

S.73 APPLICATION TO VARY CONDITIONS 3 AND 4

ENVIRONMENTAL STATEMENT ADDENDUM

CHAPTER 4: DESCRIPTION OF DEVELOPMENT

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

Merthyr (South Wales) Limited

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4.1.0 Introduction

Planning Permission Ref. APP 152-07-014

- 4.1.1 Planning permission for the operational surface coal mine at Ffos-y-Fran was originally granted under planning permission ref. APP 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."

- 4.1.2 This original application for opencast coaling at the site is known as the 'Land Restoration Scheme' for the Ffos-y-Fran site. This submission was supported by an Environmental Impact Assessment, including an appropriate Environmental Statement ('the original ES'), Technical Appendices and associated Non-Technical Summary.

Planning Permission Ref. APP/U6925/A/10/2129921

- 4.1.3 In July 2008, a S.73 planning application was submitted for the variation of Condition 37 of planning permission ref. APP 152-07-014 to allow the limited dispatch of up to 100,000 tonnes of coal per annum by road via Cwmbargoed Disposal Point (application ref. P/08/0316). However, the proposal was subsequently amended in July 2009 to reduce the tonnage to a maximum of 50,000 tonnes of coal per year from the Ffos-y-Fran Land Restoration Scheme (FLRS) by road from Cwmbargoed Disposal Point. The description of development is as follows:

"[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."

- 4.1.4 Prior to submission, the S.73 haulage application submission was taken through an EIA Screening Request and Merthyr Tydfil County Borough Council adopted a Screening Opinion that whilst the application fell within the criteria for EIA, it was considered that there would not be any 'likely significant effects'. As such, no ES or associated EIA documents were prepared in support of the application. Indeed, this matter was considered further at the Public Inquiry (held between 8th – 11th February 2011), whereby it was re-confirmed by the Planning Inspectorate that an EIA was not required to support the S.73 haulage application
- 4.1.5 This application was refused planning permission by Merthyr Tydfil County Borough Council on 23rd December 2009 but was subsequently allowed at Appeal (Appeal ref. APP/U6925/A/10/2129921).
- 4.1.6 The Appeal Decision was originally issued by an appointed Inspector on the 11th March 2011, whilst a revised Appeal Decision was subsequently issued on 6th May 2011 following a legal decision regarding the decision. The Appeal Decision (as issued on 6th May 2011) contained a comprehensive list of updated conditions for the wider site and thereby superseding the original planning permission for the site as detailed above (permission ref. A-PP 152-07-014).
- 4.1.7 Appeal ref. APP/U6925/A/10/2129921 therefore represents the extant planning permission for the site.

4.2.0 Proposed Development (Variation)

4.2.1 The Appeal Decision, as issued on 6th May 2011, included a set of 'new' planning conditions by which the site operates. These conditions included two duration of works conditions of relevance to this current S.73 application which co-ordinate the duration of extraction (Condition 3) and subsequent restoration of the site (Condition 4).

4.2.2 The purpose of this S.73 application is to seek to vary Conditions 3 and 4 of the Appeal Decision for the extension to the lifespan of the mineral's extraction, and subsequently extend the timescales for final restoration of the land, by a further 9 months. As such, the existing conditions of Appeal ref. APP/U6925/A/10/2129921 read as follows:

- **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."*

4.2.3 Further information regarding the proposed variation to these conditions and the justification for the proposed amendments are provided within both the Planning Statement submitted in support of the S.73 application and also within Section 4.3.0 overleaf.

Condition 3: Proposed Cessation of Coal Extraction

4.2.4 As detailed above, the S.73 Application seeks to extend the life of the consented minerals extraction by a further 9 months. As such, it is proposed to re-word Condition 3 as follows:

*"All coal extraction from the development hereby permitted shall cease no later than **06 June 2023**.*

Reason: To co-ordinate the duration of the development hereby permitted with the end dates permitted under this application."

Condition 4: Proposed Restoration Timescales

4.2.5 Given the proposed extension to the life of the consented minerals extraction, this will have a subsequent effect on the timescales for restoration of the site. As such, it is proposed to re-word Condition 4 as follows:

*"Final restoration of the land shall be complete no later than **06 September 2025** and aftercare shall be undertaken for the period of not less than 5 years upon certification of completion of each phase of the progressive restoration scheme.*

Reason: To co-ordinate the duration of the development hereby permitted with the end dates permitted under this application."

4.3.0 Grounds for Variation

4.3.1 In terms of the need for extending the life of the existing consent, this is threefold:

- To allow for full extraction of the consented area (impacted by the COVID19 Pandemic)
- To allow for continued provision of coal to the Steel Industry in Port Talbot [TATA Steel] (to address security of energy supply and reduce the need to import from overseas)
- To allow for the preparation of a subsequent application (which will include revised final restoration of the site)

4.3.2 Further explanation of these grounds for variation are provided below.

Coronavirus

4.3.3 During the Coronavirus pandemic, the number of workers on site was reduced for the health & safety of staff by introducing working practices that ensured social distancing and cleaning protocols that could be effectively managed (i.e. single shift operation). This has been a common practice across the UK in all industries, especially those which operate in shift patterns and involved 'shared' equipment (such as HGVs or machinery).

4.3.4 As a result, a reduced tonnage of coal was mined during 2020, 2021 and part of 2022. The exact repercussions are not known but, with approximately three quarters of the usual number of miners on site operating a single shift, this reduced the extraction rate at the mine by in excess of 120,000 tonnes per annum whilst restrictions were in place. Table 4-1 below provides details of the production and sales tonnages for the duration of the Coronavirus restrictions and for the 3 years prior.

4.3.5 Given the reduction in extraction rates over the period that Coronavirus restrictions have been in place, the minerals extraction rate at the site has been detrimentally affected. It is estimated that there is approximately 240,000 tonnes of Coal (205,000 of ROM and 35,000 of Barrel Wash) remaining within the remainder of 'Cut 25B'; the last cut within the confines of the previously consented extraction area.

4.3.6 Whilst this remaining quantum falls below the historic extraction rates undertaken at the site, which equate to approximately 40,000 – 50,000 tonnes per month, the proposed 9 month extension to the life of the mine would allow for a contingency associated with any further Coronavirus lock-down, unexpected drops in extraction rate and for a progressively slowed extraction rate as restoration activities become more prominent. This should give the Council confidence that no further extension of time to the existing consent would be required or requested in future.

4.3.7 The reduction of productivity due to the Coronavirus pandemic should, therefore, be of merit when considering the planning benefits of the S.73 application seeking to vary Conditions 3 and 4. The proposed variations would allow for the full extraction of the estimated 10.8 million tonnes of Dry Steam Coal at Ffos-y-Fran allowed under the extant consent, which is a valuable and finite resource which is required by the steel industry. Indeed, every effort should be made to prevent sterilisation of a minerals resource which would not otherwise be worked once operations have ceased.

4.3.8 A Coronavirus (Covid-19) Statement prepared by the management of Merthyr (South Wales) Limited

has been prepared (signed by their Director) and is provided within an Appendix to the Planning Statement.

- 4.3.9 In addition to the above, it should be duly recognised that any reduction in tonnages extracted from the site would impact upon payments (per tonne) made to the Community Fund managed by Merthyr Tydfil County Borough Council, the monies paid into the restoration fund (Escrow) and monies paid to the Coal Authority. Overall, the unforeseen circumstances that led to the above should be considered to form grounds for an exceptional case.

Table 4-1: Production and Sales Rates – Coronavirus

Year	ROM Production (tonnes)	Barrel wash Production (tonnes)	Grand Total Production (ROM + Barrel Wash) (tonnes)	Sales (tonnes)	Net Reduction in Sales Compared to 2019 (tonnes)	Net Reduction in Sales Compared to 2019 (%)	Shift Pattern
2017	752,580	42,158	794,738	671,653	N/A	N/A	Double Shift
2018	772,521	30,465	802,986	654,144	N/A	N/A	Double Shift
2019	744,274	44,805	789,079	678,564	N/A	N/A	Double Shift
2020	640,752	36,063	676,815	575,551	-103,013	-15%	Single Shift
2021	626,739	30,031	656,770	546,310	-132,254	-19%	Single Shift
2022 (*6 months) (Jan to end June)	290,904	19,317	310,221	260,398	-78,884	-23%	Single Shift

Tata Steel UK Ltd.

- 4.3.10 Under the *Written Statement: Coal Policy Statement* (March 2021), Welsh Ministers stated that the extension of existing coaling operations in Wales are not intended. However, it was accepted that coal licenses and variations to existing licenses may be needed in wholly exceptional circumstances. This is supported by policy EcW11 of the LDP, as well as the exceptional circumstances identified within both PPW and MTAN2.
- 4.3.11 Under the *Written Statement: The Steel Industry in Wales* (October 2019), it is stated that the Welsh Government has an “...ongoing commitment to fight to secure a sustainable future for the steel industry and to keep steel production and steel jobs [here] in Wales” and that, following the “...considerable concern” of the proposed (now executed) closure of the Orb Electrical Steels (part of Tata Steel’s Cogent Power Inc.) site in Newport, the government’s engagement with Tata Steel to understand the potential next steps for the steel industry has and continues to be highly important. The written statement emphasised that “Steel is a strategically important industry that sits at the foundation of many supply chains” that is currently facing a variety of challenges, one of which being the increasing need for imported coal.
- 4.3.12 The Port Talbot steelworks is Tata Steel’s only steelworks in the UK, making primary steel which is then either further processed at its downstream plants in Wales and England, or sold as hot rolled coil to customers, mainly in the UK. Tata Steel has assessed the merits of using UK-produced coal when it meets the relevant quality, price and delivery requirements, and identified a number of benefits. Emissions of CO₂ and other pollutants associated with the transportation of coal from other parts of the globe can be avoided. The transport emissions for each tonne of UK coal delivered to Port Talbot are typically five times lower than coal imported from abroad. It is also advantageous from a logistical perspective for steel producers to have access to local supplies of raw materials as

it enables them to hold less stock and provides more flexibility with regard to scheduling. Finally, when local raw materials are used, there is a benefit to UK plc and the local economy in terms of job creation and revenue.

- 4.3.13 The continued mining of Ffos-y-Fran would therefore support the steel industry at a domestic level and provide an alternative to Tata Steel needing to utilise an overseas supply. As the mine is currently established / operational and carries the correct type of Dry Steam Coal, it is an asset for such industries reliant upon this mineral. Indeed, as outlined within section 2.2.4 above, Dry Steam Coal is unique in its characteristics and is a key product in the steel manufacturing process; without such coal, the steelworks process becomes unsustainable and, potentially, non-viable.
- 4.3.14 As such, the proposed S.73 application allowing for previously consented minerals extraction to continue for a further 9 months would ensure a security of supply and provide a more sustainable source of coal to the domestic steel industry as it would reduce the reliance on overseas imports sourced from potential suppliers in Venezuela and Australia now that imports from Russia are suspended. This will ensure that the overall carbon footprint for the coal powered steel industry would be significantly reduced which further accords with the Environment (Wales) Act 2016. Additionally, as the production of this coal is essential for domestic steel, the variation of condition would fall under “*wholly exceptional circumstances*” as detailed within the *Written Statement: Coal Policy Statement (October 2019)* as it will continue to support the steel industry which are now more reliant on domestic sources than overseas sources. As such, the proposals should be considered entirely policy compliant in this respect.

Subsequent Planning Application

- 4.3.15 As the Council is fully aware, there are insufficient funds within the Escrow and restoration fund to allow for the full and successful implementation of the current restoration strategy for the site. Furthermore, it has been demonstrated that there will be a continued demand for coal from the Ffos-Y-Fran site beyond the current lifespan and tonnages allowed for within the extraction area as currently consented. On this basis, a subsequent application is currently being prepared for an extension to the coal mining activities at the site, including an alternate restoration strategy and proposed afteruse of the site beyond the life of the mine. The principle is to meet the ongoing requirements for coal, whilst ensuring a suitable restoration strategy can be achieved and to bring forward an afteruse which will be of social and economic benefit to the local population.
- 4.3.16 Given its scale and complexity, it is necessary to undertake a full suite of new and extended environmental surveys and assessments to support any subsequent planning application. As such, this application will take until Quarter 2 of 2023 to prepare and submit to Merthyr Tydfil County Borough Council for consideration. On this basis, it is necessary to ensure that the current mine remains operational in this intervening period and ensure that there is no cessation in supply of coal to the steel industry or potential loss of employment at the site. This is especially important in the current economic climate, including the impending cost of living crisis.
- 4.3.17 The mine should be recognised as being essential to securing social and economic growth within Merthyr Tydfil County Borough Council authority area and its security of operations should provide reassurance to the local community. Should the forthcoming application for an extension, restoration and afteruse not be granted permission, it will ensure that current employees have a further 9 months to weather the cost of living crisis and look for alternative means of employment, whilst also allowing the operators of the mine to look at other investment possibilities.

Other Markets

- 4.3.18 The Welsh Dry Steam Coal sourced from Ffos-y-Fran is also utilised by a variety of smaller markets, including steam locomotives, traction engines, steam-powered boats and steam raising boilers. Furthermore, Welsh Dry Steam Coal is also sold to the domestic market for heating and use within stoves in homes, canal boats and alike. As the coal is semi-smokeless, it is suited for most steam powered engines and domestic use.
- 4.3.19 Steam trains are an integral part of the UK heritage and are the principal attraction for 13 million visitors a year. Direct earnings are £130 million annually and the railways generate some £400 million for the national economy. An important source of employment, particularly in rural areas, there are a total of 158 operational heritage railways in the UK, which in total run over 562 miles. Heritage railways operate 460 stations across the UK, the same number as Northern Rail.
- 4.3.20 Following the refusal for a coal mine near Newcastle in 2021, the Heritage Railway Association (HRA) has stated that Welsh supplies (namely Ffos-y-Fran) will only last until 2022, with English supplies having ran out in 2021.
- 4.3.21 As a result, heritage steam engines will have to be reliant on foreign imports which are more costly and generate a larger carbon footprint. The coal imported from abroad is recognised by steam enthusiasts as being less clean in nature, producing unnecessary smoke.
- 4.3.22 Whilst these are not the primary market for the coal extracted from Ffos-y-Fran, it is still relevant to identify the various demands for Welsh Dry Steam Coal which are located within the UK.

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