

7 July 2025

Dear

## **ATISN 24797 - Ffos-y-Fran**

### **Information Requested**

Thank you for your request which I received on 9 June 2025. You asked for:

1. Any documents relating to The FLRS Phase 2A Scheme shared with the Welsh Government by Merthyr Tydfil County Borough Council. This will have been shared between April 2024 and now.
2. Any documents shared with Welsh Government by Merthyr Tydfil County Borough Council relating to changed terms of the Escrow account held between Merthyr Tydfil County Borough Council and Merthyr (South Wales) Ltd.

### **Our Response**

Please find a copy of this information in Annex A which relates to question 1 above. We have also attached a document to this correspondence which is referenced within the documents in Annex A below.

We do not hold any documentation which relates to question 2.

I have decided that some of the information is exempt from disclosure Regulation 13 (1) Environmental Information Regulations and is therefore withheld due to it relating to personal information. The reasons for applying these exemptions are set out in full at Annex B to this letter.

### **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](mailto: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

## Annex A

### Document 1

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 23 January 2025 10:18  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Ffos y Fran approved restoration strategy [NOT PROTECTIVELY MARKED]  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Classification:** NOT PROTECTIVELY MARKED  
**Classification:** NOT PROTECTIVELY MARKED

Afternoon [REDACTED]

In regards to your question about the restoration scheme, the document you have referred to is the correct one that was originally approved. During the course of the development as part of the progressive restoration further details that builds on the approved strategy was agreed and is referred to as Phase 1 (these works are complete). More recently we have agreed a Phase 2a scheme which relates to the restoration works that MSW are currently undertaking. There is an intention to agree a Phase 2b scheme which will look at other areas of the site that can be restored in line with the original strategy and drainage works, but the extent of these works and the details are yet to be agreed.

In terms of enforcement action, we have initially postponed making a decision on expediency (given the breach in condition relating to the date restoration works should have been completed) until February. The reason for this was in part that MSW are already undertaking restoration works in line with the original strategy, which is what we would possibly want to address in any notice. Additionally, the winter period is not a suitable time to undertake any significant works due to the ground conditions, nor is it a suitable time for cultivation which would again be hindered by the weather.

We are expecting to see an application be submitted by the end of January for a revised restoration scheme which may also be relevant to any decision on enforcement action, so the matter is under constant review.

I have no issue arranging a meeting either at our offices or at your Merthyr Office? [REDACTED] and I am free on the following:

Mon 27<sup>th</sup> AM  
Wed 29<sup>th</sup> PM  
Thurs 30<sup>th</sup> PM

Kind regards

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 20 January 2025 15:03  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Ffos y Fran approved restoration strategy

Hi [REDACTED] – further to [REDACTED] email, I think it would be really useful for us to meet in the next few weeks so we can discuss the latest developments. [REDACTED] and I are willing to come to your offices, if you let me know some convenient times, I will also make the arrangements etc.

Cheers

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 17 January 2025 18:03  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
**Subject:** Ffos y Fran approved restoration strategy

[REDACTED]

As part of our ongoing consideration of enforcement action, I'd be grateful if you could set out the restoration strategy that is currently approved under condition 51. I'm aware of the following approved restoration scheme but want to check to what extent it has been superseded.

Many thanks

[REDACTED]

**Final Agreed  
Revised Dates  
22.5.07**

## FFOS-Y-FRAN LAND RECLAMATION SCHEME

**Incorporating Extraction of Coal by Opencast Methods  
Being the Final Phase of the East Merthyr Reclamation Scheme**

MERTHYR TYDFIL

Planning Application Number: P/03/0225

## RESTORATION STRATEGY

**Prepared in accordance with Planning Condition 50**

by RPS Planning, Transport and Environment

In association with Leek and Weston Limited, Peter Brett Associates, White Young Green Planning, and International Heritage and Conservation Management

May 2007

Miller Argent (South Wales) Limited  
Cwmbargoed Disposal Point  
Fochriw Road  
Merthyr Tydfil  
Mid Glamorgan  
CF48 4AE

[REDACTED]

[REDACTED]

[REDACTED]

Sganiwyd y neges hon am bob feirws hysbys wrth iddi adael Llywodraeth Cymru. Mae Llywodraeth Cymru yn cymryd o ddifrif yr angen i ddiogelu eich data. Os cysylltwch â Llywodraeth Cymru, mae ein hysbysiad preifatrwydd yn esbonio sut rydym yn defnyddio eich gwybodaeth a sut rydym yn diogelu eich preifatrwydd. Rydym yn croesawu gohebiaeth yn Gymraeg. Byddwn yn anfon ateb yn Gymraeg i ohebiaeth a dderbynnir yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi. ----- On leaving the Welsh Government this email was scanned for all known viruses. The Welsh Government takes the protection of your data seriously. If you contact the Welsh Government then our [Privacy Notice](#) explains how we use your information and the ways in which we protect your privacy. We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Croesawn ohebu yn Gymraeg a fydd hyn ddim yn arwain at oedi.

Mae'r e-bost hwn ac unrhyw ffeiliau a drosglwyddir gydag ef yn gyfrinachol ac wedi'u bwriadu ar gyfer pwy bynnag y cyfeirir ef ato neu atynt. Mae cynnwys yr e-bost hwn cynrychioli barn y sawl a enwir uchod, felly nid ydyw'n dilyn ei fod yn cynrychioli barn Cyngor Bwrdeistref Sirol Merthyr Tudful.

Darllenwch ein [hysbysiau preifatrwydd](#) i ddarganfod mwy am sut rydym yn defnyddio eich gwybodaeth bersonol.

**Cyngor Bwrdeistref Sirol Merthyr Tudful**  
Canolfan Dinesig  
Stryd Y Castell

Merthyr Tudful  
CF47 8AN

Teleffon: 01685 725000

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**Merthyr Tydfil County Borough Council**

Civic Centre  
Castle Street  
Merthyr Tydfil  
CF47 8AN

Telephone: 01685 725000



<http://www.merthyr.gov.uk>

Croesawn ohebu yn Gymraeg a fydd hyn ddim yn arwain at oedi.

Mae'r e-bost hwn ac unrhyw ffeiliau a drosglwyddir gydag ef yn gyfrinachol ac wedi'u bwriadu ar gyfer pwy bynnag y cyfeirir ef ato neu atynt. Mae cynnwys yr e-bost hwn cynrychioli barn y sawl a enwir uchod, felly nid ydyw'n dilyn ei fod yn cynrychioli barn Cyngor Bwrdeistref Sirol Merthyr Tudful.

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## Document 2

[REDACTED]

**From:** [REDACTED]

**Sent:**

13 February 2025 16:31

**To:** [REDACTED]

**Subject:**

TWG Monday 17th February

Evening all

As you are all aware there is a TWG organised for Monday at 10am in the Welsh Government Offices, Merthyr Tydfil.

As an agenda I suggest that we discuss the following:

1. S73 Restoration application
2. Motor cross/Monster Mountain application
3. Works being undertaken in accordance with Phase 2A
4. Possible Phase 2B works
5. Enforcement open to all statutory bodies
6. Health & safety
7. Responsibilities of statutory bodies
8. Insolvency/liquidation of the developer
9. Any concerns that statutory bodies may have
10. AOB

Look forward to seeing you all on Monday

[REDACTED]

Croesawn ohebu yn Gymraeg a fydd hyn ddim yn arwain at oedi.

Mae'r e-bost hwn ac unrhyw ffeiliau a drosglwyddir gydag ef yn gyfrinachol ac wedi'u bwriadu ar gyfer pwy bynnag y cyfeirir ef ato neu atynt. Mae cynnwys yr e-bost hwn cynrychioli barn y sawl a enwir uchod, felly nid ydyw'n dilyn ei fod yn cynrychioli barn Cyngor Bwrdeistref Sirol Merthyr Tudful.

Darllenwch ein [hysbysadau preifatrwydd](#) i ddarganfod mwy am sut rydym yn defnyddio eich gwybodaeth bersonol.

**Cyngor Bwrdeistref Sirol Merthyr Tudful**

Canolfan Dinesig  
Stryd Y Castell  
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## Document 3

**From:**

**Sent:**

24 March 2025 09:32

**To:**

**Cc:**

**Subject:**

RE: Ffos-y-Fran TWG - Meeting Notes - 170225 - FINAL [NOT PROTECTIVELY MARKED]

Classification: **NOT PROTECTIVELY MARKED**

Morning [REDACTED],

Apologies for the later response on this, it has come to my attention that there are some points that need to be amended in the minutes which are not quite correct, in relation to Point 4 and 5:

Point 4 -

1. correction there is no drainage works being carried out on site, we withdrew all costings for drainage in the phase 2A costings, we needed further information and data from the Developer to consider this issue.
2. last para in point 4, should read MCBC need to interrogate the sec 73 application to establish cost, funding, budget and programme to ensure it's deliverable. Phase 2B is a separate issue and needs cross referencing to the proposed application regarding cost within the total budget, to enable the deliverability of the scheme as applied for.
3. the comment about any work needs to be in accordance with the original restoration strategy is incorrect, and best removed, (although any phase 2B works to be agreed, outside the sec 73 new application content would need to be carefully considered, and would be required to comply with the original restoration strategy as was the case for granting Phase 2A).

Point 5 -

1. the second paragraph I feel needs to be removed, it can be re written to say MCBC confirmed that they requested, a full appraisal of the sites geotechnical proposals for the restoration of the site, and that all information would be available within the application on the website in due course.
2. the third paragraph would need re addressing to read that the geotechnical consultant should address the design of the making safe of OB1 in the planning application.

I would be grateful if we could update to reflect the above.

Kind regards

[REDACTED]

## Annex B

### Regulation 13– Personal data

Regulation 13(1) together with the conditions in Regulation 13(2)(a)(i) and 13(2)(a)(ii) provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

‘Personal data’ is defined in sections 3(2) and (3) of the Data Protection Act 2018 (‘the DPA 2018’) and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

We have concluded that, in this instance, the information requested contains third party personal data.

Under Regulation 13(1) of the EIRs, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be: ]

*“processed lawfully, fairly and in a transparent manner in relation to the data subject”*

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1)(f). This states:

*“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.*

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:-

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

#### 1. Legitimate interests

Welsh Government acknowledges the general public interest in openness and transparency that release of the information would engender. However, we cannot identify any particular legitimate interest in the provision of personal data for individuals working in this area. We

do not believe it is necessary to release the names of individuals for the discussions and exchange of information to be understood. The request asked for information that has passed between two named organisations, and release of the redacted information would not add to this. The provision of this data would not add to the understanding of the information provided or provide any additional context.

## **2. Is disclosure necessary?**

Based on the arguments set out above, we do not believe that disclosure of the information is necessary in this context.

## **3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms**

As we do not believe disclosure would further the understanding of the information released we do not believe any interest in accessing these details outweigh the data subjects' interests, fundamental rights or freedoms.

As release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under Reg13(1) of the Environmental Information Regulations. Reg 13 is an absolute exception and not subject to the public interest test.