

# DELEGATED REPORT

<b>Application No:</b>	<b>P/16/0012</b>
<b>Site Address:</b>	<b>Land At Ffos Y Fran Land Reclamation Scheme East Of Merthyr Tydfil CF48 4AE</b>
<b>Development:</b>	<b>Discharge of condition 53 (restoration and aftercare plan for Phase 1) of planning permission APP/152-07-014 so that the development can be carried out in accordance with condition 53 of planning permission APP/U6925/A/10/2129921 relating to a land reclamation scheme incorporating the extraction of coal by open cast methods</b>
<b>Case Officer:</b>	<b>Hugh Towns</b>
<b>Site Visit:</b>	
<b>Application Expiry Date:</b>	<b>3rd March 2016</b>
<b>Consultation reply date expired:</b>	

## APPLICATION SITE

The Ffosyfran Land Reclamation Site (FLRS) amounts to approximately 400 hectares of land occupying high ground to the east of Merthyr Tydfil, approximately 1.5km east of the town centre. The FLRS is bounded to the north west by the A4060 Trunk Road and to the north by the Trecatti Landfill Site. The eastern boundary of the site coincides with the administrative boundary between Merthyr Tydfil CBC and Caerphilly CBC and the Nant Garawd. The road leading from the Bogey Road to Bryn Caerau and Garth Fawr forms the southern boundary. The Bogey Road and the Cwmbargoed to Treharris Mineral Railway run in a general east west direction through the site.

The area of the FLRS site included in this application (referred to as Phase 1) comprises approximately 115 hectares of land situated on the south western side of the working area. The majority of Phase 1 has already been restored to its final profile as part of the progressive restoration of the site and interim aftercare work has been carried out in these areas in 2013, 2014 and 2015, comprising largely of grass seeding and the construction of drainage grips and drainage channels. The land generally slopes downwards from approximately 380m AOD on the east side of Phase 1 to approximately 280m AOD at the Mountain Hare Roundabout on the A4060(T).

The site lies inside the Registered Merthyr Tydfil Landscape of Outstanding Historic Interest. There is also a Scheduled Ancient Monument (SAM), the site of an Iron Age

settlement, within the site boundary but excluded from the development area. Sarn Howell Pond, which is also a SAM has been excluded from the site but is surrounded by it.

## PROPOSED DEVELOPMENT

Conditional planning permission for the FLRS was originally granted by the National Assembly for Wales on 11th April 2005.

Although the planning application was supported by an Environmental Statement which contained a restoration strategy, Condition 50 of that permission required a 'Restoration Strategy' for the restoration and management of the site to be approved by the Planning Authority before development commenced and Condition 51 required the site be reclaimed progressively in accordance with that strategy. Condition 53 also required an aftercare scheme for each phase of the restoration to be submitted for the written approval of the Local Planning Authority.

The Restoration Strategy required by Condition 50 was submitted to the Local Planning Authority for approval on 24th October 2005 and was confirmed as approved on 4th November 2005, thereby discharging the requirements of the condition. The approved Restoration Strategy diverged from the strategy included within the original Environmental Statement in a number of areas. Within the Phase 1 area the difference was essentially replacing woodland and lower lying common land along the western boundary with upland grassland containing areas of woodland. Changes to the restoration contours were also made to avoid uniform slopes and minor changes were proposed to the surface water drainage regime.

On 6th January 2009, revisions to the Restoration Strategy were submitted to the planning authority relating to the provision and availability of lapwing nesting areas. The revised Restoration Strategy was formally approved on 26th February 2009 but the lapwing nesting areas do not fall within Phase 1.

The approved Restoration Strategy states that a detailed Restoration Plan for each phase of the restoration will be submitted to the Planning Authority for approval. This application comprises the detailed restoration plan for Phase 1 and shows the final landform; the resources of soil and soil forming material, their profiles, placement, handling and treatment; the design and establishment of a suitable surface water drainage regime for the restored landform, all in preparation for the eventual establishment of the intended after uses for the land. The application also comprises the aftercare proposals for Phase 1 in accordance with Condition 53 of the planning permission granted in May 2011 which is essentially upland grazing together with some grassland/woodland areas together with drainage features.

The applicants have submitted a detailed restoration plan which they consider reflects the approved Restoration Strategy proposals for the FLRS, whilst recognising changes to surrounding land uses since the scheme began, local authority aspirations for the future development of the area and recent changes to various regulatory and environmental controls.

One such aspiration pertinent to the design of the Phase 1 Restoration Scheme is that part of the area for the Phase 1 Restoration Scheme has been allocated as New Business/Employment Site, 'ES Ffos-y-Fran', by Policy AS14 of the Merthyr Tydfil Local Development Plan.

Miller Argent therefore considered the inclusion of features into the restored landform at FLRS to:

- accommodate potential for the future development of a rail link between Cwmbargoed and the A4060 (T) trunk road on the west of the site south of Dowlais Top; and
- provide a landform which includes a plateau on the area of land alongside the A4060 (between its current and former alignment and is owned by Merthyr Tydfil County Borough Council) to accommodate its potential future development as a Business Park. The terminus for the passenger line, possibly incorporating a 'Park and Ride' facility, would potentially be incorporated on the northern end of the business park.

Miller Argent, having considered these aspirations and investigated in some detail the land use and drainage issues associated with meeting them, has put forward a proposal to reinstate the area to upland mountain grazing and urban common land in accordance with the Restoration Strategy for the FLRS, while at the same time incorporating a landform that could accommodate the local authorities' longer-term aspirations for the area at some time in the future. This has resulted in minor changes in the surface water drainage regime.

It is stressed, however, that it is not proposed that Miller Argent makes any change to the proposed afteruses set out in the approved Restoration Strategy for the site. The proposal merely reflects a request to create a landform that would accommodate longer-term aspirations for the area at a later date. It would be for someone other than Miller Argent to make separate proposals and applications for such developments at some time in the future.

The afteruse of the land for Phase 1 of the FLRS remains for urban common and upland grazing land with grassed flood storage areas and some shelter belting, all in accordance with the approved Restoration Strategy. Public access to the land for recreation will also be facilitated when this can be permitted without health and safety implications.

The landform of the restored site is intended to generally reflect that of the surrounding hillsides, with an overall rounded form, with smaller scale variations. The land will rise from a low point of about 280m AOD at Mountain Hare Roundabout in the western most point of the site to a rounded dome at around the 405m AOD level. The A4060 defines the north western boundary, which rises to 352m AOD at the northernmost point of the site.

A key aim of the approved Restoration Strategy is to produce a varied surface, giving general areas of light, shadow, texture and grain to the landscape. In general, it includes 'micro features' and minor variations in terrain, soil depth, drainage and micro climate. Such micro features will support the aim of developing variety, by providing suitable conditions for different habitats.

The proposals involve the restoration of the site to the following afteruses utilising the following soil profiles:

- 76.8 hectares of upland grazing on soil forming material (Soil reinstatement areas 4M and 4S)
- 22.6 hectares of grassland with tree/woodland planting (Soil reinstatement Area 4N). This is essentially the area identified for future business use and will be hydro-seeded and/or allowed to regenerate naturally.

- 8.9 hectares of upland grazing on organic or peaty soils to the south and east of the Sam Howell Pond (Soil reinstatement Area 2)

## Restoration of Areas 4M and 4S

The final 1m of mine backfill has been selectively placed so as to provide an acceptable substrate for the replacement of the SFM. In particular, the inclusion of large stones and boulders was avoided, as far as is reasonably practicable in this final layer. Additionally following placement of the backfill, a micro-topography of small rises and falls was deliberately created within the landform to mimic the natural local micro-topography. This includes the creation of small shelter pockets for livestock. These features were created only by the modification of the backfill surface onto which a uniform thickness of SFM was placed rather than creating them by modifying the thicknesses of spread SFM. This also minimised the need to handle the SFM more than is absolutely necessary. The loosening of the backfill material was carried out immediately prior to the placement of SFM. This operation was done using a multi-tined ripper mounted on the rear of a bulldozer which loosened the backfill in two directions, both down and across the slope.

The SFM was replaced in accordance with the loose tipping method for subsoil. In this method the soil is delivered by dump trucks and levelled out by a light low ground pressure tracked bulldozer to the required thickness of 350mm. This procedure is generally carried out in small sections approximately 20m by 20m with marker boards set up round the edges to indicate the depth of SFM required. This operation reduces, as far as possible, any compaction caused to the SFM during spreading. Following the spreading of SFM, no other vehicles travel on top of the SFM except for the agricultural vehicles carrying out cultivations and aftercare works.

The 350mm thickness of SFM represented a reduction of 150mm of compared to the original 2005 outline Restoration Strategy but still represented a good depth of material for the establishment of the upland grassland habitat in this area.

In 2013, in preparation for the placement of soils onto part of the Phase 1 area, an audit of the heaps of topsoil, subsoil and soil forming materials stored on the FLRS was undertaken to provide an assessment of the volumes of materials available for the restoration of the site. This is an approach recommended in "best practice" guidance issued by MAFF, DoE and DEFRA, as it provides the opportunity to ensure that materials that have been recovered on site can be effectively used to produce the best quality of restoration possible and to avoid a shortfall of restoration materials.

The audit identified that the recovery of all available subsoil resources on the site did not match the volumes of such material that the restoration strategy had originally been anticipated pre-working, with an approximate shortfall of 264,000 m<sup>3</sup>, as the subsoil resource was not present and there was a shortfall in the availability of topsoil materials of approximately 41,000m<sup>3</sup>.

Having identified the shortfall of subsoil at an early stage it was therefore identified that this shortfall could be effectively addressed by the appropriate substitute use of SFM.

It was recognised that if the use of SFM was to be adopted to address the shortfall in available subsoil, this would, in turn require an adjustment to the depth of SFM to be placed onto the early phases of the restoration of the western upland grassland areas (4M, 4N and 4S in Phase 1 Area) of the site, where only SFM is to be used. This adjustment

would ensure that sufficient SFM materials would be available to restore the remaining areas of the site, including areas where SFM would need to be used as a substitute for required subsoil horizons, based on current volumes.

### **Restoration of Area 4N**

The specification for the replacement of restoration materials onto this area has been slightly amended from the Restoration Strategy, taking into account the potential long term aspirations of the landowner, Merthyr Tydfil County Borough Council, as set out above. Whilst the proposed land uses within this area remain as grassland and woodland, as in the 2009 Restoration Strategy, the specification for the restoration materials to be used in this area have been adjusted as follows:

- Grassland - It is proposed that these areas should comprise backfill material where stones larger than 300mm in the longest direction have been removed and where a suitably levelled surface has been prepared (following loosening of the backfill using a multi tined ripper or similar). The aspiration of the operator is that sufficient SFM will be recovered to enable 100mm of SFM to be spread prior to hydro-seeding.
- Woodland Planting - It is proposed that the specification for these areas would be the same as proposed in the 2009 Restoration Strategy. The specification would comprise prepared backfill, covered with a depth of 650mm SFM material. The techniques to be applied to the preparation of the backfill material and the SFM placement are the same to those described for Areas 4S and 4M above.

### **Restoration of Area 2**

The techniques for the preparation of backfill and placement of the 165mm thickness of SFM are the same as described above. In this area it is proposed that the 150mm thickness of topsoil.

The original specification for the restoration of Soil Reinstatement Area 2 within the 2009 Restoration Strategy comprised, for the most part 165mm of organic peaty topsoil and 165mm of subsoil material. However, as indicated above, a soils audit in 2013 identified there was a shortfall in the availability of topsoil materials of approximately 41,000m<sup>3</sup>. It was agreed that the topsoil depths should be reduced slightly to 150mm in areas (including Area 2) as a result

Topsoil is delivered either to the edge of the area that to be restored or to a so-called "peninsula", built out over the centre of the re-spread subsoil. In both cases the operations work towards the furthest point of the area being reinstated. The dump trucks reverse either along the topsoil "peninsula" and loose tip the topsoil at the end, thus progressively extending the "peninsula" or build out a lateral heap in the same general manner.

When all the soil needed has been delivered, a light tracked bulldozer would be used to spread out the soil from the "peninsula" or lateral heap to the required thickness over the rest of the section.

In normal circumstances this operation would remove any compaction caused to the topsoil during the building of the "peninsula" or lateral heap. If, however, any significant compaction remains a separate loosening operation would be carried out by ripping.

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The drainage arrangements involve a series of streams, ponds, flood attenuation features and drainage grips which have been designed to accommodate surface water flows and incorporating a design allowance for climate change.

The aftercare proposals provide for stone picking, cultivations, fertiliser mixes and seed mixes for each of the areas together with proposals for grass management.

In order to monitor and review progress during the aftercare period, it is proposed that aftercare meetings, attended by representatives of Miller Argent (South Wales) Limited and/or their advisers, the local planning authority and Welsh Government will be held either annually or at such other intervals as may be considered appropriate. These meetings will consider cropping and husbandry information for the preceding period, agree future cropping proposals, and discuss and agree any other relevant matters including aftercare of the remainder of Phase 1 (e.g. fertiliser rates, seed mixes & application rates), drainage measures and access issues.

This application is not accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulation 1999. The Authority has therefore produced a screening opinion as required under the Regulations and has concluded that an Environmental Statement is not required in this case. However, as the application seeks to discharge conditions attached to a planning permission for a development that was EIA development, the Authority has considered the contents of the Environmental Statement previously submitted in respect of the primary permission (Appeal Ref: A-PP 152-07-014).

## PLANNING HISTORY

P/08/0316 - Variation of condition 37 of planning permission APP 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 - Planning permission refused on . Granted on Appeal -6<sup>th</sup> May 2011 (Appeal Ref: APP/U6925/A/10/2129921)

P/03/0225- Land reclamation incorporating the extraction of coal by opencast methods - Granted Planning Permission by the National Assembly for Wales - 11 April 2005 (Appeal Ref: A-PP 152-07-014)

P/99/0287 - Opencast coal mining operation with associated reclamation works - Application Withdrawn - 23 June 2003

## CONSULTATION

### Internal Consultees

Engineering and Highways Manager - No objection

Town Planning Divisions Countryside Officer/ Ecologist - No objection

Town Planning Divisions Landscape Architect - the restoration proposals are generally acceptable but there are many variables which may determine the final outcome. Detailed management will need to respond to these external influences. The introduction of 'micro features' is considered to be an essential component as is the proposal to create grass



flooded plains and seasonal ponds. Tree planting on the margins of the upper Taf Bargoed is considered to be appropriate and trees/shrubs will need to be protected from rabbits. The creation of acid grassland will have its challenges. All seed sources should be of local provenance and non-native invasive plants will have to be controlled.

### External Consultees

Natural Resources Wales - no objection.

Welsh Government Department for Natural Resources - extremely pleased with the high standard of restoration being achieved. Sought clarification in relation to the restoration and aftercare of Area 4N (Merthyr Council Land) but has accepted that given the shortfall of soils on the site area and the aspiration for development on area 4N, it will be restored with 100mm of SFM if the material can be recovered from the excavation and hydroseeded. The spreading of the SFM from other areas more thinly in order to cover this area is not a desirable option.

### - PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) Order 2012 and the Town & Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999 (as amended), this application was publicised by means of displaying seven site notices in locations surrounding the application site on the 29<sup>th</sup> January 2016. Additionally, a notice was placed in the publicity section of the Merthyr Express on 28<sup>th</sup> January 2016.

Two responses have been received as a result of publicity. The concerns raised can be summarised as follows:

1. the height of the embankment in front of the property is not approved, is higher and steeper than local residents were led to believe
2. adverse visual impact
3. the drainage system is unlined is not approved and causes flooding
4. loss of water flow for animals has been a problem in the past
5. there are no plans for the conservation and protection of wildlife
6. the public has a right of access to Merthyr Common and footpaths
7. impact on residential amenity

### POLICY CONTEXT

The following National and Local planning policies within the documents listed below are relevant to the determination of this planning application:

#### National Planning Policy

#### Planning Policy Wales 8<sup>th</sup> Edition, January 2016

#### **Section 3.1 - Taking planning decisions**

Para 3.1.7 - states that the planning system does not exist to protect the private interests of one person against the activities of another. Proposals should be considered in terms of their effect on the amenity and existing use of land in the public interest.

## **Section 4.4 - Sustainability Objectives**

Section 4.4.3 sets out the objectives which reflect Welsh Governments vision for sustainable development.

### **Section 5.1 - Natural heritage objectives**

Para 5.1.4 highlights the importance of taking biodiversity and landscape considerations into account at an early stage of the development management process.

**Section 5.5 - Development management and the conservation and improvement of the natural heritage.**

Para 5.5.1 highlights the importance of biodiversity and landscape considerations in the determination of planning applications and the need to take reasonable steps to safeguard or enhance the environmental quality of land.

Para 5.5.2 acknowledges that regard should be given to the environmental impacts of development proposals and the need to avoid any adverse effects. Where there are potential impacts, this should be balanced with other material considerations and the local planning authority should seek to minimise any effects and where practicable enhance features of nature conservation.

### **Section 6.5 - Development control and the historic environment.**

Para 6.5.1 indicates that the desirability of preserving an ancient monument and its setting is a material consideration.

Para 6.5.25 identifies that information on historic landscapes in the Register of Landscapes Parks and Gardens of Special Historic Interest in Wales should be taken into account in considering the implications of developments of a scale that they may have more than local impacts

## **Section 11.1 - Recreation Objectives**

Para 11.1.3 highlights the contribution that sport and recreation opportunities make to the quality of life and well-being of communities

## **Section 13.2 - Flood risk and climate change**

Para 13.2.1 identifies flood risk as a material planning consideration which needs to be mitigated.

Para 13.4.2 highlights liaison with Natural Resources Wales and drainage bodies to ensure that all surface water run-off is controlled as near to the source as possible by the use of sustainable urban drainage systems.

## **Section 13.10 - Improving the quality of air and water**

Paragraph 13.10.2 indicates that planning authorities should not seek to control matters that are the proper control of pollution control authorities and are covered by separate



legislation. They must operate on the basis that these other regimes will be properly applied and enforced.

#### **Section 13.12** - Development management and improving the quality of water and air.

Paragraph 13.12.1 confirms that the potential for pollution affecting the use of land will be a material consideration in deciding whether to grant planning permission.

#### **Section 13.15** - Development management and noise and lighting

Para 13.15.1 confirms that noise can be a material planning consideration and Local planning authorities should make a careful assessment of noise levels so as to prevent adverse impacts.

#### **Section 14.1** - Mineral Objectives

Para 14.1.1 confirms that mineral working is different from other forms of development in that, extraction can only take place where the mineral is found to occur; it is transitional and cannot be regarded as permanent; adverse effects on local communities and the environment need to be controlled; and the land needs to be restored to a high standard with beneficial after-use.

**Section 14.4** considers one of the key objectives/principles of Sustainable Mineral Development to be reducing the impact of mineral extraction and related operations during the period of working.

**Section 14.5** considers another key objective/principle of Sustainable Mineral Development to be achieving a high standard of restoration and aftercare and providing beneficial after-uses when mineral working has ceased.

Para 14.5.1 indicates that restoration and aftercare should provide the means to at least maintain, and preferably enhance, the long term quality of land and landscapes taken for mineral extraction. This will ensure a natural asset for local communities which can be passed on to future generations.

Para 14.5.2 acknowledges that reclamation can provide opportunities for creating and enhancing sites for nature conservation and contribute to UKBAP and LBAP targets.

Para 14.5.3 encourages progressive restoration to reduce visual impact at any one time and potentially reducing environmental damage from failure to restore sites.

Para 14.5.4 considers the factors which may influence the choice of afteruse. These include the overall LOP strategy, location, the availability and quality of soils or other restoration media. The guiding principles need to be established at the outset but it accepts that flexibility and review will often be necessary during the life of a mineral operation. The guiding principles will form a framework for restoration and aftercare.

#### Minerals Technical Advice Note Wales 2: Coal (January 2009)

Para's 90-92 give advice in relation to historic environment considerations, including Registered Historic Landscapes and Scheduled Ancient Monuments and their setting.

Para 262 states that the reclamation scheme should

- Propose the final landform in keeping with the character of the area
- Demonstrate the suitability of the scheme for the proposed afteruse
- Set out clearly the phasing through the life of the site
- Include progressive restoration wherever appropriate
- Explain how uncertainties such as shortage of soil will be tackled

Para 263 acknowledges that the planning process has to include some flexibility to take account of operational, geological and safety considerations.

Para 268 indicates that wherever possible opencast coal sites should be re-instated to contours and levels similar to the original ground surface.

Para 281 considers the re-instatement of sites where there is a shortfall of suitable soils to fully restore all areas. In such circumstances attention needs to be given to agreeing 'fit for purpose' re-instatement proposals for soils, quantifying soil deficits and agreeing how to address shortages in soil resources.

Para 282 also acknowledges that re-instating land following opencast working provides an opportunity to improve the local environment, enhance landscape and biodiversity and make provision for public access and recreation.

### Local Planning Policies

Section 38(6) of the Planning and Compulsory Purchase Act 2004 generally requires that any planning application must be determined in accordance with the development plan unless other material considerations indicate otherwise. The development plan for the purposes of Section 38 is the Merthyr Tydfil Borough Local Development Plan 2006-2021 (MTLDP).

The following policies are relevant to the determination of this application.

- BW1: Development Strategy - Primary Growth Area
- BW4: Settlement Boundaries/ locational constraints
- BWS: Natural heritage
- BW6: Townscape and built heritage
- BW7: Sustainable Design and Place making
- BWB: Development and the water environment
- BW14: Managing Employment Growth
- AS4: Historic Landscapes
- AS14: Employment Allocations in the Primary Growth Area
- AS24: Employment Site Protection
- TBB: Mineral proposals

### PLANNING CONSIDERATIONS

#### High Standard Restoration and Beneficial Aftercare

A key objective of PPW in terms of mineral development is that the land needs to be restored to a high standard with beneficial after-use. It also indicates that restoration and aftercare should provide the means to at least maintain, and preferably enhance, the long

term quality of land and landscapes taken for mineral extraction. This will ensure a natural asset for local communities which can be passed on to future generations.

PPW also encourages progressive restoration to reduce visual impact at any one time and potentially reducing environmental damage from failure to restore sites. It considers the factors, which may influence the choice of afteruse which include the overall LOP strategy, location, the availability and quality of soils or other restoration media. It accepts that the guiding principles need to be established at the outset but it also accepts that flexibility and review will often be necessary during the life of a mineral operation. The guiding principles form a framework for restoration and aftercare.

PPW also acknowledges that reclamation can provide opportunities for creating and enhancing sites for nature conservation and contribute to UKBAP and LBAP targets and contributes to reducing the impact of mineral extraction and related operations during the period of working.

Prior to development commencing at the FLRS the site comprised three main landscape areas which were identified in the Environmental Statement:

- The Western Shoulder
- The Open Moorland
- Bryn Caerau Farm Area

The area referred to as the Western Shoulder had an untidy urban fringe character, and the landscape was characterised by old re-vegetated colliery shale tips which had been over-tipped, together with large areas of recent tipping resulting in unnatural landforms. Three former refuse tips understood to contain both household and industrial waste were also located within this area. This area of the site being covered by disturbed ground contained little if any soils. It was recognised at this stage that there is therefore an acute shortage of existing soils on the site for use in site restoration.

The Open Moorland area was typically bleak and exposed comprising of unimproved acid grassland and areas of marshy flushed acid grassland where poor drainage conditions prevailed. There were numerous small ponds, and man-made features present within the landscape. Part of the reclaimed Trecatty opencast site, was also included within the northern part of the application site.

The Bryn Caerau Farm Area comprised of a pattern of existing fields extending from Cwm Golau to the north of Bryn Caerau Farm. Only the northern limits of the fields were within the site boundary.

The majority of the land within the site was classified as being in agricultural use (some 342 hectares - 85% of the land). This consisted of enclosed permanent pasture in the south west, common rough grazing in the east and centre of the site, rough grazing on old tips in the west and an area of restored opencast coal site (Trecatty) in the north. The common land was grazed by stock belonging to the Gelligaer and Merthyr Commoners and consisted mostly of sheep with some cattle and ponies. Stocking rates were generally high or, both the common and the restored Trecatty land.

The enclosed generally improved permanent pasture in the south east, Bryn Caerau, was mostly grazed by sheep. The remaining land (15% of the site area) consisted of non-agricultural land, urban land, open water and other unclassified land.

The Environmental Statement submitted with the initial application identified the primary uses proposed on the restored site would be to return it to its former use as urban common land for stock grazing with public access for air and exercise. Bryn Caerau Farm would be returned to agricultural use (where disturbed) and a measure of nature conservation would be incorporated throughout the restoration area. The predominant heath type moorland associated with the open areas of the common would be restored. It was however noted that final distribution of land uses across the site, would be largely dependent upon the soil and soil-forming resources available.

It was essentially proposed that the site is restored to a simple landform and landscape, characteristic of this area. Whilst the landform of the southern and eastern parts of the site had gentle slopes it was accepted that the form of the western shoulder would require reconstruction during the land reclamation scheme. The proposal for the southern and eastern parts of the site was therefore to restore, as far as practicable, a landform and landscape structure similar to that existing prior to the working of the site, whilst achieving the removal of the incongruous tip landform within this area, and enhancing the nature conservation interests. It was proposed that the western ridge and slopes overlooking Merthyr would be formed to match the indigenous, glacially formed landscape seen elsewhere in the Taff Valley.

It was intended to establish a field boundary pattern at the southern section of the site that would be wholly congruous with the enclosures that were excluded from the site as a result of the environmental assessment. It was also proposed to extend this field pattern north-westwards to the common boundary at Garth Fawr, thereby improving shelter and enclosure. The management of woodland, grassland and scrub within the stream valleys on the southern parts of the site would reinforce this landform and landscape structure.

The subsequently approved Restoration Strategy sets out the principles of restoration and essentially replicated the contents of the Environmental Statement as indicated above. The principal aim of the restoration strategy is to restore the land to its former use, void of dereliction, whilst incorporating certain features retained for various reasons throughout site operations and recreating others that are presently considered to be of notable interest. A number of enhancements were also planned for the site to compliment the original uses.

The Restoration Strategy states that the site will be reclaimed progressively in accordance with the approved strategy as required by Planning Condition 51.

The proposed scheme has since been amended to reflect aspirations for future development as identified above. However, in doing so, whether or not those longer-term aspirations are achieved, the eventual restored landform is considered to more closely reflect the heritage of this part of the site, which incorporated an old and long-disused railway line along the same general route. Whilst not replicating the route precisely, the formation would mark the heritage of this area and form a natural extension to the heritage works and strategic restoration proposals already being put in place along the route of the old railway line and its associated bridges and aqueducts that have been retained and/or refurbished as part of the FLRS, along with the heritage park that is proposed alongside the railway line to the north of the Sam Howell Pond Scheduled Monument. The heritage and history of the railway would form part of the displays to be erected within the heritage park and the restored landform would play its part in setting out that story.

The employment site allocated in accordance with Policy AS14 and protected by Policy AS24 on the north western fringe of Phase1 forms part of the Primary Growth Area identified by Policy BW1 of the local development plan and is allocated for 81, 82 and 88 uses. It is also envisaged that the terminus for the eventual passenger line would lie to the north of the Employment Site within the land owned by the local authority.

However, as the future uses are aspirations and subject to further planning permissions, the Phase 1 Area still includes the same areas of land within the following soil reinstatement areas as identified in the 2009 Restoration Strategy:

- 4S and 4M - to be reinstated to Upland Grassland (76.8 ha)
- **4N** - to be reinstated to grassland (17.3ha), and woodland planting (5.2ha)
- 2 - to be reinstated to Upland Grassland (8.9ha)

The objectors claim that the height of the embankment in front of their property is not approved and higher and steeper than they were led to believe. Whilst the Authority cannot comment on what they were led to believe, the contours associated with this landform were approved in 2005. The contours proposed in Phase 1 are in fact slightly lower than those previously approved.

The proposal is clearly compliant with Welsh Government Policy and Guidance as set out in PPW and MTAN2. The site is considered to be restored to a final landform in keeping with the character of the area and to a high standard with beneficial after-use. The restoration and aftercare clearly enhances the local environment when compared to the baseline conditions prior to the development commencing. The long term quality of land and landscapes will be significantly improved and will result in a natural asset for the local community which can be passed on to future generations. Opportunities for creating and enhancing sites for nature conservation and contribute to UKBAP and LBAP targets have also been identified.

The choice of afteruse and restoration profiles take into account the LOP strategy, location, the availability and quality of soils or other restoration media and follow the guiding principles established in the primary permission.

The shortage of soil is explained and 'fit for purpose' re-instatement proposals for soils are provided, quantifying soil deficits and identifying how such shortages in soil resources have been addressed.

The proposal is therefore considered to comply with Policy TB8 (6) and BW7 of the Local Development Plan.

#### Landscape Character & Visual Impact

Merthyr Tydfil is identified on the Register of Outstanding Historic Landscape's. Policy BW5 and BW6 of the Local Development Plan seek protect and support the enhancement of the County Boroughs natural and built heritage. Policy BW7 also seeks to support good quality design which does not result in adverse visual impacts, incorporates good landscape design and contributes to usable open space.

Ffos-y-fran as it appeared prior to opencast coal working was characterised as an extensive area of industrial sites associated with the development of the nationally and internationally important Ironworks of Dowlais between the late 18th and late 19th centuries; these features were principally associated with mineral extraction primarily iron

ore, but also coal and industrial transportation. The area is strongly associated with the development of the iron industry of the Merthyr and indeed South Wales.

Water management features, the numerous ponds and leats, which make up the Dowlais Free Drainage System, are also characteristic of the area.

The dominant landscape characteristics were ironstone and coal outcrop workings of surface quarrying (patch), pits of the crown pit type, and self-draining levels associated with the Dowlais Ironworks in the 18th, 19th and early 20<sup>th</sup> centuries, and limited opencast mining and selective quarrying of the mid 20th century.

The most visible features were the well-defined tiers of waste tips, which mounted the east-facing slopes above Dowlais and Penydarren, chasing the mineral outcrop. Also characteristic were the embankments and track beds of the area's rail infrastructure, principally the Dowlais Ironworks Railway and the GWR Rhymney Joint Railway (Zig-Zag section of Taff Bargoed Branch), but also part of the Penydarren tramroads and the simple haulage tramroads serving the outcrop workings, which contour the slopes.

The proposal for the southern and eastern parts of the site is to restore, as far as practicable, a landform and landscape structure similar to that existing prior to the working of the site, whilst achieving the removal of the incongruous tip landform within this area, and enhancing the nature conservation interests. It is proposed that the western ridge and slopes overlooking Merthyr Tydfil would be formed to match the indigenous, glacially formed landscape seen elsewhere in the Taff Valley. The introduction of the feature to facilitate the future extension of the railway is considered to reflect the historical characteristics of the area.

The Divisions Landscape Architect considers that the restoration proposals are generally acceptable although there are many variables which may determine the final outcome. Detailed management throughout the aftercare period will need to respond to these external influences.

The introduction of 'micro features' is welcomed and is considered to be an essential component as is the proposal to create grass flooded plains and seasonal ponds which will also assist in flood alleviation. Tree planting on the margins of the upper Taff Bargoed is considered to be appropriate.

Whilst the objectors have identified visual impact as a reason for their objection this cannot be supported as the proposed landform is significantly less visually intrusive than the landscape that existed prior to extraction.

The proposal therefore complies with Policies BW5, BW6, BW7 and AS4 of the Local Development Plan.

### Ecology & Biodiversity

PPW highlights the importance of taking biodiversity considerations into account at an early stage of the development management process.

This proposal has considered the biodiversity considerations and opportunities. It proposes in particular the restoration of upland heathland which is a UK SAP habitat and a Habitat of Principal Importance.



In addition, Standing Open Water / Ponds, watercourses and mineral spoil areas are proposed and these are Local SAP habitats. Areas of grassland which also act as flood alleviation features are also proposed.

The Town Planning Divisions Ecologist had some initial concerns regarding the seed mix and seed quantities to be used on pond margins and upland grassland areas but these concerns have been addressed and he has subsequently advised that he has no objections. The objectors assertions that the proposals make no provision for the protection of wildlife and conservation are clearly not supported. The proposal therefore complies with Policy BW5 of the Local Development Plan.

### Surface Water Drainage and Flood Risk

The FLRS encompasses four small catchments, namely: the Cae Harris, the Nant Morlais, the Cwm Blacs and the Bargoed Taff. Only the Nant Morlais and Cwm Blacs catchments are relevant to this particular phase (i.e. Phase 1) of the Ffas-y-fran restoration scheme and have been considered and analysed in more detail.

Both the Nant Morlais and Cwm Blacs flow to the west of the Site where they converge with the Afan Taff. The Cae Harris catchment, located to the north of the Site, also flows west to the Afan Taf. The Bargoed Taf catchment drains the eastern and south eastern half of the Site and the whole of this catchment will be reviewed & considered again in more detail as part of a later phase of restoration, although the Phase 1 plans include the permanent route of the upper reaches of the Bargoed Taf watercourse along its current alignment, to include tree planting along its margins.

Prior to operations commencing at FLRS, the small number of streams flowing within the Site were largely confined to the southern section of the site and all flowed to the south. Most were of an upland character with stony or rocky bottoms and flowed in moderately steep sided valleys.

Given the importance of establishing a suitable and sustainable permanent drainage network as part of these Restoration proposals, Miller Argent (South Wales) Limited commissioned a detailed review and analysis of the hydrology on site, in particular with respect to any impacts it may have on the proposed Phase 1 Restoration Plan and off-site receiving watercourses.

On the basis of that review it is proposed that two primary watercourses of approximately 2km in length will be constructed to effectively drain the Morlais B sub-catchment in this part of the Site, within the Phase 1 area. These watercourses converge into two water management ponds prior to discharging at a controlled rate via a single outfall to the Morlais B culvert westwards beneath the A4060. Outside this Phase 1 area a large part of the Morlais A sub-catchment will be drained by suitably located primary watercourses channelling storm water run-off to a series of water management ponds, through Phase 1 to the Morlais A outfall which also discharges to the west beneath the A4060.

To ensure that there will be no off-site flooding, the Hydrological Analysis has calculated that the water management ponds will need to provide a total attenuating capacity of approximately 20,000m<sup>3</sup> within the Morlais B sub-catchment and a total of approximately 78,000m<sup>3</sup> in the Morlais A sub-catchment, prior to discharge. Design details of the watercourses and ponds within the Phase 1 area are included with this submission however; the details provided outside the Phase 1 area are indicative at this stage and will

be subject to further detailed review in due course as part of a later stage of restoration. The SWMP shows the proposed location of these water management ponds.

The primary watercourses will have a number of smaller contour drain tributaries (known as grips) to ensure that no substantive volumes of runoff are able to accumulate un-channelled, in order to manage runoff from the restored areas and protect seeded areas from excessive and erosive runoff, thus enabling them to establish successfully. Drainage grips would be seeded, and would be constructed to blend in as far as is reasonably practicable, with the surrounding landscape.

As well as operating as functional attenuation ponds, the water management ponds will also be developed to provide aquatic habitats as far as is reasonably possible, thus enhancing the amenity value and biodiversity of the restoration scheme in general. However, as the ponds will only be fed by storm reactive watercourses, which may be dry for certain periods of the year, the margins of the ponds may also be susceptible to dry conditions at certain times of the year and therefore consideration will have to be given to address this factor at the annual aftercare meetings where appropriate solutions can be reviewed, discussed and agreed in accordance with the terms of reference for such meetings. Additionally, the ponds outside the Phase 1 area (within Morlais A sub-catchment) may be constructed as dry detention basin features which would include the creation of grassed flood plains around the margins of the ponds wherever practicable, however this will be subject to further detailed review as part of the next phase of restoration.

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So far as is reasonably practicable given the fluctuation in flow rates in the watercourses, in particular as their prime function is flood control, the Nant Morlais A and B watercourses will be constructed in such a way so as to encourage some biodiversity. Wherever practicable, any stone used in the creation of watercourses would be locally sourced from the mining operations and would be of an appropriate size to meet the engineering design criteria. Some small pools may be introduced where feasible, or necessary to slow water speeds in the watercourse, which could provide opportunities for variations in the aquatic habitat however, due allowance will have to take account of the fact that the main watercourse channels may be dry for certain periods of the year.

It should be noted that the current proposed design in respect of the water management ponds assumes that it will be necessary to line the base of the ponds using an artificial liner. It is the intention of Miller Argent (South Wales) Ltd. to undertake further detailed site and geotechnical investigation works prior to construction commencing, to assess the slope stability and integrity of the ponds and to establish whether a liner is actually required or if an alternative lining system is more appropriate than the one proposed (e.g. using natural boulder clay). The operation and spatial extent of the pond will not change just the means of lining it, which can be discussed and agreed during the annual aftercare meetings.

Similarly, the design for the construction of the watercourses will be dependent on Miller Argent (South Wales) Ltd recovering suitable and sufficient volumes of durable blockstone (and loose stone) armour, of a suitable size from the mining operations. It is proposed to use an artificial liner beneath the stone armouring to help protect the channel from scouring, as shown by the plans (in Appendix 4). However, alternative methods will be considered and may be utilised if suitable quantities of natural 'clay' type material were readily available from the operations. It is proposed to undertake a trial to construct a short

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100 metre section of blockstone (and/or loose stone) armoured watercourse channel, where various options can be considered in respect of their suitability, durability, ease of construction and cost effectiveness. The treatment of drainage channels would form part of the discussions and agreed at annual aftercare meetings.

The objectors have identified flood risk as a reason for their objections and have commented on the lack of armouring in the drainage channels. The lack of armouring is due to the fact that the drainage system is not yet completed. Objectors have also referred to loss of water for stock at certain times during the operation of the site. However, the design and construction of the drainage regime should prevent such occurrences in future.

**PPW** identifies flood risk as a material planning consideration which needs to be mitigated and highlights liaison with Natural Resources Wales and drainage bodies to ensure that all surface water run-off is controlled as near to the source as possible by the use of sustainable urban drainage systems. Natural Resources Wales and the Councils Drainage Engineer have been consulted on the proposals and have indicated no objections. The risk of flooding has therefore been satisfactorily addressed.

The proposals therefore comply with Policy BW8 of the Local Development Plan.

### **Recreation and Public Access**

PPW highlights the contribution that sport and recreation opportunities make to the quality of life and well-being of communities.

In the longer term, it is likely that the area will become more attractive to walk, the dereliction, fly-tipping and motorcycle rutting having been removed. It is important to note that prior to opencast operations taking place there were 46 known shafts and 39 known adits within the site which were a significant danger and a deterrent to public access. Furthermore the paths will be better defined and registered, providing walkers with more positive routes to follow. As the reinstated network would be no less convenient to the public than any existing at present, the long term assessment must be considered a positive impact.

The approved Restoration Strategy identified a number of proposed footpath routes to be established as part of the final restoration of the FLRS. As it is not currently possible to establish a usable entire route that will link into the existing network, it is not intended that these routes will be implemented as part of the Phase 1 works, but some will be established with appropriate signposting within in the next detailed phase of the restoration proposals. The public right to access the Common will be reinstated following the completion of operations.

Overall, the restoration of the site will provide greater opportunity for public access and improved recreational opportunities which could contribute to well-being and health of the community.

The proposal therefore complies with Policy BW1 of the Local Development Plan.

### **Noise & Air Quality**

Noise and air quality assessments formed part of the initial Environmental Statement for the Opencast Coal Operations. These assessments covered all phases of the

development including the restoration phase. The control of noise and air quality during the restoration operations is therefore covered by existing conditions attached to the planning permission and do not need to be replicated. The objectors concerns about the impact on residential amenity have therefore already been addressed within the current planning permission.

## CONCLUSION

The planning permission for the development has been granted and the principle of development is not revisited in this application. The planning conditions require further details of restoration and aftercare to be submitted for the approval of the Local Planning Authority.

The submitted proposals demonstrate that the applicants have considered the various constraints and opportunities that apply in this case and have developed a scheme which is of a high standard which integrates into the local landscape and provides for beneficial afteruses. It has also considered drainage features which provide for flood protection and take into account climate change and the provision of biodiversity opportunities.

The proposal complies with Welsh Government Policy and the relevant policies of the MTLDP and there are no material planning considerations that indicate that a decision should be made other than in accordance with the Plan.

## RECOMMENDATION - the scheme for Phase 1 BE APPROVED

RECOMMENDATION ENDORSED -----

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DATE: 18th March 2016