be significant. Whilst there is no statutory definition of what constitutes a significant effect, this is based on professional judgement through the undertaking of technical assessments in accordance with best practice guidance.
- 2.3.3 The primary purpose of reporting an assessment of any effect of a project is to aid the determining authority so that it is properly informed when making its decision.
- 2.3.4 For the purposes of this ESA, a significant effect has been defined, as an effect that, either in isolation or in combination with others, should – in the opinion of the team carrying out the EIA – be taken into account in the decision-making process.
- 2.3.5 The definition of a significant effect requires a specific framework for each environmental topic considered in the assessment in order to predict the significance of the effects that may arise. The criteria used to judge significance is explained as part of the assessment methodology for each individual environmental topic chapter.
- 2.3.6 In identifying significant effects, the EIA takes into account their nature and duration as follows:
- Site-specific effects: Effects that result from a geographically localised impact and which are significant primarily at a neighbourhood or district level.
 - Wider effects: Effects that are individually significant at a regional level, but which may not be significant locally.
 - Positive effects: Effects that have a beneficial influence on receptors and resources.
 - Negative effects: Effects that have an adverse influence on receptors or resources.
 - Temporary effects: Effects that persist for a limited period only, due for example to particular construction activities (e.g., noise and vibration from construction plant). Where possible, the likely duration of effects is identified.
 - Permanent effects: Effects resulting from an irreversible change to the baseline environment (e.g., land take) or which persist for the foreseeable future (e.g., noise and vibration from operation).
 - Direct effects: Effects that arise from the impact of activities that form an integral part of the Project (e.g., new infrastructure).
 - Indirect effects: Effects that arise from the impact of activities not explicitly forming part of

the Project.

- Secondary effects: Effects that arise as a result of an initial effect of the scheme (e.g., reduced amenity of a community facility as a result of construction noise and vibration).
- Cumulative effects: Those effects which arise over time due to the effect of the Project and the effect of other developments.
- In-combination effects: Those effects which occur where a number of separate effects from the Project, such as noise and air quality, affect a single receptor, for example people.

2.3.7 In general terms, there are three stages required to enable the significance of impacts to be identified, as follows:

- Identification of the baseline conditions and the sensitivity and importance of receptors.
- Identification of the magnitude of change (impacts) upon each receptor.
- Identification of the impact significance, which is the product of a combination of the above two variables.

Defining the Baseline Scenario

2.3.8 Given the purpose of this ESA is to consider a variation to the extant permission, it is necessary for multiple baseline scenarios to be detailed to allow consideration of the changes in the assessment of effects between the original ES and the content of this ESA.

2.3.9 Whilst the baseline scenarios are defined in more detail within the topic chapters, these can potentially include:

- Current Baseline as detailed within the original ES (i.e. prior to any minerals development taking place);
- Future Baseline as detailed within the original ES (i.e. that established as the future scenario when the minerals development would commence on site, if different); and
- Current Baseline as at the time of this ESA (i.e. taking into consideration alterations to the site and in the local area since the minerals extraction was consented/commenced).

2.3.10 It should be noted that the use of the above baseline scenarios varies between environmental topic chapters subject to the assessment being undertaken. For example, in many cases it was not appropriate to establish a future baseline scenario where the assessment is finite in its temporal scope (i.e. the effects considered would be permanent in nature and not altered by a future baseline scenario). As such, the baseline scenarios utilised are established within each of the individual environmental topic chapters.

Sensitivity of Receptors

2.3.11 Where appropriate, the topic chapters of this ESA have identified the receptors of relevance to their assessment. The sensitivity of a receptor is determined by their 'value' and a consideration of their adaptability, tolerance and recoverability to change. On this basis, the sensitivity of the receptors

are typically defined as High, Medium, Low and Negligible/Neutral.

Magnitude of Change

- 2.3.12 Magnitude of change is typically defined by four factors when considering an effect to a receptor; extent, duration, frequency and severity. Again, the magnitude of change are typically defined as High, Medium, Low and Negligible/Neutral.
- 2.3.13 Magnitude of change has only been applied within this ESA where appropriate (i.e. necessary to do so).

Significance of Effect

- 2.3.14 The significance of effect is determined by combining the predicted magnitude of change with the sensitivity of a receptor. Notwithstanding, it should be recognised that there is a degree of subjectivity to the assessment process given that it is based on professional judgement regarding the effect-receptor interaction based on the evidence used to inform the EIA.
- 2.3.15 An example significance matrix is provided in Table 2-1 below. However, as stated above, each chapter will define a specific framework within their methodology in accordance with the applicable relevant standards, criteria, guidance, and statutory requirements.

Table 2-1: Example Significance Matrix

Magnitude of Change	Sensitivity of Receptor				
		High	Medium	Low	Negligible
	High	Substantial / Major	Substantial / Major	Moderate	Neutral / Negligible
	Medium	Substantial / Major	Moderate	Minor	Neutral / Negligible
	Low	Moderate	Minor	Minor	Neutral / Negligible
	Negligible	Neutral / Negligible	Neutral / Negligible	Neutral / Negligible	Neutral / Negligible

Mitigation and Residual Effects

- 2.3.16 Schedule 4 of the 2017 EIA Regulations (as amended) requires that where significant effects are identified, that:
- “A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.”*
- 2.3.17 This ESA seeks to identify any significant effects beyond those identified within the original ES; in turn this may result in needing to review the mitigation and monitoring proposed as part of the original consent. Furthermore, a review of the previously proposed mitigation and monitoring has also been undertaken from a ‘best practice’ perspective; ensuring these are in accordance with the latest guidance or industry practices for such mitigation and monitoring.

- 2.3.18 Any identified residual effects (assuming mitigation options are applied) are classified as non-significant or still significant (although reduced), as appropriate. Where effects are still significant, the extent of any amelioration is reported in this ESA.

Scope of Assessment

- 2.3.19 The range of environmental topics addressed in this ESA is referred to as the technical scope. The technical scope of this ESA has been formulated through an understanding of the content of the original ES, the scope of the proposed variation, and the undertaking of informal conversations with professional officers from Merthyr Tydfil County Borough Council.
- 2.3.20 On this basis, this ESA includes chapters on the following topics:

Table 2-2: Technical Scope of ESA

Topic / Technical Chapter	Chapter within Original ES	Chapter within ESA
Utilities	6	6
Footpath, Bridleway and Common Land	7	7
Traffic and Transport	8	8
Soils	9	9
Hydrology	10	10
Geology	11	11
Hydrogeology	12	12
Geotechnical	13	13
Archaeology and Heritage	14	14
Ecology	15	15
Visual Impact	16	16
Noise	17	17
Waste	18	18
Air Quality	19	19
Blasting	20	20
Socio-Economic	22	21

- 2.3.21 As outlined above, the content of the technical scope contained within the ESA has been limited to a compliance review of the content of the original ES. These compliance reviews seek to confirm that the proposed variations to Conditions 3 and 4 does not raise further likely significant effects for the environmental topics beyond those identified within the original ES.

2.3.22 In addition to the above, chapters have been prepared for the EIA assessment related topics to assist the consideration of the proposed S.73 application:

- **Chapter 22** – Other Environmental Issues;
- **Chapter 23** – Cumulative and In-Combination;
- **Chapter 24** – Summary of Mitigation and Monitoring; and
- **Chapter 25** – Conclusion

Spatial Scope

2.3.23 The spatial, or geographical, scope of the assessment does not alter from that contained within the original ES which included consideration of:

- The physical extent of the proposed works, as defined by the scheme design;
- The nature of the baseline environment and the manner in which the impacts are likely to be propagated; and
- The pattern of governmental administrative boundaries and the associated planning and policy context.

2.3.24 For example, any effects on waste is likely to be confined to areas that are physically affected by the proposed mineral workings, whilst factors associated with noise or visual intrusion could potentially be experienced at a distance from the site and the works themselves.

2.3.25 In most cases, the impact is likely to affect interests for a limited area around the site. However, for some issues (such as socio-economics) the impact may affect regional level interests, or even be an impact of national or international significance.

2.3.26 Where appropriate, study areas or changes to the study areas, are defined within the environmental topic chapters.

Temporal Scope

2.3.27 The temporal scope of the assessment refers to the time periods in which the effects are expected to be experienced. This is different, and will be established separately, for each topic individually where appropriate. Notwithstanding, the key consideration to the temporal scope is the extension of previously permitted coaling operations by a further 9 months, and the delay of completion of the restoration strategy by a corresponding 9 months.

Consideration of Alternatives

2.3.28 The EIA Regulations require, amongst other things, that the main alternatives to any scheme that have been reasonably considered by the applicant. Whilst the principal consideration of alternatives is contained within the original ES, the only true alternative considered within this ESA is whether the remaining coal reserves are extracted in accordance with the original permission or left in situ and therefore sterilised.

- 2.3.29 As such, there is no requirement to consider alternatives beyond that contained within the original ES. The two true alternatives (extract or non-extract) are inherently considered in the determination of the application itself.

Cumulative and In-Combination

- 2.3.30 Cumulative Effects were identified throughout the EIA process through the consideration of the impacts of the development in tandem with the various committed developments identified. Chapter 5 of this ESA seeks to detail whether any further developments or commitments have been identified beyond those contained within the original ES that could lead to alternate cumulative effects.
- 2.3.31 This includes consideration of developments or projects which already existing in the area and those which are currently being developed or are in the planning process. This is based on professional experience and only identifies projects which are likely to have potential for cumulative effects beyond those identified within the original ES.
- 2.3.32 Receptors which suffer from negative impacts as a result of the combination of more than one impact were identified by developing a matrix. It was based on the individual topic assessments and professional judgement as to whether the identified receptors suffer from in-combination impacts, and whether these impacts are considered not significant or significant.
- 2.3.33 In-Combination effects are only considered where alternate likely significant effects have been identified by the environmental topics beyond those identified within the original ES.

Other Environmental Issues

- 2.3.34 In accordance with Regulation 4(2):
- “The environmental impact assessment must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of proposed development on the following—*
- (a) population and human health;*
 - (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC(24) and Directive 2009/147/EC(25);*
 - (c) land, soil, water, air and climate;*
 - (d) material assets, cultural heritage and the landscape; and*
 - (e) the interaction between the factors listed in sub-paragraphs (a) to (d).*
- 2.3.35 Regulation 4(3) continues by stating:
- “The effects referred to in paragraph (2) on the factors set out in that paragraph must include—*
- (a) the operational effects of the proposed development, where the proposed development will have operational effects; and*
 - (b) the expected effects deriving from the vulnerability of the proposed development to risks of major*

accidents and disasters that are relevant to that development.”

- 2.3.36 These factors are inherently considered within the various Chapters of the original ES, whilst further consideration has been given to these ‘Other Environmental Issues’ within the various environmental topic chapters, whilst a summary is contained within Chapter 21 of this ESA.

EUROPEAN OFFICES

United Kingdom

AYLESBURY

T: +44 (0)1844 337380

BELFAST

T: +44 (0)28 90732493

BRADFORD-ON-AVON

T: +44 (0)1225 309400

BRISTOL

T: +44 (0)117 9064280

CAMBRIDGE

T: + 44 (0)1223 813805

CARDIFF

T: +44 (0)2920 491010

CHELMSFORD

T: +44 (0)1245 392170

EDINBURGH

T: +44 (0)131 3356830

EXETER

T: + 44 (0)1392 490152

GLASGOW

T: +44 (0)141 3535037

GUILDFORD

T: +44 (0)1483 889800

LEEDS

T: +44 (0)113 2580650

LONDON

T: +44 (0)203 6915810

MAIDSTONE

T: +44 (0)1622 609242

MANCHESTER

T: +44 (0)161 8727564

NEWCASTLE UPON TYNE

T: +44 (0)191 2611966

NOTTINGHAM

T: +44 (0)115 9647280

SHEFFIELD

T: +44 (0)114 2455153

SHREWSBURY

T: +44 (0)1743 239250

STAFFORD

T: +44 (0)1785 241755

STIRLING

T: +44 (0)1786 239900

WORCESTER

T: +44 (0)1905 751310

Ireland

DUBLIN

T: + 353 (0)1 296 4667

France

GRENOBLE

T: +33 (0)4 76 70 93 41