

S.73 APPLICATION TO VARY CONDITIONS 3 AND 4

ENVIRONMENTAL STATEMENT ADDENDUM

CHAPTER 7: FOOTPATHS, BRIDLEWAYS AND URBAN COMMON

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

Merthyr (South Wales) Limited

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7.1.0 Introduction

S.73 Application Context

- 7.1.1 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."

- 7.1.2 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."

- 7.1.3 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).

- 7.1.4 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."

- 7.1.5 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.

Consideration of S.73 Application

- 7.1.6 The proposed Material Amendment would extend the period during which effects of the FLRS on footpaths, bridleways and urban common would be experienced, but would not introduce any change to the impact of the FLRS on these assets. In considering the nature and scale of any effects therefore, this chapter addresses whether there has been any significant change to the baseline conditions (receptors), policy and legal requirements in the period since the original permission was granted.

7.1.7 The following information was submitted in support of the original application (ref. A-PP 152-07-014) for minerals consent at the site:

- Chapter 7: Footpaths, Bridleways and Urban Common – Environmental Statement (2003).

No Technical Appendices were submitted in support of Chapter 7. The original (2003) ES assessment focused on the effects of the proposed Ffos-y-Fran scheme in respect of recreational use of the Common only.

7.1.8 No information regarding footpaths, bridleways and urban common was submitted in support of the subsequent S.73 application (Appeal ref. APP/U6925/A/10/2129921) for the alternate haulage option at the site.

7.1.9 Additional technical information has been submitted with regard to footpaths, bridleways and urban common in respect of discharge conditions at the site / in support of the ongoing mitigation and monitoring at the site, in particular with regard to discharge of a Condition 50 Land Reclamation Strategy (FLRS) Phase 1 and Condition 53 Aftercare Scheme Phase 1. However, information supplied for the discharge of these conditions did not introduce any amendment to the assessment undertaken in respect of the original ES, and therefore this is not considered further in this Environmental Statement Addendum (ESA).

7.1.10 Therefore, only Chapter 7 of the original application has been reviewed in the undertaking of this ESA.

Purpose and Structure of Chapter

7.1.11 This chapter of the ESA considers the impact of the proposed material amendments on the planning policy and context of the area with regard to footpaths, bridleways and urban common as recreational assets, which can be characterised as comprising legal rights of public access that apply to the application site. Due to the absence of definitive Public Rights of Way (PRoW) over most of the Common, and the general rights of public access that apply to the Common as a whole, the original ES took the view that public access to the Common was more relevant; this approach is confirmed as being similarly appropriate to this ESA.

7.1.12 The assessment undertaken in the original ES was brief, comprising:

- impact on recreational access for local residents; and
- impact with regard to anti-social uses (fly-tipping and motorcycling).

7.2.0 Methodology

7.2.1 The original ES did not attempt to identify the significance of effects in respect of footpaths, bridleways and urban common, nor did it indicate the sensitivity of receptors or quantify the magnitude of change. Whilst there are still no published standards in relation to assessment of recreational assets, in the intervening period custom and practice for undertaking such assessments has evolved to the extent where it is now standard practice to adopt an assessment methodology using the following structure to define 'significance':

- study area
- sensitivity criteria
- magnitude of change (impact)
- significance of effect.

7.2.2 This section sets out a standard approach to assessment of effects on footpaths, bridleways and urban common based on current practice, whilst noting that there is no basis for comparison with the original ES.

Changes in Legislation, Guidance and Planning Policy

7.2.3 There is no requirement to undertake assessment of footpaths, bridleways and urban common, and no published guidance as to how such matters should be assessed.

7.2.4 There have been no changes to legislation affecting common land and PRoWs in the period since the original ES.

Assessment Methodology

Study Area

7.2.5 The study area assessed comprises the extent of the Urban Common.

Sensitivity Criteria

7.2.6 As noted above, sensitivity criteria were not established for the 2003 assessment of footpaths, bridleways and urban common. Table 7-1 sets out a standard approach to identifying sensitivity.

Table 7-1: Sensitivity Criteria Sensitivity criteria

Sensitivity	Description
High	The receptor: has little or no capacity to absorb change without fundamentally altering its present character; or is of high recreational value; or is of national or international importance; or is accorded priority in national policy; or

Sensitivity	Description
	has no alternatives with available capacity within its catchment area.
Medium	The receptor: has moderate capacity to absorb change without fundamentally altering its present character; or has a moderate recreational value; or is of regional importance; or is accorded priority in local policy; or has some alternatives with available capacity within its catchment area.
Low	The receptor: is tolerant of change without detriment to its character; or is of low recreational value; or is of local importance; or is accorded low priority in policy; or has a choice of alternatives with available capacity within its catchment area.
Negligible	The receptor is resistant to change and is of low recreational value or there is a wide choice of alternatives with available capacity within its catchment area.

Magnitude of Change (Impact)

7.2.7 Four levels of magnitude have been adopted using professional judgement and experience on similar projects: high; medium; low and negligible, as set out in Table 7-2.

Table 7-2: Magnitude of Change (Impact)

Receptor Group	High	Medium	Low	Negligible
Recreational access	An impact that would dominate over baseline economic conditions	An impact that would be expected to result in a moderate change to baseline economic conditions	An impact that would be expected to result in a perceptible difference from baseline economic conditions	An impact that would not be expected to result in a measurable variation from baseline economic conditions.

Significance of Effect

Table 7.3 summarises how significance is assigned based on the above sensitivity criteria and magnitude of impact.

Table 7-3: Significance of Effect

M a	Sensitivity of Receptor			
	High	Medium	Low	Negligible

	Sensitivity of Receptor				
	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

- 7.2.8 Effects that are adjudged to be substantial / major are considered to be significant. Effects that are adjudged to be moderate may be significant but other considerations may be taken into account including whether the effects are permanent or temporary, short term or long term.

Effects Not Requiring Further Assessment

- 7.2.9 There are no effects not requiring further assessment or consideration with regard to the original ES.

7.3.0 Changes in Baseline Conditions

Original ES Baseline

7.3.1 The original ES characterised the baseline conditions as follows

- limited PRowWs but extensive public access due to rights of common;
- alternative areas of common adjacent that would not be affected by the FLRS; and
- degraded land use conditions due to anti-social behaviour (fly-tipping and motor cycling).

Original ES Future Baseline

7.3.2 No Future Baseline scenario was established within the original ES for Socio-Economic factors.

Current Baseline

7.3.3 The Current Baseline is principally formed by the ongoing minerals extraction operations.

7.3.4 As the original ES did not establish the sensitivity of baseline factors (receptors), sensitivity values are set out in Table 7-4 based on the criteria established in Table 7-1 for recreational assets to be assessed.

Table 7-4: Sensitivity of recreational receptors

Receptor	Sensitivity
Access to Urban Common	Medium

Changes in Baseline

7.3.5 The baseline condition of the study has changed with regard to the progression of the FLRS over the period since 2003, due to ongoing mineral extraction and progressive restoration. This is in accordance with the projected impact of the proposed development assessed in the original ES, in which the area of common occupied by the FLRS would be unavailable to the public for a period of 15 -20 years. Other than this anticipated temporary change, there has been no change in the intervening period with regard to surrounding access to common land or legal rights of access.

7.4.0 Assessment of Effects

- 7.4.1 It is noted that the assessment of effects on recreational assets contained in the original ES did not assign significance, and did not identify the sensitivity of receptors or magnitude of impact. In assessing the proposed change, this assessment takes account of the methodology set out in section 7.2.0 together with professional judgement.
- 7.4.2 The FLRS has progressed in accordance with the projected programme assessed in the original ES, in which it was stated that the effect of working the site will be to suspend the public access over the common land and along the footpaths for a period of some 15 to 20 years. The proposed extension of time would result in the period of reduced access to the Common being towards the upper end of this range, but nevertheless within the defined period.
- 7.4.3 The original ES concludes that, in the longer term following completion of restoration and after care, and the formation of additional Urban Common, the study area would become more attractive to users and that the long term effect would be beneficial. There is no change to these proposals as a result of the current S.73 application and the period for achievement of the beneficial effects is within the range originally anticipated.
- 7.4.4 It is therefore considered that the continuation of operations proposed in the S.73 application would result in no change with regard to the assessment undertaken in the original ES with regard to the impact on public access.

7.5.0 Requirement for Additional Mitigation or Monitoring

Original ES Mitigation

- 7.5.1 With the exception of holding Community Liaison meetings, no mitigation or monitoring for public access matters were identified within the original ES.

Subsequent Mitigation or Monitoring

- 7.5.2 No additional mitigation or monitoring has been established for public access matters subsequent to the original ES.

Alternate or Additional Mitigation and Monitoring

- 7.5.3 The assessment of the proposed material change does not require any mitigation or monitoring.

7.6.0 Residual Effects

- 7.6.1 The proposed material change would result no change to the original ES.

7.7.0 Other Environmental Issues

7.7.1 This Section seeks to detail any considerations and environmental effects which have been identified with regard to the range of topics which have been introduced into EIA requirements through the EIA Regulations 2017. Where there are no such considerations or environmental effects, this is also specified below for clarity.

7.7.2 Please see Chapter 22 for a summary of the 'Other Environmental Issues' identified across all of the technical assessments undertaken and the Chapters prepared as part of the ES.

Other Environmental Issues of Relevance

7.7.3 Scope out ones that are not of relevance to your topic (do not delete heading)

Infrastructure

7.7.4 This issue is not relevant to the assessment of socio-economic factors.

Waste

7.7.5 This issue is not relevant to the assessment of socio-economic factors.

Population and Human Health

7.7.6 Population and human health is positively impacted by access to recreational assets for exercise and green space. This is recognised in by Welsh Government, for example through Planning Policy Wales which states that accessible green space can facilitate health and well-being related benefits of open space, clean air and improved tranquility.

7.7.7 It is considered that there would no change to the assessed effects on population and human health as a result of the proposed extension of time, including the long term beneficial effects for a more attractive environment and increased public access.

Climate and Carbon Balance

7.7.8 This issue is not relevant to the assessment of socio-economic factors.

Risks of Major Accidents and/or Disasters

7.7.9 This issue is not relevant to the assessment of socio-economic factors.

Summary

7.7.10 As the inter-relationship between recreational assets and population and human health is positive (beneficial) there is no requirement for mitigation and the cumulative long term effect is beneficial.

7.8.0 Summary of Effects

- 7.8.1 An assessment of effects on recreational assets relating to public access to the Urban Common has been undertaken in respect of the proposed S.73 application.
- 7.8.2 Whilst the original ES did not consider the significance of effects, it concluded that effects would be not significant during the life of the proposed FLRS, and beneficial in the long term following completion of restoration and after care. This assessment has concluded that as there would be no change to the magnitude of impact, there would be no change to the level of effect assessed in respect of the original development or the subsequent S.73 permission due to the proposed extension.

7.9.0 Conclusions

- 7.9.1 The assessment undertaken for the original development in 2003 concluded that there would be a beneficial effect on socio-economic factors such as employment. This assessment has confirmed that there would be no change to this beneficial effect in respect of the proposed extension.

REFERENCES

Homes and Communities Agency, 2014: Additionality Guide Fourth Edition

Well-being of Future Generations (Wales) Act 2015

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