

S.73 APPLICATION TO VARY CONDITIONS 3 AND 4

ENVIRONMENTAL STATEMENT ADDENDUM

CHAPTER 3: PLANNING POLICY & CONTEXT

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

Merthyr (South Wales) Limited

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3.1.0 Introduction

- 3.1.1 This chapter of the Environmental Statement Addendum (ESA) presents an overview of the changes in legislation, planning policy and guidance of relevance to the site since the original ES.
- 3.1.2 Whilst no overarching chapter or summary was provided, the original ES provided details of legislation, policy and guidance of relevance within each environmental topic considered. Similarly, whilst the chapter seeks to provide details of the legislation, policy and guidance of relevance to the wider application proposals and ESA, topic specific legislation, policy and guidance is provided within the individual environmental topic chapters.

3.2.0 Legislative Framework

Environmental Impact Assessment

3.2.1 The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 came into force 16th May 2017 and superseded the EIA Regulations utilised to undertake the original ES and assess the minerals development proposals at the site.

3.2.2 These 2017 Regulations included the introduction of a number of new 'topics' for consideration within EIA's, including infrastructure, waste, population and human health, climate and carbon balance and risks of major accidents and/or disasters.

3.2.3 The assessments contained within this ESA have duly considered the requirements of the more recently adopted Regulations and duly comply with the requirements laid out therein.

Environment (Wales) Act 2016

3.2.4 The Environment (Wales) Act came into force on 21st March 2016 and its purpose is (amongst others) to promote the sustainable management of natural resources and to provide targets for reducing emissions of greenhouse gases.

3.2.5 Part 1 of the Act specifically deals with the 'sustainable management of natural resources'. As defined in Regulation 2, natural resources include (but is not limited to):

- Animals, plants and other organisms;
- Air, water and soil;
- Minerals;
- Geological features and processes;
- Physiographical features; and
- Climatic features and processes.

3.2.6 Regulation 3(2) identifies that the objective is to maintain and enhance the resilience of the ecosystems and the benefits they provide and, in so doing:

- (a) Meet the needs of the present generations of people without compromising the ability of future generations to meet their needs; and
- (b) Contribute to the achievement of the well-being goals in Section 4 of the Well-being of Future Generations (Wales) Act 2015.

3.2.7 Part 2 of the Act relates to 'climate change'. Regulations 29-32 set a number of emissions targets and carbon budgets for Wales up to 2050 which should be incorporated into policy and decision making process.

- 3.2.8 The requirements of the Environment (Wales) Act 2016 has been duly considered in the preparation of this application and the associated ESA.

Future Generations Act

- 3.2.9 The Well-being of Future Generations (Wales) Act 2015 (the 'Future Generations Act') came into force on 29th April 2015 and requires "...public bodies to do things in the pursuit of the economic, social, environmental and cultural well-being of Wales in a way that accords with the sustainable development principle".
- 3.2.10 Part 2 of the Act seeks to define sustainable development and how public bodies should set objectives that contribute to achieving Well-Being goals and sustainable development principles. The well-being goals include:
- A prosperous Wales;
 - A resilient Wales;
 - A healthier Wales;
 - A more equal Wales;
 - A Wales of cohesive communities;
 - A Wales of vibrant culture and thriving Welsh language; and
 - A globally responsive Wales.
- 3.2.11 Again, the requirements of the Future Generations Act 2015 has been duly considered in the preparation of this application and the associated ESA.

3.3.0 Planning Policy & Guidance

3.3.1 The following documents represent the extant planning policy context for the application site and development proposals:

- Planning Policy Wales 2021 (Edition 11);
- Minerals Technical Advice Note (MTAN) Wales 2: Coal; and
- Merthyr Tydfil Replacement Local Development Plan (LDP) 2016 -2031

3.3.2 Whilst a full assessment of the relevant policies are including within the planning statement the relevant policies are guidance are noted in the subsequent sections of this chapter.

Planning Policy Wales

3.3.3 Planning Policy Wales ('PPW') sets out national policies to support the growth and development of Wales through planning.

3.3.4 The following policies are of relevance to the proposed variation and subsequent long-term impacts that the extension would enable.

3.3.5 With regard to 'achieving the Right Development in the Right Place', the Key Planning Principles outlined within PPW relate to:

- Growing the economy in a sustainable manner;
- Making best use of resources;
- Facilitating accessible and healthy environments;
- Creating and sustaining communities;
- Maximising environmental protection and limiting environmental impact.

3.3.6 Paragraph 2.8 (Maximising Well-being and Creating Sustainable Place through Placemaking):

"Planning policies, proposals and decisions must seek to promote sustainable development and support the well-being of people and communities across Wales [...] This will include seeking to maximise the social, economic, environmental and cultural benefits, while considering potential impacts when assessing proposals and policies in line with the Act's Sustainable Development Principle."

3.3.7 Paragraph 3.7 (Good Design)

"Developments should seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution. An integrated and flexible approach to design, including early decisions regarding location, Figure 8: Objectives of Good Design Access Ensuring ease of access for all Promoting sustainable means of travel Sustaining or enhancing local character. Promoting: legible development / a successful relationship between

public and private space / quality, choice and variety / innovative design Achieving efficient use and protection of natural resources / enhancing biodiversity / designing for change Ensuring attractive, safe public spaces / security through natural surveillance Character Movement Environmental Sustainability Community Safety Good Design Appraising Context 27 density, layout, built form, the choice of materials, the adaptability of buildings and site treatment will be an appropriate way of contributing to resilient development”.

3.3.8 Paragraph 3.24 (Character):

“Where significant effects on human health are likely to arise as a result of development plans or individual development proposals, environmental impacts should be considered in full knowledge of the likely consequences for health.”

3.3.9 Paragraph 3.31 (Climate Change, Decarbonisation and the Sustainable Management of Natural Resources):

“The Environment (Wales) Act 2016 sets a legal target of reducing greenhouse gas emissions in Wales by at least 80% in 2050. The Act also requires a series of interim targets (for 2020, 2030 and 2040) and carbon budgets. The budgets set a limit on the total amount of greenhouse gas emissions in Wales over a 5-year period to serve as stepping stones and ensure progress is made towards the decadal targets.”

3.3.10 Paragraph 3.33 (Climate Change, Decarbonisation and the Sustainable Management of Natural Resources):

“Climate change is a global challenge, with impacts felt at the local level presenting a significant risk to people, property, infrastructure and natural resources. We need to plan for these impacts, reducing the vulnerability of our natural resources and build an environment which can adapt to climate change. The planning system plays a significant role in managing this risk”.

3.3.11 Paragraph 3.37 (Climate Change, Decarbonisation and the Sustainable Management of Natural Resources):

“The health and well-being of people and places and the need to address the climate emergency and its consequences provide added impetus for proactive action through the planning system. Consideration of the principles will affect strategic choices, both locational ones and those aimed at improving the quality of the built and natural environment.”

3.3.12 Paragraph 5.14.1 (Minerals):

“Society needs, and will continue to need for the foreseeable future, a wide range of minerals. Minerals are the principal constituents of most construction products, many pharmaceutical, chemical, agricultural, automotive, metallurgical, electronics, aerospace, plastics ceramic and paper products. Construction related minerals and mineral products are particularly important in Wales and are essential for housing and infrastructure, such as schools, roads, railways, airports and flood defences and a steady and adequate supply of materials is necessary.”

3.3.13 Paragraph 5.14.2 (Minerals):

“role of the planning authority in relation to mineral extraction is to balance the fundamental requirement to ensure the adequate supply of minerals with the protection of amenity and the

environment. The key principles are to:

- *provide positively for the safeguarding and working of mineral resources to meet society's needs now and in the future, encouraging the efficient and appropriate use of high quality materials;*
- *protect environmental and cultural characteristic of places, including those highly cherished for their intrinsic qualities, such as wildlife, landscapes, ancient woodlands and historic features, and to protect human health and safety and general well-being;*
- *reduce the impact of mineral extraction and related operations during the period of working by ensuring that impacts on relevant environmental qualities caused by mineral extraction and transportation, for example air quality and soundscape, are within acceptable limits; and*
- *achieving, without compromise, a high standard of restoration and aftercare so as to avoid dereliction and to bring discernible benefits to communities, heritage and/or wildlife, including beneficial after uses or opportunities for enhancement of biodiversity and the historic environment."*

3.3.14 Paragraph 5.14.4 (Minerals):

"planning purposes mineral extraction and related development includes all minerals and substances in, on or under land extracted either by underground or surface working⁷⁶. Mineral working is different from other forms of development in that:

- *extraction can only take place where the mineral is found to occur;*
- *it is transitional and cannot be regarded as a permanent land use even though operations may occur over a long period of time; and*
- *when operations cease land needs to be reclaimed to a high standard and to a beneficial and sustainable after-use so as to avoid dereliction and to bring discernible benefits to communities and/or wildlife."*

3.3.15 Paragraph 5.14.5 (Minerals):

"Although there are large resources of useful minerals in Wales, it is important to ensure that they are not wasted and that they are used efficiently and for the purpose(s) specified..."

3.3.16 Paragraph 5.14.6 (Minerals):

"In some exceptional cases, planning permission may have been granted because of UK or regional need for the mineral in areas which would not normally be suitable for mineral extraction because of environmental or policy objections. If this is the case, it is essential that the mineral is not exploited for a lower grade purpose than that originally intended. Where it is an exception to normal policy to allow mineral extraction at a particular location in order to fulfil a specific need, appropriate conditions and/or time limits should be considered carefully to ensure that the mineral extraction for the intended end-use is adequately controlled."

3.3.17 Paragraph 5.14.32 (Minerals):

“Coal has predominantly been used for energy production, however coal has other specific uses. These include use for industrial purposes in the steel industry, in speciality carbon markets, in the making of concrete and for domestic use. Coking coal, for example, which is largely imported is used in coke manufacture for the steel industry and directly in blast furnaces. Whilst the use of coal for energy generation should not be permitted if, exceptionally, planning applications come forward for industrial uses for coal then each case would need to be considered individually and the policies contained in MTAN 2: Coal applied, including the test outlined in paragraph 45 of MTAN 2.”

3.3.18 Paragraph 5.14.50 (Restoration and Aftercare):

“Restoration and aftercare should provide the means to at least maintain, and preferably enhance, the long-term quality of land and landscapes taken for mineral extraction.”

Minerals Technical Advice Note (MTAN) Wales 2: Coal

3.3.19 The MTAN Wales 2 (January 2009) sets out jurisdictions regarding the sustainable and workable management of coal at a national level. The following sections are of relevance to note.

3.3.20 Paragraph 22 (The Local Development Plan):

“Where relevant, MPAs should set out their strategy for the sustainable management of the coal resource in their Local Development Plan (LDP), directing coal working away from sensitive locations and ensuring that any environmental or community impacts can be mitigated.”

3.3.21 Paragraph 101 (Monitoring):

“Monitoring is required to provide information on aspects of the coal working site before it starts, during its lifetime and after its completion for restoration and aftercare. It will ensure compliance with appropriate environmental standards and facilitate an effective response to complaints.”

3.3.22 Paragraph 188 (Visual Impact):

“A description of potential landscape and visual impacts of the alternative options and designs, including the likely changes to the landscape following restoration, should be provided by the applicant in the ES. The rationale for the recommended option needs to be clearly explained. Visual impact should be a factor in the phasing and layout of the development, and in the restoration strategy. Both positive and negative landscape and visual impacts should be given due consideration, in a structured and systematic approach. Vegetation is an important factor in the landscape and its effect needs to be analysed in the landscape model in the ES.”

3.3.23 Paragraph 282 (Afteruse):

“In reinstating land following opencast working the opportunity exists to improve the local environment, enhance landscape and biodiversity and make provision for public access and recreation. Although the choice of afteruse is made by the applicant in consultation with the landowner, the MPA and consultees have influence. In recompense for the disturbance caused by opencast mining the MPA should seek to ensure that, so far as reasonably practicable, environmental opportunities are identified and taken.”

Merthyr Tydfil Replacement Local Development Plan (LDP) 2016-2031

3.3.24 The Planning and Compulsory Purchase Act 2004 requires the Council to monitor and review its Local Development Plan (LDP). Up-to-date LDPs are an essential part of the plan-led planning system under national policy set out by Welsh Government.

3.3.25 Following consideration of a Review Report in April 2016 on the previous adopted LDP 2006-2021, the Council commenced work on its First Replacement Local Development Plan 2016-2031 in August 2016 on approval of the Delivery Agreement.

3.3.26 The Replacement LDP 2016-2031 underwent Examination in Public in 2019 and was adopted by Council on 29th January 2020. The Replacement LDP supersedes the previous adopted LDP and forms the basis for land use planning decisions in the County Borough.

3.3.27 Policy SW4: Settlement Boundaries:

“To encourage development within urban areas, support the re-use of previously developed land, and to protect and support the functioning of our rural economy and the countryside, settlement boundaries will be defined as follows:

Primary Growth Area:

- Merthyr Tydfil
- Trefechan

Other Growth Areas:

- Troedyrhiw
- Aberfan and Merthyr Vale
- Quakers Yard, Edwardsville, Treharris and Trelewis
- Bedlinog”

3.3.28 Policy CW1: The Historic Environment:

“The integrity of our historic environment assets will be conserved and enhanced.

Development proposal will only be permitted where it can be demonstrated they would preserve or enhance the architectural quality, character or the historic or cultural importance of our designated historic environmental assets.

Development affecting undesignated historic environment assets including, Locally Listed Buildings or structures, Landscapes of Outstanding Historic interest in Wales, Urban Character areas and Archaeologically Sensitive Areas should have regard to their special character and archaeological importance.”

3.3.29 Policy EnW1: Nature Conservation and Ecosystem Resilience:

“Development proposals will be required to promote the resilience of ecosystems. In particular,

proposals will be required to maintain and enhance biodiversity interests unless it can be demonstrated that:

- 1. The need for the development clearly outweighs the biodiversity value of the site; and*
- 2. The impacts of the development can be satisfactorily mitigated and acceptably managed through future management regimes.”*

3.3.30 Policy EnW4: Environmental Protection:

“Development proposals will be required to demonstrate they will not result in an unacceptable impact on people, residential amenity, property and/or the natural environment from either:

- Pollution of land, surface water, ground water and the air;*
- Land contamination;*
- Hazardous substances;*
- Land stability;*
- Noise vibration, dust, odour nuisance and the light pollution; or*
- Any other identified risk to public health and safety.”*

3.3.31 Policy EnW5: Landscape Protection:

“Development proposals will be permitted where it can be satisfactorily demonstrated that:

- a) It would not cause unacceptable harm to the character and quality of the landscape setting of the County Borough;*
- b) Development within Special Landscape Areas are sensitive to their special characteristics;*
- c) Development respects the local distinctiveness and historic character of the landscape;*
- d) Development will safeguard local landscape character and landscape features, including views, which make a significant contribution to the character, history and setting of the locality;*
- e) Development secures the enhancement of the character, appearance and quality of the landscape, through restoration, management or enhancement where possible;*
- f) There is no satisfactory alternative and the benefits associated with the development can be demonstrated to outweigh the harm; and*
- g) Where damage to local landscape character cannot be avoided appropriate mitigation has been secured.”*

3.3.32 Policy EcW11: Minerals Development:

“Proposals for mineral extraction and associated development will be allowed where:

- *There is a proven national, regional or local need for the mineral which cannot be met from existing sources from secondary or recycled material;*
- *In the case of coal resources, there are wholly exceptional circumstances clearly demonstrated that justify its extraction;*
- *The potential for minerals to be transported by means other than road has been adequately assessed;*
- *They including acceptable proposals for progressive and final restoration, aftercare and beneficial after-use;*
- *They satisfy the other relevant policies of the Plan; and*
- *They maximise opportunities to re-use and recycle mineral waste”*

3.3.33 Policy EcW11: Minerals Development – Explanatory Note – 6.7.107:

“The demand for coal is difficult to predict and unexpected proposals for coal extraction may come forward over the plan period. National policy advises the use of coal for energy generation should not be permitted but recognises there are other specific non-energy uses for coal resources that may justify extraction in wholly exceptional circumstances.”

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