

14/1/2025

Dear

ATISN 23190

Request for Information

Thank you for your request which I received on 14 December 2024 relating to information provided to Huw Irranca-Davies MS, Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs in advance of the short Senedd debate on 27 November 2024 concerning the impacts on Welsh landscapes from legacy industrial activities. You asked:

- 1. Please may I request copies of all the correspondence and advice Minister Irranca-Davies received prior to making his statement on Ty Llwyd Quarry Ynysddu.*
- 2. This should include any advice and discussions provided by Caerphilly Council and Natural Resources Wales the Ministers office received concerning Ty Llwyd Quarry prior to his statement.*

Our Response;

- 1) Short Debate 27 November 2024 – Background Briefing for Deputy First Minister – Huw Irranca - Davies**

Ty Llwyd – Former quarry and landfill site – Ynys Ddu, Caerphilly

Background

The Ty Llwyd former quarry and landfill site was purchased by the Council (now Caerphilly Council) during the 1990s to allow better management of environmental risks. During wet weather in the winter of 2022/23 and 2023/24 the leachate management system has on occasions failed, allowing diluted leachate to escape the site and enter adjacent woodland (which is also owned by the Council). NRW and the Council have investigated these incidents and have analysed floodwater leaving the site. NRW's test results indicate that chemicals within the effluent were not found to have impacted local water courses significantly, primarily due to their dilution from heavy rainfall during the storm event.

The Council, with support from contractors, has recently assessed the site under its duties within Part 2A of the Environmental Protection Act 1990 (Contaminated land) whilst also preparing a remediation options appraisal. The draft report is currently being assessed by NRW and Public Health Wales, however the draft findings have concluded the site does not meet the statutory definition of 'contaminated land'. Alongside this process the Council is

also discussing the requirement from NRW to have an environmental permit to help manage future discharges.

The site has attracted considerable political interest and interest from a small number of environmental activists who continue to express concerns around the discharge of diluted leachate from the site. This has also led to media coverage including a BBC Countryfile article and BBC Radio 4 podcast 'Buried'.

Lines for Ty Llwyd Quarry

- In accordance with legislation and statutory guidance issued by Welsh Ministers, Caerphilly Council is fulfilling its duty and has assessed the site to determine its regulatory status. Its preliminary conclusion, based on the outputs of its draft assessment, is that the site does not meet the definition of 'contaminated land'.
- Natural Resources Wales and Public Health Wales are also currently reviewing the draft Part 2A assessment. The Council will consider their feedback before a final conclusion is made regarding the site's regulatory status.
- A remediation options appraisal has been produced by the Council's contractors for the site. Based on its recommendations the Council are currently arranging for contractors to improve the drainage system and leachate management to reduce leachate escape during wet weather.
- Natural Resources Wales is also developing an environmental permit relating to leachate discharges from the site which will be issued to the Council to improve its future management and reduce offsite impacts.
- In the interim it has served the Council with a Statutory Notice stipulating several short-term actions which are required to reduce the risk of pollution incidents during wet weather. Longer term proposals are currently being developed by the Council to meet the requirements of the NRW permit as it is being developed.
- Officials continue to meet with Caerphilly Council and Natural Resource Wales colleagues to monitor regulatory progress at the site. We have yet to receive a detailed request for financial support from Caerphilly Council to implement remediation or other site management improvements.

The speech below is a copy of a shared document that a number of individuals inputted to during the drafting process which includes information relating to Ty Llwyd former landfill.

Senedd Short Debate – Industrial Pollution

NDM8733 Delyth Jewell (South Wales East): Industrial pollution: The impact of Wales's industrial legacy on our landscapes

27 November 2024

Deputy First Minister's speech

I thank the Member for tabling this important debate today [and to other Members for their valuable contributions].

Diolch i'r Aelod am gyflwyno'r ddadl bwysig hon heddiw [ac i'r Aelodau eraill am eu cyfraniadau gwerthfawr].

As you have highlighted, Wales has a proud industrial heritage. However, many of our communities, including those who once powered the world during the Industrial Revolution, are now left with a difficult legacy which impacts both people and places. Across Wales there are nearly 2600 coal tips and approximately 1300 metal mines, as well as thousands of sites associated with other types of industrial activity.

Fel yr ydych wedi tynnu sylw ato, mae gan Gymru dreftadaeth ddiwydiannol falch. Fodd bynnag, mae llawer o'n cymunedau, gan gynnwys y rhai a oedd unwaith yn pweru'r byd yn ystod y Chwyldro Diwydiannol, bellach yn cael eu gadael gydag etifeddiaeth anodd sy'n effeithio ar bobl a lleoedd. Ledled Cymru mae bron i 2600 o domenni glo a thua 1300 o fwyngloddiau metel, yn ogystal â miloedd o safleoedd sy'n gysylltiedig â mathau eraill o weithgarwch diwydiannol.

With our changing climate, these sites pose significant challenges for both our communities and our ecosystems, including during periods of extreme weather.

I want to start today's response by sharing my heartfelt sympathies for all those affected by Storm Bert last weekend including those in Cwmtillery. I spoke more at length on the Welsh Government's response to these events in my Oral Statement yesterday. I felt it was important for me to see the impact in Cwmtillery myself. This is yet another stark reminder of the importance of our ongoing work on coal tips Looking ahead over the longer term, and we must take a structured approach in how we manage these sites and help keep communities safe.

However, with challenge also comes opportunity – to reset our relationship with these landscapes and make them useful to the people of Wales today and in the future.

It is important that Welsh Government is taking these opportunities through our coal tip safety and metal mine remediation programmes, while also helping to prevent pollution from existing industrial activities for future generations.

Firstly, the Welsh Government's Coal Tip Safety Programme forms a vital part of our work to address the consequences of our industrial past. It underscores our commitment to public safety.

Yn gyntaf, mae Rhaglen Diogelwch Tomenni Glo Llywodraeth Cymru yn rhan hanfodol o'n gwaith i fynd i'r afael â chanlyniadau ein gorffennol diwydiannol. Mae'n tanlinellu ein hymrwymiad i ddiogelwch y cyhoedd.

The landslide in Tylorstown in February 2020, and indeed the incident in Cwmtillery over the weekend, were clear reminders of how climate change is increasing the risks to our coalfield communities. And I absolutely understand the concern that so many families and businesses in our coalfield communities will feel, particularly during severe winter weather.

Roedd y tirlithriad yn Nhylorstown ym mis Chwefror 2020, ac yn wir y digwyddiad yng Nghwmtylleri dros y penwythnos, yn ein hatgoffa'n glir sut mae newid hinsawdd yn cynyddu'r risgiau i'n cymunedau glofaol. Ac rwy'n deall yn llwyr y pryder y bydd cymaint o deuluoedd a busnesau yn ein cymunedau glofaol yn ei deimlo, yn enwedig yn ystod tywydd garw'r gaeaf.

Since the Programme was established in 2020, we have made significant progress to address these issues.

We have informed the public where the tips are located.

We have provided the Coal Authority and local authorities with around £65m to monitor the tips and maintain their safety.

We have developed new modernised and fit-for-purpose legislation which I will introduce to the Senedd shortly. This will ensure the long-term effective management of disused tips and reduce the threat to public safety.

In addition to the steps above, the existing coal tip inspection and maintenance regime has also introduced new opportunities for using technology. We want to future-proof the system by keeping pace with technological developments.

That is why we are undertaking a programme of technology trials across more than 70 category C and D coal tips, alongside our public partners. The outcomes of the trials will inform the long-term technology and monitoring strategy of the future management regime. Wales is seen as being at the forefront in this regard. Indeed, we have been pleased to host colleagues from overseas, to share our learning and showcase our work internationally.

It is clear that coal tips need a sustained programme of investment, and Welsh Government cannot and should not do this alone. We have always maintained this is a shared, UK-wide risk. We have discussed the role of the UK Government in this chamber before, and I am pleased that the recent Autumn Budget demonstrates the Chancellor has listened to what Wales needs.

The first tranche of £25m allocated for 2025-26 is a welcome addition to the continued investment from Welsh Government.

We will work with the UK Government ahead of the second phase of the Spending Review, to make the case of that Wales' needs for future years are also fully considered and to help make these disused tips safe for current and future generations

In the meantime, our focus will be to deliver the current allocation. We must be structured and precise in how this funding is allocated across all eligible sites in Wales. Any landform that meets the agreed definition of a disused tip will be considered as eligible.

Metal mines

Meanwhile, Wales' industrial heritage is not limited to coal mining – we also have approximately 1,300 abandoned metal mines and thousands of sites across Wales associated with other types industrial activity which, at the time at least, helped us develop and prosper as a nation but regrettably also left a lasting impact on our environment.

Yn y cyfamser, nid yw treftadaeth ddiwydiannol Cymru wedi'i chyfyngu i gloddio glo. Mae gennym hefyd tua 1,300 o fwyngloddiau metel segur a miloedd o safleoedd ledled Cymru sy'n gysylltiedig â mathau eraill o weithgarwch diwydiannol a oedd, ar y pryd, o leiaf, wedi ein helpu i ddatblygu a ffynnu fel cenedl, ond sydd, yn anffodus, hefyd wedi gadael effaith barhaol ar ein hamgylchedd.

We know this has significant implications for our water quality. Metal mines are estimated to impact over 700 kilometres of river reaches in Wales. This is not just a Wales problem but a UK-wide problem, affecting 9% of rivers in England and 2% in Scotland. We are working hard with our stakeholders to understand and manage it.

In 2020 we established our Metal Mine Remediation Programme, funded by Welsh Government through our Water Quality Capital Programme and delivered jointly by Natural Resources Wales and the Coal Authority. The Programme involves a rolling multi-year series of assessments and surveys which will identify and quantify sources of pollution, and where possible, undertake design and implementation of intervention works.

The programme is a crucial part of our River Basin Management Plans which are designed to protect and enhance the water environment for the benefit of people and wildlife.

I am pleased that through the Programme, Wales is leading the way with innovative treatment solutions by working with academia and industry experts on treatment trials at laboratory and pilot field scales. It is a real example of where we have taken a significant challenge posed by our industrial heritage, identified the appropriate opportunity and pursued this in collaboration key sectors.

Legacy Industrial and Waste Disposal Site

There was also far less regulatory oversight of how we disposed of our waste in the past, which unfortunately has meant some legacy waste sites have the potential to cause environmental harm.

Roedd llawer llai o oruchwyliaeth reoleiddiol hefyd o ran sut y gwaredwyd ein gwastraff yn y gorffennol, sydd, yn anffodus, wedi golygu bod gan rai hen safleoedd gwastraff y potensial i achosi niwed amgylcheddol.

Whether we are considering legacy industrial, waste disposal sites, metal mines or coal tips, our overarching priorities are safeguarding human health and protecting the wider environment. In addition to the Coal Tip Safety Programme, we also look to deal with these problematic sites using existing legislation.

This includes Part 2A of the Environmental Protection Act 1990, where Local Authorities, as the lead regulator, have a duty to identify land contamination which may potentially pose a pollution risk to human health or the wider environment.

If, following inspection and assessment of a site, the land is determined to be 'contaminated land' they also have a duty to ensure it is remediated appropriately. Natural Resources Wales also provide a regulatory role with some sites in certain circumstances, for example if groundwater is impacted.

The Part 2A legislation operates on the "Polluter Pays" principle. Liability for remediation falls either on a Class

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The Part 2A legislation operates on the "Polluter Pays" principle. Liability for remediation falls either on a Class A person (those who caused or knowingly permitted a pollutant to be in, on or under the land) or a Class B person (an owner or occupier of the land in circumstances where no class A person can be found). Where neither are found the site effectively becomes an "orphan" site.

The Welsh Government recognises that in instances where the original polluter is no longer in existence cost recovery can prove difficult. However, we have in the past sought to shoulder some of this financial burden with Local Authorities to prevent householders having to pay towards these costs. For example, properties that were impacted by historical lead and copper smelting in Coedpoeth, Wrexham and Craig Y Don Anglesey..

We have also previously provided Local Authorities and Natural Resources Wales with over £12 million of funding through our discretionary Contaminated Land Capital Grant Scheme which operated between 2005 and 2011 and more recently during 2017/18. This allowed priority sites to be targeted based on the potential risks they posed and enabled over 100 sites to be investigated and assessed. This led to 21 sites across Wales being remediated through our grant funding.

Several of sites assessed included historical landfills sites this led to sites such as Brofiscin quarry and a former landfill in Groesfaen being remediated. However, I am aware there are still some sites, including those referenced here today, which may have the potential to cause environmental harm. Unfortunately, these sites operated without the same environmental controls and regulatory framework in place today.

There is some evidence to suggest a small number of these sites have historically received chemical waste including potentially polluting substances such as PCBs and other chemical compounds. A number of Local Authorities have invested considerable resource into monitoring and assessing these sites to establish if they pose an unacceptable risk.

For example, I have been monitoring the progress of the work being undertaken by Caerphilly County Borough Council at Ty Llwyd near Caerphilly. In line with their regulatory duties Caerphilly County Borough Council has invested a significant amount of resource in assessing the site and ensuring it does not pose an unacceptable risk to the local community or the wider environment.

Through their hard work and commitment the Council are now close to determining the regulatory status of the site and what future interventions may be required. I understand some Senedd Members have engaged with the Council and the local community on this matter so will be aware of the work undertaken that has been undertaken. My officials and partner organisations such as Natural Resources Wales and Public Health Wales continue to engage with and support the Council with their assessment of Ty Llwyd .

I would encourage all Local Authorities in Wales to follow the example set by Caerphilly to regularly review, and where necessary, assess any site which may potentially cause harm or environmental pollution.

Under the Part 2A legislation Local Authorities are required to maintain a register of 'contaminated land' within their areas. These registers are accessible to the public.

In addition, the Welsh Government working with Natural Resources Wales and Local Authorities has collated additional information on sites potentially impacted by contamination. This was published in the State of Contaminated Land report during 2016

Importantly to safeguard future generations and help avoid them having to deal with legacy issues we now have a robust regulatory system in place ensuring industrial, waste management and other operators closely manage their environmental responsibilities.

Additionally, our Local Authority planning system ensures that brownfield sites impacted by polluting activities in the past are investigated and remediated as part of the redevelopment process – ensuring they are safe and fit for purpose.

This process is paid for by the developer at these sites. This helps enable us to regenerate areas which have been impacted by legacy land uses in the past, bringing it back into beneficial use while safeguarding future end users and the wider environment from historical pollution.

Concluding remarks

The challenges posed by the sites left behind from industrial past will not be resolved overnight but will take time and dedicated resource to work through.

Ni fydd yr heriau a ddaw yn sgil y safleoedd a adawyd ar ôl o'r gorffennol diwydiannol yn cael eu datrys dros nos ond byddant yn cymryd amser ac adnoddau pwrrpasol i weithio drwyddynt.

As a government, we are using all levers at our disposal to progress the programmes I have outlined today at pace, whilst capitalising on the opportunities to respond to our climate and nature emergencies. I continue to be grateful to our key partners for their support in delivering and progressing this work, especially the Coal Authority and our local authorities.

Fel llywodraeth, rydym yn defnyddio pob ysgogiad sydd ar gael inni i ddatblygu'r rhaglenni yr wyf wedi'u hamlinellu heddiw ar fyrder, gan fanteisio ar y cyfleoedd i ymateb i'n hargyfyngau hinsawdd a natur. Rwy'n parhau i fod yn ddiolchgar i'n partneriaid allweddol am eu cymorth i gyflawni a datblygu'r gwaith hwn, yn enwedig yr Awdurdod Glo a'n hawdurdodau lleol.

1893 words (14.5 mins @ 130 words per min)

- 2) There was no written correspondence provided by Natural Resources Wales or Caerphilly County Borough Council for the purposes of drafting the Deputy First Minister's speech for the 'Industrial pollution: The impact of Wales's industrial legacy on our landscapes' debate on 27 November 2024.

Next steps

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at: Information Rights Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or Email: Freedom.ofinformation@gov.wales

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office,

Wycliffe House,

Water Lane,

Wilmslow,

Cheshire,

SK9 5AF

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely,