

Ffos-y-Fran Land Reclamation Scheme and Cwmbargoed Disposal Point

Statement of Case

Call-in under Section 77 of the Town and Country Planning Act 1990

On behalf of Merthyr (South Wales) Ltd

Application	LPA / Reference	Summary
Ffos-y-Fran Final Land Reclamation Scheme	Merthyr Tydfil County Borough Council / P/25/0037	Variation of conditions 4, 6 and 51 of planning permission APP/U6925/A/10/2129921 involving a revision to the restoration scheme.
Cwmbargoed Disposal Point	Merthyr Tydfil County Borough Council / P/25/0334	Variation of condition 1 of planning permission P/08/0091 to extend the timescale for the use of Cwmbargoed Disposal Point by a further five years.
Cwmbargoed Disposal Point	Caerphilly County Borough Council / 25/0873/NCC	Variation of condition 3 of planning permission 08/0231/FULL to extend the temporary timescale condition by a further five years.

May 2026

Contents

1. Introduction
 2. The applications and procedural status
 3. The application sites
 4. Planning history, engagement and chronology
 5. The proposed development
 6. Relevant planning policy and other material considerations
 7. The main issues for determination
 8. Applicant's case on the principal issues
 9. Planning conditions and obligations
 10. Overall planning balance and conclusion
- Appendix 1 - Chronology and application progress
- Appendix 2 - Core documents and evidence base

1. Introduction

1.1 Purpose and scope of this Statement of Case

This Statement of Case is submitted on behalf of Merthyr (South Wales) Ltd (MSW) in relation to three conjoined called-in planning applications concerning the final restoration of the Ffos-y-Fran Land Reclamation Scheme and the continued use of the associated Cwmbargoed Disposal Point for the duration of related restoration operations.

The three applications are closely related. The Ffos-y-Fran application seeks approval for an amended final restoration strategy for the former surface mine. The two Cwmbargoed Disposal Point applications seek corresponding time extensions to the existing permissions which allow that site to continue to function as an operational base for the related Ffos-y-Fran restoration works and to provide access to enable the works to be undertaken.

This Statement is intended to identify the applicant's case, the principal matters raised within the call-in request and decision, the evidence relied upon, and the conditions or other controls which could appropriately manage the development if planning permission is granted. It is not intended to repeat the Environmental Statement, Supplementary Environmental Information, technical appendices or consultee correspondence in full. Those documents remain the primary technical evidence base and are referred to where relevant.

This Statement of Case is based on the application material, consultation responses and procedural position available at the time of submission. The Applicant will continue to engage constructively with PEDW, the local planning authorities, statutory consultees and other parties as the call-in process progresses. The Applicant may, in accordance with any timetable or directions issued by PEDW, provide further clarification, Statements of Common Ground, proofs of evidence, topic-specific evidence, updated conditions or other material necessary to assist the Inspector and Welsh Ministers in the determination of the applications.

The Welsh Ministers' decision to call in the applications identifies matters considered to be of more than local importance, including the relationship of the proposals to national policy on mining site restoration, wider interest in coal policy and remediation, hydrological links, restoration safeguards, and public confidence in the planning system. The applicant's case is that the applications should be approved, subject to appropriate conditions and any necessary obligations.

The applicant also emphasises that continuing delay to the determination of the final restoration strategy has already had, and will continue to have, practical implications for the potential deliverability of site restoration. Delay prolongs the period of care and maintenance, defers procurement and mobilisation of restoration works, increases uncertainty around technical and environmental management, and risks further separating the site condition from any historic restoration assumptions.

1.2 The applicant

MSW is the applicant for each of the three conjoined applications. Coal extraction ceased at the end of November 2023. Since then, the site has been in a period of care and maintenance while final restoration proposals have been prepared, assessed, discussed with stakeholders and statutory consultees and submitted for determination. References in this Statement to the applicant are references to MSW unless the context requires otherwise.

The applicant has appointed an experienced consultant team to prepare and assess the restoration proposals, including specialists in landscape, ecology, hydrology, hydrogeology, hydro-geochemistry, geotechnical stability, archaeology, air quality, noise and greenhouse gas assessment.

2. The applications and procedural status

2.1 Applications before the Welsh Ministers

Application ref.	Authority	Development / condition varied	Applicant's position
P/25/0037	MTCBC	Variation of conditions 4 (duration and restoration), 6 (approved plans) and 51 ¹ (restoration strategy) of APP/U6925/A/10/2129921 involving a revision to the restoration scheme.	The application provides a deliverable, environmentally assessed and controlled final restoration strategy for the former surface mine.
P/25/0334	MTCBC	Variation of condition 1 of P/08/0091 to extend the timescale for use of Cwmbargoed Disposal Point by a further five years.	The application keeps the MTCBC element of the disposal point permission aligned with the Ffos-y-Fran restoration programme.
25/0873/NCC	CCBC	Variation of condition 3 of 08/0231/FULL to extend the temporary timescale condition for a further five years.	The application keeps the CCBC element of the disposal point permission aligned with the Ffos-y-Fran restoration programme.

¹ The application submission originally referred to the amendment of Condition 50, however this Condition was deleted and it is agreed with MTCBC that the description of development be amended to refer to Condition 51.

The applications have been called in and are to be considered together. The applicant supports a conjoined process because the matters are factually and functionally linked. The Cwmbargoed Disposal Point applications do not seek a new or materially expanded operational use. They are confined to extending the relevant timescale conditions so that the established site can continue to support the final restoration of Ffos-y-Fran, in particular to provide administration facilities and access arrangements for plant, equipment and supplies to the restoration works across the Bogey Road.

2.2 Status of submitted evidence

Application P/25/0037, the application was accompanied by an Environmental Statement (ES) comprising a technical report, figures, technical appendices and a Non-Technical Summary. Supplementary Environmental Information (SEI) was subsequently submitted in November 2025 and updated in December 2025. Further clarification and addendum material was submitted in 2026, including a Biodiversity Statement, hydrology and catchment assessments, a geotechnical stability report and a bat suitability technical note.

For the Cwmbargoed Disposal Point applications, the submissions include a Planning, Green Infrastructure and Drainage Statement, application forms and supporting material. The applications seek a time extension only; no amended physical works, additional built form, new plant or expanded operational envelope are proposed as part of those submissions.

3. The application sites

3.1 Ffos-y-Fran Land Reclamation Scheme

The Ffos-y-Fran site lies to the east of Merthyr Tydfil and south-east of the A4060. It forms the final phase of the wider East Merthyr Reclamation Scheme. The wider Ffos-y-Fran Land Reclamation Scheme extends to approximately 400 hectares and has been subject to surface mining and progressive restoration over a prolonged period.

The site includes the main former excavation void, three principal overburden mounds (OB1, OB2 and OB3), areas already subject to progressive restoration, surface water drainage features, ponds and settlement lagoons, historic water management features associated with the Dowlais Free Drainage System, public rights of way and areas of ecological interest that have developed during the operational and post-operational phases.

Progressive restoration has taken place throughout the operational phase of the Ffos-y-Fran Land Reclamation Scheme. By the cessation of coaling in November 2023, Phase 1 restoration had delivered restored and cultivated land on the south western flank of the site. Phase 2A interim restoration works were then promoted and approved by MTCBC, covering a further substantial area of land to be regraded, soiled, seeded and fenced. Phase 2B interim works were also promoted and approved by MTCBC which included further regrading, cultivation, watercourse works and byway-related construction works which generally runs north-south through the restoration areas. These interim works have allowed

restoration to continue where consistent with the approved restoration strategy and have reduced the extent of unrestored land awaiting final determination of P/25/0037.

The site is complex because of its mining history, its hydrological and hydrogeological context, historic assets, ecological interests and the scale of the landform. These matters have informed the EIA and subsequent technical submissions.

3.2 Cwmbargoed Disposal Point

Cwmbargoed Disposal Point lies at Fochriw Road, Cwmbargoed, and straddles the administrative boundaries of MTCBC and CCBC. The site has historically functioned as the operational and logistical base for activities associated with Ffos-y-Fran, including facilities referred to in the existing permissions such as mineral processing and preparation plant, coal washing plant, coal haulage vehicle workshop, water storage tank, information and coal stacking, preparation, office and welfare facilities and ancillary works.

Following cessation of coal extraction at Ffos-y-Fran, the role of Cwmbargoed Disposal Point has materially reduced. Its continuing role is to provide an established operational base for care and maintenance and restoration activity. Elements of the site continue to be in the process of being decommissioned and the current s73 applications do not seek to reintroduce coal extraction or expand operational activities beyond the existing permitted envelope. Cwmbargoed Disposal Point is also important to ensure that restoration works can take place at Ffos-y-fran as it provides the only practical access point to the site for plant, equipment, materials and labour.

3.3 Designations and sensitive receptors

The Ffos-y-Fran application site and its surroundings contain or are close to a range of sensitive environmental and heritage receptors, including scheduled monuments, the Merthyr Tydfil Registered Historic Landscape, historic water management features, ecological habitats and species, surface water and groundwater receptors, and public access routes. The ES and technical appendices assess the likely effects on these receptors and identify mitigation, monitoring and management measures.

The Cwmbargoed Disposal Point applications do not introduce new physical works or a new operational envelope. The principal issue for those applications is therefore whether continuation for a further limited period, within the established planning framework and for the sole purpose of supporting Ffos-y-Fran restoration, is acceptable.

4. Planning history, engagement and chronology

4.1 Original Ffos-y-Fran permission and restoration framework

The Ffos-y-Fran Land Reclamation Scheme was originally granted planning permission following appeal. The scheme authorised land reclamation involving the extraction of coal by opencast methods and the progressive restoration of the

land. The original restoration strategy sought to return the land to a simple upland landform, with extensive backfilling, urban common, agricultural land, protected nature conservation and heritage areas, and a network of public access routes.

The approved restoration position across the wider site is therefore best understood as a restoration strategy rather than a fully detailed, construction-ready scheme for all remaining phases. The detailed scope, sequencing, methodology, specification and cost of completing restoration across the remaining land would still require resolution before that historic strategy could be implemented in practice.

Coal extraction required the removal and management of substantial quantities of overburden. Since commencement, progressive restoration has taken place across large parts of the site. Phase 1 restoration covered land on the south western flank of the site, with further interim Phase 2A and Phase 2B works promoted, approved by MTCBC and implemented, where those works fell within the parameters of the previously approved strategy.

4.2 Cessation of coaling and need for an alternative restoration strategy

Coaling ceased at the end of November 2023. The site then entered care and maintenance pending agreement of a final restoration strategy. The previously approved restoration strategy remains a material baseline. However, it is a strategy rather than a fully detailed and currently deliverable scheme for all remaining works. The applicant's case is that, in light of current environmental legislation, biodiversity policy, climate change considerations, the extent of natural habitat development on the site, the current hydrogeological context and the practical implications of very large-scale backfilling, the now proposed restoration strategy is justified, preferable and capable of delivery.

The proposed strategy retains the main void as a permanent groundwater lake and retains certain existing waterbodies and naturally developing habitats, while undertaking targeted regrading, soil placement, drainage, ecological and landscape works to create a safe, stable and beneficial restored landscape which offers significant biodiversity benefits.

Even if the originally approved restoration strategy were to be pursued, restoration would not be capable of immediate delivery. The current hydrogeological context means that substantial volumes of water within the void would need to be abstracted or otherwise managed before large-scale backfilling could proceed. Any abstraction would need to operate within NRW licensing, environmental and water quality limits, meaning that delivery of the historic strategy would itself take a significant period before substantive final restoration could be advanced.

4.3 Engagement and application progress

The applicant has undertaken extensive engagement with MTCBC, CCBC, NRW, the Coal Authority/Mining Remediation Authority, Welsh Government, Health and Safety Executive, the Commoners Association and other parties. The process has included Technical Working Group meetings, site visits, discussions on public rights of way and byway matters, environmental screening and scoping, statutory

consultation as part of the application process, and targeted meetings to address hydrology, hydrogeology, ecology, geotechnical and monitoring matters.

A detailed chronology is included at Appendix 1. In summary, the process has included:

- initial meetings with MTCBC in August 2023 to discuss the planning, EIA and interim restoration approach;
- submission of an EIA Screening Opinion request in September 2023 and MTCBC's December 2023 conclusion that EIA was required;
- preparation and submission of an EIA Scoping Report in July 2024, with MTCBC's Scoping Opinion issued in October 2024;
- Technical Working Group meetings between December 2023 and April 2025, with a further TWG referred to in the project chronology;
- submission of P/25/0037 in February 2025;
- receipt of consultee comments in spring and summer 2025, including comments from NRW, Cadw, MTCBC Ecology, MTCBC Policy, WSP and others;
- submission of the applicant's July 2025 responses and a separate geotechnical response;
- submission of SEI in November 2025 and a revised SEI in December 2025;
- submission of further 2026 clarifications, including biodiversity, hydrology/catchment and geotechnical material.

The applicant considers that any residual matters to be raised by the LPA, statutory or technical consultees can continue to be addressed through the progression of the application prior to its determination. It intends to continue to engage constructively with the LPAs and relevant consultees in order to assist the Inspector and Ministers in their decision making.

4.4 Cwmbargoed Disposal Point s73 approach

The Cwmbargoed Disposal Point permissions contain time-related conditions which set a cessation date of 31 December 2024. The applicant has submitted s73 applications to extend the relevant period for a further five years. The submissions are limited to the time conditions and do not seek to amend the description of development, approved plans or operational envelope.

Prior to submission of the CCBC application, the appropriate application route was discussed with CCBC officers. CCBC officers indicated that a s73 application could be submitted, subject to the submission including a step-by-step scheme outlining the development of the site over the extension period, including removal of buildings/machinery and any proposed landscaping. This is relied upon as relevant background to the applicant's procedural approach, without suggesting that it predetermines the planning merits.

The applicant's position is that the s73 applications are an appropriate and lawful mechanism to vary the relevant time conditions. In planning terms, the key point is that the applications seek to maintain continuity of an established, ancillary site that is needed to complete the wider restoration programme. If approved, the

existing control framework would continue, subject to the varied time condition and any additional or updated conditions considered necessary.

5. The proposed development

5.1 Ffos-y-Fran final restoration strategy

The Ffos-y-Fran proposal is the final restoration and aftercare of the former surface mine. It is not a proposal for renewed coal extraction. It is a proposal to revise the approved final restoration and aftercare strategy in a manner which the applicant considers is more deliverable, more environmentally responsive and more closely aligned with current planning, biodiversity and climate change policy.

The main components of the proposed restoration strategy include:

- retention of the main void as a permanent groundwater lake and landscape feature;
- retention and enhancement of selected waterbodies, ponds, settlement lagoons and wetland habitats that have developed ecological value, many of which are now populated by GCN;
- targeted regrading and reprofiling of overburden mounds and residual slopes where required to achieve stable landforms and suitable after-use;
- restoration of further areas to urban common and appropriate grassland, heathland, scrub, woodland edge, wetland and mosaic habitats;
- provision and management of drainage features and water monitoring arrangements;
- management of public access routes, including construction of a Byway and other rights of way matters;
- environmental controls, including CEMP, LEMP, WQMP, SWMP, EPS conservation management and aftercare arrangements.

The final strategy retains many of the broad objectives of the previously approved scheme, including restoration, removal of dereliction, public access and nature conservation. The main difference is that the former void would not be fully backfilled to previous levels; instead, the lake and certain overburden landforms would become part of the restored landscape. The benefits of such an approach and their compliance with planning policy are outlined within the application submission.

5.2 Cwmbargoed Disposal Point continuation

The two Cwmbargoed applications seek a further five-year extension to the relevant temporary timescale conditions. The disposal point would continue to serve the related restoration programme at Ffos-y-Fran. The applications do not seek new physical development and do not alter the established operational envelope, approved descriptions of development or introduce any new or amended use.

The applicant's case is that the continued use is directly linked to the practical delivery of restoration. Without a continued base of operations or a means to gain

access to the Ffos y Fran site, the ability to manage plant, personnel, welfare, materials, water management, security, environmental monitoring and restoration logistics would be materially constrained, if not unachievable.

6. Relevant planning policy and other material considerations

6.1 National planning context

The applications fall to be considered in accordance with the development plan unless material considerations indicate otherwise. Relevant national considerations include Future Wales, Planning Policy Wales, minerals policy and guidance, the Well-being of Future Generations (Wales) Act 2015, the Environment (Wales) Act 2016, climate change and biodiversity policy, and guidance concerning planning conditions and minerals restoration. The relevant legislative, policy and guidance framework is summarised in ES Chapter 2.

The applicant accepts that national policy attaches significant importance to restoration of mineral sites, high quality reclamation, avoidance of dereliction, protection of communities and the environment, biodiversity enhancement, climate resilience, and effective planning controls. The applicant's case is that the proposed restoration strategy is consistent with those objectives when considered as a whole.

6.2 Minerals and restoration policy

The central planning judgement is no longer whether coal extraction should take place. Coaling has ceased. The judgement is now which restoration strategy should be approved so that the land is reclaimed to a safe, stable, beneficial and deliverable after-use.

Deliverability is a material planning consideration. PPW recognises the importance of deliverable development and minerals policy requires restoration to be secured in a realistic and effective way. For a site of this scale, a restoration scheme which cannot realistically be delivered would not represent a sound planning outcome, even if it remains the historic approved baseline. The applicant therefore invites the Welsh Ministers to give substantial weight to whether the proposed restoration scheme is capable of being delivered, secured and managed through enforceable controls.

The approved restoration strategy is not treated by the applicant as irrelevant. It remains an important planning history baseline and is considered in the ES, including ES Chapters 1, 4 and 6. However, it is a strategy rather than a detailed, fully resolved and currently deliverable restoration scheme. The evidence explains why full implementation of that strategy is no longer the best or most realistic planning outcome. It would require very substantial additional earthmoving, extensive disturbance of areas that now have ecological value, greater fuel use and greenhouse gas emissions, hydrogeological and timescale impacts, and a materially uncertain funding and delivery position. In particular, any return to the original backfilling approach would need to address the present water-filled void and abstraction requirements within NRW regulatory limits before large-scale backfilling could meaningfully proceed. Those matters are not relied upon as a

narrow cost argument; they go to deliverability, sustainability, environmental effects and the ability to secure a timely final restoration outcome.

The current proposal has been progressed because it is capable of being delivered within a realistic restoration framework, can be secured by conditions and management plans, and has been assessed as technically and environmentally acceptable by reference to the evidence base submitted with the application, SEI and 2026 addendum material.

The applicant will provide further evidence on restoration funding, security and delivery if required at the appropriate stage. For the purposes of this Statement of Case, the applicant's position is that the historic restoration and security arrangements should not be assumed to provide a certain, detailed or presently deliverable scope for all remaining restoration works. There is material uncertainty over the full scope, sequencing, methodology, specification and cost of implementing the historic strategy across the remaining land. This reinforces the importance of assessing the current application as the deliverable scheme now before the Welsh Ministers.

6.3 Development plan context

The Ffos-y-Fran site lies within MTCBC. The Cwmbargoed Disposal Point straddles MTCBC and CCBC. Relevant development plan policies include those concerned with countryside and landscape protection, historic environment, biodiversity and ecosystem resilience, environmental protection, water management, minerals, open space, tourism/recreation and sustainable design.

MTCBC Planning Policy has advised that the Ffos-y-Fran proposal meets relevant Replacement Local Development Plan policies SW4, SW10 and EcW7, while noting the need for careful consideration of countryside character, historic environment, biodiversity, amenity, flooding, drainage and water pollution. The applicant agrees that those are the relevant planning considerations and addresses them through the ES, SEI and supporting material.

6.4 Other material considerations

Other material considerations include the extensive planning history, the previously approved restoration strategy, the practical state of the site following cessation of coaling, the progressive restoration already undertaken, the public interest in the site, consultee responses, and the need for an enforceable and deliverable planning framework. The applicant also relies on the significant technical evidence base submitted with P/25/0037 and the limited nature of the Cwmbargoed s73 applications.

7. Matters raised in the call-in requests and reasons for call-in

The Welsh Ministers' call-in decision letters identify both the matters raised in the call-in requests and the reasons why the applications were considered to raise issues of more than local importance. This Statement therefore addresses the case by reference to those matters.

7.1 Matters raised in the call-in requests

The call-in requests raised the following broad issues:

- claims that the restoration scheme is based on cost rather than adequate planning outcomes;
- alleged conflict with national policies on site remediation/restoration;
- wide interest in coal policy and successful remediation of old mining sites;
- concern that a lack of remediation safeguards for mining sites could create a wider precedent;
- concern about new coal tips being left in place;
- procedural concerns about the way the planning applications and enforcement matters have been handled; and
- concerns regarding the integrity of the site operator.

7.2 Reasons for call-in

The Welsh Ministers also identified matters which led to the decision to determine the applications centrally: potential conflict with national policy on mining site restoration; wide interest in coal policy and remediation of old mining sites; substantial controversy beyond the immediate locality; the scale of the site and potential wider effects, including hydrological links through underground workings to neighbouring valleys; the novelty of the issues raised in respect of site restoration; and the importance of restoration safeguards to public trust in the planning system.

The applicant has therefore structured its case around the substance of those matters: the allegation that the scheme is cost-led; potential conflict with national policy on mineral restoration and remediation; the wide public and national interest in the site; restoration safeguards and precedent; hydrological effects beyond the immediate site; the characterisation of the retained overburden landforms; procedural issues relating to the Cwmbargoed applications; and operator compliance. Further detailed evidence can be provided through proofs of evidence once the Inspector has confirmed the matters to be examined.

The decision to call in the applications does not determine the merits of the applications. The applicant's case is that, when the evidence is considered, the proposals are consistent with national policy objectives for restoration, are supported by a substantial technical evidence base, and provide a deliverable means of securing restoration and ongoing management.

7.3 Main issues for determination

Having regard to the call-in matters, consultee responses and application material, the applicant considers that the main issues for determination are:

1. whether the proposed Ffos-y-Fran final restoration strategy is a deliverable and policy-compliant restoration outcome, rather than an inadequate cost-led solution;
2. whether the proposal accords with national policy on minerals restoration, remediation of former mining sites, sustainable management of natural resources and biodiversity;

3. whether adequate safeguards are secured for geotechnical stability, hydrology, hydrogeology, water quality, pit lake management, AMD risk, DFDS and downstream receptors;
4. whether the retained overburden mounds, residual slopes and related landforms are properly understood, assessed and controlled, and whether it is accurate to characterise them as "coal tips";
5. whether the proposal would provide acceptable landscape, heritage, ecological, climate, amenity and human health outcomes;
6. whether the Cwmbargoed Disposal Point time extensions are acceptable, procedurally appropriate and necessary to support final restoration;
7. whether conditions and, if necessary, planning obligations can provide a robust delivery and safeguarding framework; and
8. whether the planning balance supports the grant of permission for the three conjoined applications.

8. Applicant's case on the principal issues

8.1 Deliverability, cost and adequate planning outcomes

The applicant's first and central point is that deliverability is not a secondary or irrelevant matter. It is fundamental to the planning merits of a restoration scheme. A restoration permission which cannot realistically be implemented would not secure the public interest in restoration, would prolong uncertainty, and would risk the very lack of safeguarding which the call-in reasons identify as a matter of public concern. Continued delay to determination has already affected the ability to progress comprehensive restoration and will continue to affect deliverability by prolonging care and maintenance, delaying procurement and mobilisation of works, and extending uncertainty for the local community, regulators and the applicant.

The proposal has not been selected simply because it costs less than the approved restoration scheme. Cost is part of a wider deliverability assessment, but the applicant's case is based on planning outcomes: technical stability, water management, biodiversity, climate effects, landscape repair, long-term management, public access and the ability to secure the works through conditions. These matters are assessed in ES Chapters 4, 6, 7, 8, 9, 10, 11, 12, 14, 16 and 18, and further developed in the SEI and 2026 technical submissions.

The originally approved restoration strategy would require very substantial additional earthmoving and further movement of overburden into the void. The ES Non-Technical Summary and ES Chapter 6 explain why an alternative strategy was developed. The previously approved approach would involve greater fuel consumption, greater greenhouse gas emissions, increased disturbance and the loss of existing ecological features including waterbodies and habitats which now support biodiversity interests. It would also require the current water-filled void to be managed before backfilling could proceed, with abstraction and discharge constrained by the hydrogeological context, NRW limits and wider environmental controls. It would also rely on a funding and delivery position which the applicant

considers materially uncertain. The current proposal is advanced as a restoration scheme that can be delivered, secured, monitored and maintained.

The applicant therefore invites the Welsh Ministers to treat deliverability as a positive factor in favour of the application. The current proposal provides a realistic route to secure final restoration and avoid the site remaining in a prolonged care and maintenance state.

The applicant does not seek to resolve every legal or financial issue within this Statement of Case. Those matters can be addressed, if necessary, through topic-specific evidence. The key planning point for present purposes is that the historic strategy is not a detailed, costed and immediately implementable scheme for the remaining land, whereas the current proposal has been prepared as a deliverable and controlled restoration strategy capable of being secured through conditions, management plans and monitoring.

8.2 Relationship to coal policy and national restoration policy

The applications do not seek permission for renewed coal extraction. Coaling ceased at the end of November 2023. The Ffos-y-Fran application concerns final restoration and aftercare, and the Cwmbargoed applications concern a limited extension to the established operational base needed to support that restoration.

National policy seeks high-quality restoration, beneficial after-use, environmental protection, biodiversity and sustainable management of natural resources. The applicant's case is that the proposed strategy is consistent with those objectives. It would secure a managed final landform, retain the pit lake as a permanent landscape and water feature, regrade and stabilise overburden landforms, protect and enhance developing habitats, reduce unnecessary earthmoving, and provide a framework for monitoring and aftercare.

The relevant ES signposts are Chapter 2 (policy), Chapter 4 (description of development), Chapter 6 (alternatives), Chapter 11 (ecology), Chapter 12 (landscape), Chapter 14 (greenhouse gases), Chapter 16 (climate change) and Chapter 18 (environmental management).

8.3 Restoration safeguards, precedent and public trust

The applicant recognises the importance of effective restoration safeguards. This is a substantial former surface mine and the public interest in securing a reliable restoration outcome is agreed. The application has therefore been supported by an ES, SEI and additional technical material responding to consultee comments. The safeguards are not left to general intentions: they are capable of being secured through a detailed suite of planning conditions, management plans, monitoring plans, trigger levels, reporting requirements and completion certification.

The submitted evidence demonstrates that the proposed restoration strategy is acceptable in principle and identifies the matters which can be secured through conditions. These include approved plans, phasing, detailed engineering design, geotechnical supervision, water monitoring, pit lake management, DFDS monitoring, pollution prevention, ecological management, heritage mitigation, landscape management, aftercare and reporting.

This is a case in which the historic approved strategy has been reassessed against current site conditions, current policy and current environmental constraints, and replaced by a deliverable, controlled and assessed restoration strategy.

8.4 Geotechnical stability and the “coal tips” issue

Geotechnical stability is addressed in ES Chapter 7, the SEI geotechnical chapter, the July 2025 geotechnical response and the March 2026 Geotechnical Stability Report. The Geotechnical Stability Report reviews the principal features proposed to remain or be reprofiled, including OB1, OB2, OB3, BF1, residual rock faces and the restored void/pit lake margins.

The applicant's position is that the retained landforms are engineered overburden mounds and associated restoration features formed as part of the permitted surface mining operation. They are not proposals for new coal extraction and should not be simplistically characterised as “new coal tips”. The matter for consideration is whether the final landforms are stable, safe and capable of being managed as long-term landscape features.

The submitted geotechnical evidence concludes that, subject to the proposed reprofiling, mitigation and monitoring, the landforms can permanently be made stable and suitable for the proposed after-use. The applicant is willing to accept conditions requiring detailed engineering design, geotechnical method statements, competent geotechnical supervision during restoration, completion reporting and post-restoration inspections. Those controls directly address the call-in concern about public trust and restoration safeguards.

The relationship with Trecatti Landfill has been considered through the later geotechnical and NRW consultation process. The applicant will continue to work with PEDW, NRW and the planning authority to agree any necessary condition wording to ensure that stability and integrity issues are appropriately controlled.

8.5 Hydrological links, DFDS, pit lake, AMD risk and water quality

The call-in reasons expressly identify potential wider effects, including hydrological links through underground workings to neighbouring valleys. These matters are addressed in ES Chapter 8 (hydrogeology), Chapter 9 (hydro-geochemical/AMD), Chapter 10 (hydrology), the Hydrogeology Technical Report, AMD Risk Assessment, WFD assessment, Flood Consequences Assessment and Drainage Strategy, Surface Water Monitoring Plan, Water Quality Monitoring Plan, Catchment and Flow Analyses and the SEI.

The pit lake is not an unassessed residual feature. It is a central component of the proposed restoration strategy and has been monitored and assessed through water balance, hydrogeological and water quality work. The applicant's case is that the pit lake reflects the post-coaling hydrogeological reality of the site and can be managed as a stable landscape, ecological and water management feature.

The Dowlais Free Drainage System has been a focus of NRW and planning authority comments. The SEI and later responses provide further information on monitoring, possible pathways, surface water and groundwater interactions, and risk management. The applicant accepts that final monitoring arrangements

should be secured by condition, including monitoring locations, methods, frequencies, trigger levels, reporting and contingency measures.

The applicant's case is that the proposed restoration will reduce the risks associated with an unfinished former mine by stabilising slopes, covering exposed surfaces, establishing vegetation, managing drainage and maintaining structured monitoring. It is a designed, considered and managed restoration outcome, not an unmanaged abandonment of the site.

8.6 Biodiversity, green infrastructure and protected species

Ecology and green infrastructure are addressed in ES Chapter 11, the EcIA, Green Infrastructure Statement, Biodiversity Statement, bat technical note and the SEI ecological management chapters. The site has developed ecological value during and after the operational period, including waterbodies, wetland margins, mosaic habitats and great crested newt interests.

The applicant's case is that the proposed scheme follows the step-wise approach by avoiding unnecessary loss of developing habitat, retaining ecologically valuable waterbodies where possible, minimising disturbance through a more targeted earthworks strategy, mitigating unavoidable effects and providing a framework for longer-term net benefit for biodiversity.

The approved restoration strategy would remove or disturb a greater extent of features that now have significant ecological value. The current proposal is therefore not simply a cheaper version of the approved strategy; it is a materially different restoration strategy which responds to the current ecological baseline and current PPW biodiversity policy.

Long-term management would be secured through a Conservation Management Plan for European Protected Species, CEMP, LEMP, Ecological Compliance Audit, monitoring, aftercare and reporting. Any works affecting European Protected Species would also need to comply with the relevant licensing regime.

8.7 Landscape, visual and public access outcomes

Landscape and visual matters are addressed in ES Chapter 12 and the LVIA. The proposed scheme would not recreate the pre-mining landform in full, but that is not the only acceptable planning outcome. The relevant planning question is whether the final landform would be safe, stable, deliverable, capable of beneficial after-use and acceptable in landscape and visual terms.

The applicant's case is that the scheme would progressively reduce the visual effects of the former surface mine through regrading, soil placement, vegetation establishment, habitat creation, water management and integration of the retained landforms and pit lake into a coherent long-term landscape framework. Public access and rights of way, including byway matters, can be secured through updated plans, conditions and management arrangements.

8.8 Historic environment

Cultural heritage is addressed in ES Chapter 13 and the Archaeological Desk-Based Assessment. The applicant recognises the presence of scheduled monuments, the Merthyr Tydfil Registered Historic Landscape and other heritage

assets. Cadw has raised concerns but has also indicated that mitigation can reduce those concerns.

The applicant's case is that the proposal can be made acceptable in heritage terms through completion of archaeological mitigation, final reporting and archiving, dissemination of previous archaeological work, protection of retained assets, and appropriate design and management of the restored landscape. Conditions can secure final heritage mitigation and reporting where required.

8.9 Air quality, greenhouse gases, climate change and human health

Air quality and greenhouse gases are addressed in ES Chapter 14, population and human health in Chapter 15, climate change in Chapter 16, and cumulative effects in Chapter 17. The applicant's case is that the alternative restoration strategy substantially reduces the amount of bulk earthmoving required compared with the approved scheme. This reduces plant use, fuel consumption, emissions, disturbance and carbon impacts.

Local air quality, dust, noise, nuisance and working practice matters can be controlled through a CEMP, phasing, dust management, working hours, pollution prevention and monitoring. These controls are normal and appropriate for a minerals restoration project of this type.

8.10 Cwmbargoed Disposal Point

The Cwmbargoed Disposal Point applications are directly related to the Ffos-y-Fran restoration case. They seek to maintain, for a limited further period, the established operational base needed to support restoration, care and maintenance, environmental monitoring, site logistics and any necessary decommissioning or landscaping activities.

No new built form, expanded operational envelope or new plant is proposed through the s73 applications. The planning effects remain capable of control through the existing suite of conditions. The Planning, GI and Drainage Statement explains why the s73 route was adopted and why the extension is necessary to align the disposal point with the Ffos-y-Fran restoration programme.

The applicant recognises that a legal/procedural point may be raised regarding the use of s73 for the Cwmbargoed applications. The applicant's position is that the applications vary time-related conditions only, do not alter the operative development description, and were submitted following discussion with CCBC officers. In any event, the substantive planning merits support maintaining a controlled planning framework for the disposal point so that restoration can be delivered rather than undermined.

8.11 Procedural concerns and operator integrity

The applicant recognises the high degree of public interest in Ffos-y-Fran and understands that public confidence depends on transparency, evidence and enforceable controls. The applicant has submitted an ES, SEI, technical reports and further information in response to consultee comments. It has engaged with the planning authorities, NRW, technical consultees and other stakeholders and

since the cessation of coaling in November 2023, has carried out additional progressive restoration as agreed with MTCBC in respect of Phase 2A and 2B.

Allegations about the operator should not displace the planning judgement required on these applications. The decision should be made on the evidence, the development plan, national policy and the ability to impose enforceable controls. Where issues remain in dispute, they can be considered through the conjoined call-in process.

9. Planning conditions and obligations

9.1 Conditions for P/25/0037

The applicant is willing to work with PEDW, MTCBC, CCBC, NRW and relevant consultees to agree a comprehensive schedule of planning conditions. Conditions are central to the applicant's case on deliverability. They would convert the restoration strategy, ES mitigation, SEI commitments and later technical clarifications into an enforceable delivery framework. Without prejudice to final wording, likely areas for condition control include:

- approved plans and restoration drawings;
- phasing and timescales for restoration and aftercare;
- detailed engineering design and geotechnical supervision of regrading and slope works;
- geotechnical completion report and post-restoration inspections;
- CEMP, including dust, noise, pollution prevention, site compound, traffic and working practices;
- SWMP, WQMP, groundwater monitoring, baseline review, trigger levels, contingency measures and reporting;
- pit lake dewatering method statement, abstraction/discharge controls and monitoring;
- DFDS monitoring and contingency arrangements;
- Trecatti Landfill stability safeguards where required;
- EPS Conservation Management Plan, licensing compliance and protected species working methods;
- LEMP, habitat creation, long-term management, Ecological Compliance Audit and biodiversity reporting;
- heritage mitigation, archaeological reporting, archiving and dissemination;
- public access, byways and rights of way implementation/management where relevant;
- aftercare and long-term land management arrangements.

9.2 Conditions for Cwmbargoed Disposal Point

For the Cwmbargoed Disposal Point applications, the applicant seeks variation of the relevant temporary timescale conditions only. The existing operational and environmental controls should otherwise remain in force, subject to any necessary updating to reflect the restoration-only context. Conditions may also require the step-by-step scheme requested by CCBC officers, including the intended use of

the site over the extension period, removal of redundant plant/buildings, and landscaping/restoration measures.

9.3 Planning obligations

The applicant is willing to discuss whether any planning obligation is necessary to secure matters that cannot properly be secured by condition. The applicant's position is that obligations should be necessary, directly related to the development and fairly and reasonably related in scale and kind.

10. Overall planning balance and conclusion

The Ffos-y-Fran application provides an opportunity to secure a final, deliverable restoration strategy for a former surface mine of substantial scale and public interest. Continued delay to determination has already affected, and will continue to affect, the practical deliverability of restoration. The applicant's case is that the proposed strategy should be approved because it responds to the current physical, ecological, hydrological, financial and regulatory realities of the site, rather than relying on a historic approved strategy which is not a detailed construction-ready scheme, is not realistically deliverable in its current form and would now give rise to greater environmental and timescale impacts.

The proposal retains the main void as a managed pit lake, retains and enhances ecologically valuable waterbodies and habitats, reduces unnecessary earthmoving and carbon emissions, provides for targeted regrading and stabilisation of retained landforms, and establishes a framework for water monitoring, ecological management, aftercare and long-term safeguarding. These outcomes are addressed in the ES chapters and supporting technical reports signposted throughout this Statement.

The Cwmbargoed Disposal Point applications are necessary ancillary applications. They maintain the planning framework for the established operational base needed to complete Ffos-y-Fran restoration and provide continued access to the Ffos y fran site. They do not seek new development or an expanded operational envelope.

Whilst the applicant considers there are many points of agreement through consultations, correspondence and discussions, it is accepted that some matters remain the subject of technical scrutiny, particularly geotechnical stability, hydrology/hydrogeology, water quality and long-term management. These matters are capable of being further considered through the progression of the application and the applicant remains committed to constructive dialogue with relevant parties to ensure all matters are comprehensively addressed.

Accordingly, MSW, as applicant for each of the three conjoined applications, respectfully requests that the Welsh Ministers grant planning permission for P/25/0037, P/25/0334 and 25/0873/NCC, subject to appropriate conditions and any necessary planning obligation. The grant of permission would secure a technically assessed, environmentally acceptable and deliverable restoration outcome, supported by the continued controlled use of Cwmbargoed Disposal Point for the limited period needed to complete that outcome.

Appendix 1 - Chronology and application progress

The following chronology has been prepared from the project team chronology and subsequent application material. It is intended to provide a clear record of the key stages in preparation, submission, consultation and supplementary information.

Date	Event
July 2023	MSW appointed Richards Moorehead and Laing Ltd (RML) to prepare an alternative final restoration scheme for the Ffos-y-Fran Land Reclamation Scheme.
23 August 2023	An early meeting was held with MSW and MTCBC Planning Department to discuss the planning process, EIA screening/scoping process and how interim restoration could continue following planned cessation of mining operations in November 2023.
September 2023	Early dialogue took place with Welsh Government (Agriculture and Land Use Planning) and Gelligaer and Merthyr Commoners Association.
27 September 2023	MSW submitted a request for an EIA Screening Opinion to MTCBC.
5 October 2023	Meeting with NRW to discuss closure of the site and outline proposals for the alternative restoration scheme.
October/November 2023	RML prepared outline proposals for the alternative restoration scheme and an Outline Restoration Strategy was submitted/presented to MTCBC.
4 December 2023	MTCBC issued a Screening Opinion concluding that EIA was required having regard to the environmental sensitivity of the site and the scale/nature of the proposed changes.
14 December 2023	Technical Working Group No. 1 held at Cwmbargoed Disposal Point.
1 March 2024	Meeting held with the LPA regarding public rights of way and BOAT matters.
8 April 2024	Phase 2A interim restoration proposals submitted to MTCBC, covering regrading, soiling, cultivation, seeding and fencing of approximately 54 hectares east of the previously restored Phase 1 land.
27 June 2024	Further meeting held with the LPA to discuss progress with the EIA.
22 July 2024	EIA Scoping Report submitted to MTCBC.
31 July 2024	Technical Working Group No. 2 held.
4 October 2024	MTCBC issued its Scoping Opinion, including comments from MTCBC, the County Ecologist, NRW and Cadw.
14 October 2024	RML responded to MTCBC on aspects of the scoping response and comments raised by NRW and the County Ecologist.
24 October 2024	Technical Working Group No. 3 held.
7 November 2024	Members of the Senedd Climate Change Committee attended a presentation by MSW at Cwmbargoed followed by a site visit.
7 February 2025	P/25/0037 submitted to MTCBC for the alternative final restoration strategy.

20 February 2025	P/25/0037 validated by MTCBC.
March-April 2025	Consultation responses received, including from the Coal Authority, Cadw, Welsh Government Transport, MTCBC Ecology, WSP, NRW and MTCBC Planning Policy.
7 April 2025	Technical Working Group No. 4 held, followed by a Special Liaison Committee meeting involving local councillors and MTCBC officers.
13 June 2025	MTCBC issued a letter forwarding comments and identifying matters for response, including NRW comments, the MTCBC Ecologist memo and WSP Technical Note 001.
7 July 2025	RML responded on behalf of MSW to the points raised by MTCBC and NRW.
8 July 2025	James Associates provided a separate response to WSP Technical Note 001.
23 September 2025	Meeting held with NRW and MTCBC to discuss progress and outstanding environmental matters.
7 October 2025	NRW issued further comments, welcoming further information in principle and identifying matters to address through additional information/conditions.
13 October 2025	Teams meeting held with MTCBC, NRW and MSW to discuss outstanding matters and the approach to Supplementary Environmental Information.
19 November 2025	CCBC officer correspondence confirmed that a s73 application for the CCBC Cwmbargoed Disposal Point permission could be submitted, subject to a step-by-step scheme for the site over the extension period.
7 November 2025	SEI Report and appendices submitted to MTCBC.
8 December 2025	Revised SEI submitted with additional information, including further material on DFDS.
12 December 2025	Cwmbargoed Disposal Point s73 applications submitted to extend the relevant time conditions by five years.
5 January 2026	NRW issued further comments on the SEI, seeking clarification on matters including monitoring, baseline conditions and pollution prevention.
24 February 2026	Biodiversity Statement finalised and issued to MTCBC.
12 March 2026	RML submitted a further response to NRW comments and biodiversity material.
25 March 2026	Additional hydrology/catchment and geotechnical information submitted to MTCBC, including the Geotechnical Stability Report and catchment/flow analyses.
2 April 2026	Welsh Ministers directed that the Ffos-y-Fran and Cwmbargoed applications be determined by the Welsh Ministers.
21 April 2026	Technical Note submitted on the suitability of existing workshop/storage buildings for roosting bats.
23 April 2026	NRW issued further comments, continuing to request clarification on land contamination and pollution prevention while advising conditions in relation to land contamination, pollution prevention and EPS.

Appendix 2 – Initial core documents and evidence base

The Applicant will work with PEDW, the local planning authorities and other parties to agree a proportionate Core Documents List at the appropriate procedural stage. The principal application documents, Environmental Statement, Supplementary Environmental Information, consultation responses, committee/call-in correspondence, relevant planning permissions and relevant policy documents are expected to form the basis of that list.

Topic	Core documents
Application documentation	P/25/0037 application form and plans; P/25/0334 and 25/0873/NCC Cwmbargoed Disposal Point s73 application forms and supporting statements.
Environmental Statement	Ffos-y-Fran Final Restoration Strategy Environmental Statement, Volume 1 Technical Report, Volume 2 Figures, Volume 3 Technical Appendices and Non-Technical Summary, January/February 2025.
Hydrogeology and water	Hydrogeology Technical Report; AMD Risk Assessment; Flood Consequences Assessment and Drainage Strategy; Baseline and Preliminary WFD Compliance Assessment; SEI water monitoring material; Catchment and Flow Analysis; Nant Morlais Catchment and Flow Analysis.
Geotechnical stability	ES geotechnical material; James Associates response to WSP Technical Note; SEI geotechnical chapter; Geotechnical Stability Report, March 2026.
Ecology and green infrastructure	EcIA; Green Infrastructure Statement; Biodiversity Statement; Conservation Management Plan material; bat suitability technical note; LEMP/CEMP material.
Landscape and visual	Landscape and Visual Impact Assessment and restoration/aftercare plans.
Historic environment	Archaeological Desk-Based Assessment; Cadw and Heneb/The Trust for Welsh Archaeology consultation responses; ES cultural heritage chapter.
Air quality and climate	Air Quality Assessment; Greenhouse Gas Assessment; ES chapters on air quality, greenhouse gases and climate change.
Consultation and correspondence	MTCBC, CCBC, NRW, Cadw, Welsh Government Transport, Coal Authority/Mining Remediation Authority, WSP and other consultee responses and applicant responses submitted through the application process.
Cwmbargoed Disposal Point	Planning, GI and Drainage Statement, application forms, CIL material and CCBC enforcement/pre-submission correspondence concerning the s73 approach.