



**COAL
ACTION
NETWORK**

Restoration of Opencast Mining Sites

**Analysis of institutional responses to the
CCEIC's short inquiry recommendations**



October 2024

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Coal Action Network works for an end to coal use, extraction, and imports in the UK, and for justice for communities affected by the UK's current and historical coal consumption and mining.

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Front cover: coal still on the ground of the officially restored Margam Parc Slip
Below: a fully-laden coal HGV driving off Ffos-y-fran despite planning permission

Background

In May 2023, Coal Action Network wrote to the Climate Change, Energy, and Infrastructure Committee (CCEIC) of the Welsh Senedd, [informing the Committee](#) of the ongoing illegal coal mining at Ffos-y-fran in Merthyr Tydfil, and the Council and Welsh Government's refusal to use their enforcement powers to prevent the daily extraction of over 1,000 tonnes of coal. Over the course of the estimated 15 months of illegal coal extraction, the operator mined at least 500,000 tonnes of coal and emitted some 1.6 million tonnes of CO₂. The impunity with which the Council and Government let Merthyr (South Wales) Ltd continue breaching the end of its planning permission will cause 362 additional deaths from climate change related causes.

The myriad of environmental institutions, policies, and statutes such as Natural Resources Wales, MTAN2, the Wellbeing of Future Generations Act, and the Welsh Government's Coal Policy Statement of March 2021 all proved to be impotent at the point of implementation. This was also true for enforcement powers designed to deal with exactly situations like Ffos-y-fran, where there is ongoing and irreversible harm, such as Stop Notices. It materialised that the Council feared that the mining company, Merthyr (South Wales) Ltd would abandon the coal mine entirely if it wasn't allowed to mine illegally, leaving the Council to pay for the site's restoration. But 15 months of illegal mining later and after record profits, the mining company is still refusing to fund the restoration it's contractually obliged to fund.

After being informed of this context, the CCEIC committed to a short committee inquiry on Ffos-y-fran and the broader failure of restoration of former opencast coal mine sites, with [oral evidence sessions](#) in April and May 2024, in which Coal Action Network participated. In August 2024, the CCEIC [published its report](#) on the handling of Ffos-y-fran and restoration of opencast coal mining sites across South Wales. Both the [Welsh Government](#) and [Merthyr Tydfil County Borough Council](#) (MTCBC) responded in September 2024 to the 26 recommendations contained in the CCEIC's report. A selection of their responses are summarised or quoted below with our analysis following each. Recommendations have been selected where we believe the response by the Welsh Government or MTCBC needs improvement or reconsideration, and we directly invite both parties to do so as soon as they are able, reflecting on our analysis below.

We believe there are real opportunities to learn from one of the most egregious breaches of Welsh Government policy and planning control in recent Welsh history, not just for any future and current coal mines but for any large infrastructure or fossil fuel project. We hope the Welsh Government and MTCBC take this opportunity, and resist adopting a defensive stance towards the irrefutable failures effective action on Ffos-y-fran, continuing of a decades-long pattern of under-restored or abandoned coal mines littering South Wales' natural landscape.

Recommendation 7:

The Welsh Government should commission an independent review to assess the extent of, the funding needed to restore opencast sites to an acceptable level. The independent, review should consider what constitutes an “acceptable level” in consultation with local, authorities and communities.

Welsh Government:


Response: Accept in principle

Welsh Government isn't liable for funding a programme dealing with open cast mining and land reclamation. Welsh Government has had statutory powers over 'derelict land' since April 2006, to protect public safety, create development land and enhance the environmental and social well-being of Wales. In recent years funding for such activity “has been restricted”. The Welsh Government is therefore concerned that assessing the costs to restore open cast sites may create an expectation that Welsh Government will then fund that restoration.

The operator and landowner is responsible for restoration and after-care of opencast sites. They must also ensure that sufficient finance is set aside to enable them to meet restoration and after-care obligations.

Coal Action Network:

The Welsh Government repeat this through its response to the CCEIC's recommendations, yet not once explain who's responsible when the operator and landowner fail to, or claim not to have, set aside sufficient finance to restore the site – which has happened at around 7 sites within the past 10 years in South Wales alone.



Leaking barrels of anti-freeze found on Selar, an officially complete coal mine restoration site. Neath Port Talbot Council ignored Coal Action Network's photos and reports of this and worse found at the site.

Recommendation 9

The Welsh Government should require local authorities to ensure all Planning Officers' reports are available online alongside associated planning documents, including revised, restoration plans, where relevant.

Welsh Government:

Response: Reject

We agree that transparency in planning decision making must be achieved, however, insisting on specific web publishing requirements at this time is premature.

Coal Action Network:

The Welsh Government is focusing on the technicality of making planning documents available online, rather than the thrust of the recommendation which was to ensure Planning Officer's reports are made public. This is important because the planning documents are often numerous and highly technical, whereas Planning Officers' reports summarise these planning documents and the arguments for and against the application in plain English to be understood by planning Counsellors. Public access to this key report would greatly improve transparency. The Welsh Government should urge Councils to make their Planning Officers' reports publicly accessible, where possible.

Recommendation 11

The Welsh Government should reconsider the proposal from the 2014 report to establish a virtual “Centre of Excellence” for restoration planning, particularly in light of potential coal-tip reclamation proposals, and lead discussions with local government on how to implement this.

Welsh Government:

Response: Accept in principle

Given our existing presumption against coal extraction, we expect “very few schemes being brought forward”. Our primary focus is to ensure that disused tips are safe and to deliver a modernised, fit-for-purpose regulatory regime. After the disused mine and quarry tips Bill is passed The Welsh Government will take “a more detailed strategic approach to mining and industrial legacy in Wales – this will need to include reclamation of disused tips and management of open cast mining.”

Coal Action Network:

In the face of the Welsh Government’s expectation of ‘very few schemes’, there are currently two schemes proposing coal extraction in South Wales, both with remediation dimensions. In addition, a planning application is expected for a downgraded remediation scheme for Ffos-y-fran. All these proposals would benefit from the kind of oversight the CCEIC are proposing with its recommendation for a Centre of Excellence. The Welsh Government’s intention to adopt a strategic approach toward coal mine restoration is welcome, but this needs a concrete time-line, and doesn’t address the current need for better oversight within recommendation 11 by the CCEIC.

Drawings for the
Glan Lash extension
application submitted
in October 2024

EXISTING
OVERBURDEN
MOUND
AREA

Recommendation 12

The Welsh Government must engage with the UK Government with the aim of removing the Coal Authority's statutory duty to maintain and develop an economically viable coal mining industry.

Welsh Government:

Response: Accept in principle

Whereas we would wish for the Coal Authority to remove its statutory duty to maintain and develop an economically viable coal mining industry, this duty has no practical effect in Wales... The Welsh Government is confident that it has in place the necessary policy and processes to ensure the climate emergency and nature emergency are fully reflected in any decision making.

Coal Action Network:

Existing Welsh Government policies were deemed compatible with an opencast coal mine extension just last year in 2023, casting doubt on that confidence. The Welsh Government Minister for Climate Change Julie James wrote to the UK Government in 2021 stating that: "From the Wales perspective we consider the statutory duty of the Coal Authority to develop and maintain a viable coal extraction industry must be removed if we are to achieve our policy ambitions... While I welcome the powers included in the Coal Industry Act which require the Welsh Ministers to approve a licence issued by the Coal Authority... the legislation has proved challenging to exercise in practice for both the Welsh Government and the Coal Authority." – which is at odds with the Welsh Government's response to the CCEIC's recommendation, but without relevant Welsh policy evolution in the meantime to explain this new position.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Rt Hon Kwasi Kwarteng MP
Secretary of State
Department of Business,
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Enquiries@beis.gov.uk



Llywodraeth Cymru
Welsh Government

Recommendation 14

The Welsh Government should review and update the Minerals Technical Advice Note 2 (MTAN2) to ensure it is fit for purpose, particularly in the context of new developments and coal tip remediation.

Welsh Government:

Response: Reject

Minerals Technical Advice Note 2 Coal (MTAN2) contains comprehensive planning guidance which is robust about restoration and after-care schemes for coal extraction. Along with all other planning policy, MTAN2 is kept under continual review to ensure it is kept up to date, fit for purpose and relevant.

Coal Action Network:

The Welsh Government released MTAN2 in 2009. MTAN2 thus fails to reflect policy developments over the past 15 years such as the Well-being of Future Generations Act (2015), Environment (Wales) Act (2016), the Chief Planner's letter frame biodiversity with respect to its contribution to achieving ecosystem resilience (2021), and Net Zero 2050 target. The Welsh Government's refusal to review MTAN2 is also bewildering given the policy has ostensibly failed to prevent the under-restoration of [numerous coal mining sites across South Wales](#) since its implementation. MTAN2 needs to be reviewed and updated to reflect its failures to secure quality restoration and in light of subsequent biodiversity and climate change policies.

Under/un-restored coal mines in South Wales over the past decade.



East Pit

Neath Port Talbot



Ffos-y-fran

Merthyr Tydfil



Glan Lash

Camarthenshire



Margam

Neath Port Talbot & Bridgend



Nant Helen

Powys & Neath Port Talbot



Selar

Neath Port Talbot



Tower

Rhondda Cynon Taff

Recommendation 15

The Welsh Government should incorporate provisions for the restoration of former opencast sites within the forthcoming Disused Tips (Mines and Quarries) Bill.

Welsh Government:

Response: Reject

“In his Legislative Statement on 9 July 2024, the then First Minister made clear that inclusion of provisions relating to restoration of former opencast sites within the forthcoming Disused Tips (Mines and Quarries) Bill (the Bill) is not feasible at this time.” The Welsh Government cites further delay due to expansion of scope, and affordability as the key reasons for its position.

Coal Action Network:

Coal tips are created by the act of deep coal mining. Overburden mounds are created by the act of opencast coal mining – there is little difference between the two in their composition, risk, or cause. The other hazards posed by abandoned and under-restored opencast coal mining sites should also be dealt with in the same legislation, given their shared cause, similar urgency, and methods of resolution (monitoring, landscaping, and earth works). On financial feasibility, the Welsh Government has already “estimated that the reclamation of a single disused coal tip can cost between £30 - 40 million” and that support from the UK Government would be needed. In this context, and given earth moving forms the largest of restoration costs, enfolded wider opencast restoration within the Disused Tips (Mines and Quarries) Bill, wouldn’t inflate associated costs impractically, deliver justice to communities living around these sites, and contribute to the plight of Welsh biodiversity.



Recommendation 17

The Welsh Government must mandate public consultation for all stages of the restoration process, including when revised restoration plans are brought forward.

Welsh Government:

Response: Accept in principle

Public participation is very important at all stages of the planning process and is to be encouraged. The wide range of development types and scales mean planning legislation can only set a minimum standard of consultation...however we expect planning authorities to consult where the public is materially affected by the submitted details.

Coal Action Network:

Restoration plans determine what happens to significant areas of land that were often of public amenity beforehand and would be afterwards. A restoration plan represents a promise made to nearby communities before they endure what is often years of disruption, noise, and dust during subsequent coal mining. Accordingly, those communities should be meaningfully consulted on proposed changes to that promise, with their feedback given significant weight in shaping associated planning decisions and conditions.



Margam Parc Slip: broken fences, missing life-rings, ignored signage...

Recommendation 18

The Welsh Government should advise local authorities to designate a specific officer as a point of contact for the local community, providing a direct communication channel between residents and local authorities on matters relating to sites or similar developments.

Welsh Government:

Response: Accept in principle

MTAN2 recommends the mining company appoints a site liaison officer. Additionally, Local Planning Authorities have a Planning Case Officer before an application is approved, and the enforcement team for after an application is approved.

Coal Action Network:

The 'liaison' role is simply added to an existing role with no training or dedicated time given to it. This is similar to Local Authorities – and we've found this very often results in months-long delay to replies, some enquiries going unanswered altogether, and limited, terse responses when they are made. Case Officers say they are too busy with their main work to reply sooner or engage more. Given the potential impact of planning applications for major developments on nearby communities, there's clearly a need to have a dedicated contact point for community input and involvement.



Recommendation 19

The Welsh Government should advise local authorities to create online portals where residents can access up-to-date information on all stages of the restoration process.

Welsh Government:

Response: Reject

Insisting on specific web publishing requirements at this time is premature. The Welsh Government is working with the Centre for Digital Public Services (CDPS) in exploring how digital solutions can improve the planning system in Wales. It is anticipated that the communication of decisions will form an integral part of that work. This will bring together the variability currently seen across authorities in a managed cost-effective way.

Coal Action Network:

The Welsh Government should expedite online public access to planning documents, and have facilitating public engagement as an explicit aim of this work. The poor design of some planning portals currently create barriers to community members accessing critical information about developments that will potentially impact them. We ask the Welsh Government to centre public consultation in its development of plans to digitalise planning systems.

Recommendation 20

The Welsh Government should encourage the use of citizens' assemblies as forums for discussing the future of restoration sites, particularly where restoration failed to meet the original planning permission and compromises need to be made.

Welsh Government:

Response: Reject

National planning guidance already recognises that well established liaison committees help to provide a better understanding of the impacts to be expected from mineral extraction. Many quarries and coal sites have established liaison committees which act as a forum for regular discussion and explanation of current problems. Where regular complaints are received or there is concern about local impacts the local planning authority should request that the operator cooperate in establishing regular meetings of a nominated group.

Coal Action Network:

We agree with the National Planning guidance's promotion of community liaison committees, but find execution is inconsistent, and in some cases, absent altogether – even where there are serious breaches of planning control and trust. One such recent case was with Merthyr (South Wales) Ltd, which continued to mine at the Ffos-y-fran site for around 15 months beyond the end of its planning permission. There is also no formalised input into decision-making which has left participating residents we've spoken with feeling ignored and apathetic. We recommend the Welsh Government reconsider the sentiment of the CCEIC's recommendation, by strengthening the National Planning guidance on community liaison committees, particularly where significant impacts on surrounding communities are expected such as with downgraded restoration plans.

Recommendation 21

The Welsh Government must explore stronger enforcement mechanisms to address breaches of planning controls without delay, such as the mining activities that continued at Ffos-y-Fran after the licence expired.

Welsh Government:

Response: Reject

The Town and Country Planning Act 1990 provides a range of effective enforcement options depending on the circumstances. Enforcement is focused on addressing the unacceptable impacts of unauthorised development rather than punishing the developer. Given the complex nature of planning impacts on both the environment and people it is sometimes acceptable to allow unauthorised activities to continue while consideration is given to the best course of action. That is what Merthyr Tydfil County Borough Council concluded at Ffos-y-Fran. However, where unacceptable harm is happening, the law does currently provide authorities with powers to stop activities immediately, either through a stop notice or Court injunction.

Coal Action Network:

We agree with the Welsh Government that, *on-paper*, effective enforcement options exist. However, the case that the Welsh Government refers to of Ffos-y-fran highlights that, in practice, these enforcement options are only robust to the extent that they can be implemented. For 15 months, Merthyr Tydfil County Borough Council decided enforcement options were unsuitable to use to stop the daily extraction of over 1,000 tonnes of coal, outside planning control, worsening of the restoration liability which Merthyr (South Wales) Ltd had already indicated it did not intend to fund. More generally, if Local Planning Authorities believe the consequences of using enforcement options available to it are worse than allowing breaches of planning control, even where those breaches are severe, long-term, harmful, and persistent, it suggests that those enforcement options are not effective or fit for purpose. Allowing flagrant breaches of planning control for large developments due to a fear of the consequences arising from available enforcement options, weakens planning control as it signals to other developers that they can flaunt planning control and conditions with impunity. This may already have occurred with UK Oil and Gas (UKOG) continuing to drill oil in Horse Hill, Surrey, despite now breaching planning control. Therefore, and in the spirit of the CCEIC's recommendations, the Welsh Government should review existing planning enforcement options for their pragmatism.

Recommendation 26

The Welsh Government should consider the broader implications of the failures at Ffos-y-Fran and implement systemic changes to prevent similar issues in future, including in relation to coal-tip reclamation sites.

Welsh Government:

Response: Accept in principle

Welsh Government coal extraction planning policy is clear that development proposals will only be approved in wholly exceptional circumstances. There will therefore be very few schemes being brought forward.

At the present time, our primary focus is to ensure that disused tips are safe and to deliver a modernised, fit-for-purpose regulatory regime.

Coal Action Network:

Contrary to the Welsh Government's expectation of "very few schemes", there are currently two schemes in pre-application consultation (Bedwas Tips and an extension to Glan Lash) proposing coal extraction in South Wales, with remediation dimensions. Ffos-y-fran is a current example of the abject failure of planning control to secure the agreed restoration, even after allowing 15 months of illegal coal mining with an associated 1.6 million tonnes of CO₂. Ffos-y-fran is not a lone example, but rather part of a history of planning control [failing to deliver the agreed standard of restoration](#) at East Pit, Selar, Margam Parc Slip, and Nant Helen within the past decade alone in South Wales. If the Welsh Government refuses to learn lessons from this egregious breach of its own national policy on coal mining, it calls into question whether the Welsh Government gives the CCEIC's findings the gravitas they clearly merit. Such a refusal also risks the repeat of mistakes that led to avoidable harm to surrounding communities, the local environment and restoration liability, our shared climate, planning control, trust in the Local Planning Authority, and Wales's reputation as a climate leader.

We ask the Welsh Government to reconsider the relevance and urgency of reviewing the broader implications of the failures at Ffos-y-Fran and implement systemic changes to prevent similar issues in future, in-line with the CCEIC's recommendation.

Recommendation 22

In the event that the water cannot be drained from the, voids at the site, Merthyr Tydfil County Borough Council must ensure that any, water bodies resulting from the restoration at Ffos-y-Fran are safe and provide, benefit to the local community.

Merthyr Tydfil County Borough Council

Response: Accept

Coal Action Network

Coal Action Network welcome MTCBC's acceptance of the CCEIC's recommendation, but expected a plan for how MTBCBC would ensure the community's safety and benefit before it allowed the void to begin flooding. Simply accepting this recommendation with no further comment will not reassure local communities and is reminiscent of MTBCBC's lack of communication with its communities. The need for reassurance is even greater considering the unsafe outcomes [documented at Margam/Parc Slip and East Pit](#) former opencast coal mine sites, where we note broken fences, vandalised and absent life rings, steep sides into the reservoir, recreational use against signs prohibiting this, and no regular regime of water testing for toxicities from exposed coal-face. MTCBC will need to overcome these pitfalls of similar sites with an ongoing budgetary commitment if it is to fulfil the CCEIC's recommendation.



Recommendation 23

Merthyr Tydfil County Borough Council must ensure, that the revised restoration plan reflects, as a minimum, the objectives of the, original restoration plan, including: safe public access across the East Merthyr, historic landscape with a new network of trails and footpaths; sustainable, wildlife habitats and biodiverse environmental sites; protection and restoration, of surviving heritage features; and the return of most of the site for traditional, commoners' use.

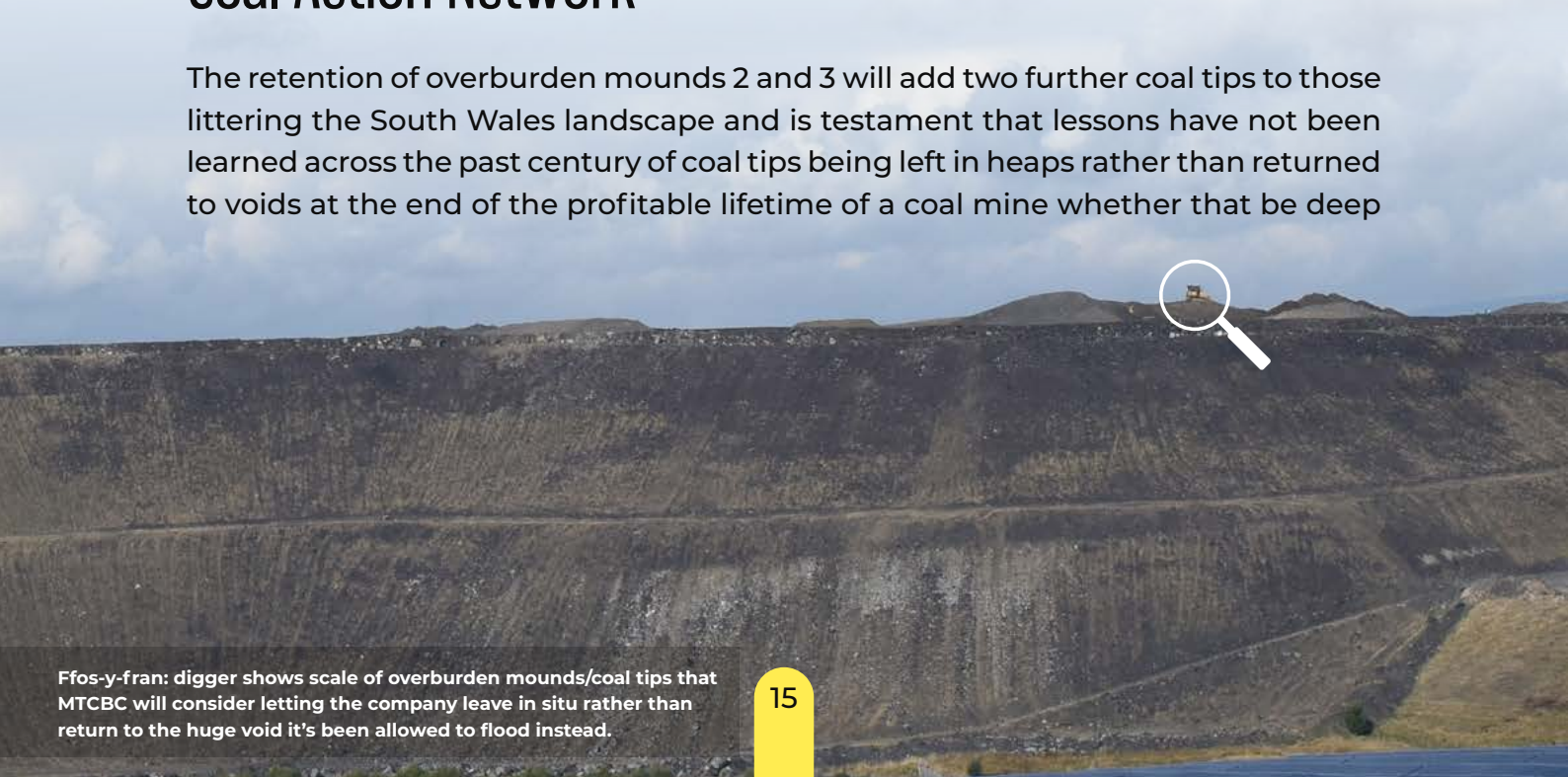
Merthyr Tydfil County Borough Council

Response: Accept

The Council considers that it would, be appropriate to expect any revised restoration scheme to secure the appropriate restoration of the land, as approved under the 2015 approved strategy, this would cover re-profiling of the land, cultivation and the, establishment of ecological features, as well as the preservation of any historic assets and the reinstatement, of public rights of way. Any revised scheme would inevitably differ in that overburden mounds 2 and 3 are, likely to be retained and a body of water will be incorporated into the scheme. The developer has also, indicated that they would wish to retain the motorcross facility. Any revised scheme that is submitted by the, applicant could provide greater ecological interest and the reinstatement of as much land as possible for the, commoners

Coal Action Network

The retention of overburden mounds 2 and 3 will add two further coal tips to those littering the South Wales landscape and is testament that lessons have not been learned across the past century of coal tips being left in heaps rather than returned to voids at the end of the profitable lifetime of a coal mine whether that be deep



or opencast mining methods. Despite claims that overburden mounds would be reprofiled and seeded at Margam/Parc Slip, top soil and subsoil have been mixed resulting in a [lack of revegetation and erosion gullies running down the sides](#) of the overburden mounds from rain water and dirt bikes. Similarly sections of East Pit's retained overburden mounds have failed to be reseeded successfully. Communities in these areas speak of a loss of place and history and fears around the very deep flooded voids left behind, such as that which MTCBC tactly allowed at Ffos-y-fran with zero public consultation with the nearest communities.

The original Ffos-y-fran scheme was to restore an area of derelict land which the nearest communities suffered primarily due to the noise of motocross dirt bikes used there by local teenagers in the area. If MTCBC permits the site operator to retain a motocross track atop one of the overburden mounds that it had promised communities it would refill the void with over 16 years of mining, it would be perceived as the ultimate betrayal of those communities by MTCBC and the site operator. A noisy, dusty, and polluting ticketed motocross track, drawing large crowds at rallies is also totally incompatible with the original intention of public access and nature restoration. If MTCBC had any intention of implementing recommendation 23, it would involve huge amounts of earth-moving and the clear rejection of a motocross track.

- section of the Bogey Road. An initial area of woodland planting would be established along the boundary with the A4060.** A baffle mound constructed to mitigate potential noise impacts on the nearby settlement would be retained in the west of the site, until the final phase of restoration. The direction of working and therefore of restoration, allows the area closest to the nearby settlements to be restored first, so that even the relatively limited area to be restored in Phase 2 would have an immediate effect and provide a foreground in views from the west of the continuing operations.
- 3.16 During Phase 3 backfilling after extraction will allow the areas of restored land in the west to extend eastwards. As haul roads between the extraction area and the southern overburden mounds were reduced to one route, an additional area between Bogey Road and the main east-west haul road may be restored, and a further area of woodland established in the west of the site. The eastward progression of restoration would continue through Phase 4, including extension of the woodland planting.
- 3.17 The major part of the site restoration would be carried out after coaling had ceased, with the return of the stored overburden to the final void, restoration of the land occupied by the overburden mounds, the soil storage mounds, the water treatment areas, haul roads, and plant and offices. Water treatment areas, where appropriate, would be restored as ponds and wetland, and watercourses as flow ponds and reservoirs formed. The footpath network would be laid out in this final phase also. The programme of habitat establishment and conservation of heritage features is outlined in Sections 6 and 7 respectively.
- 3.18 **The final profile, although based on the restoration plan at Figure 4, may have to be amended throughout the working of the site due to any fluctuation between the actual levels of bulkage and coal volumes extracted, and those anticipated.** Regular surveys will be carried out to check the balance of the quantities excavated and the material available for restoration, and ensure that the final restoration scheme balances, i.e. to ensure that neither a dump nor a dump is left at the end of working.
- Restoration will take approximately 24 years to complete. The first area to be restored first, followed

Recommendation 24

Merthyr Tydfil County Borough Council should fully, involve local residents in the consideration of revised restoration plans for the, Ffos-y-Fran site.

Recommendation 25

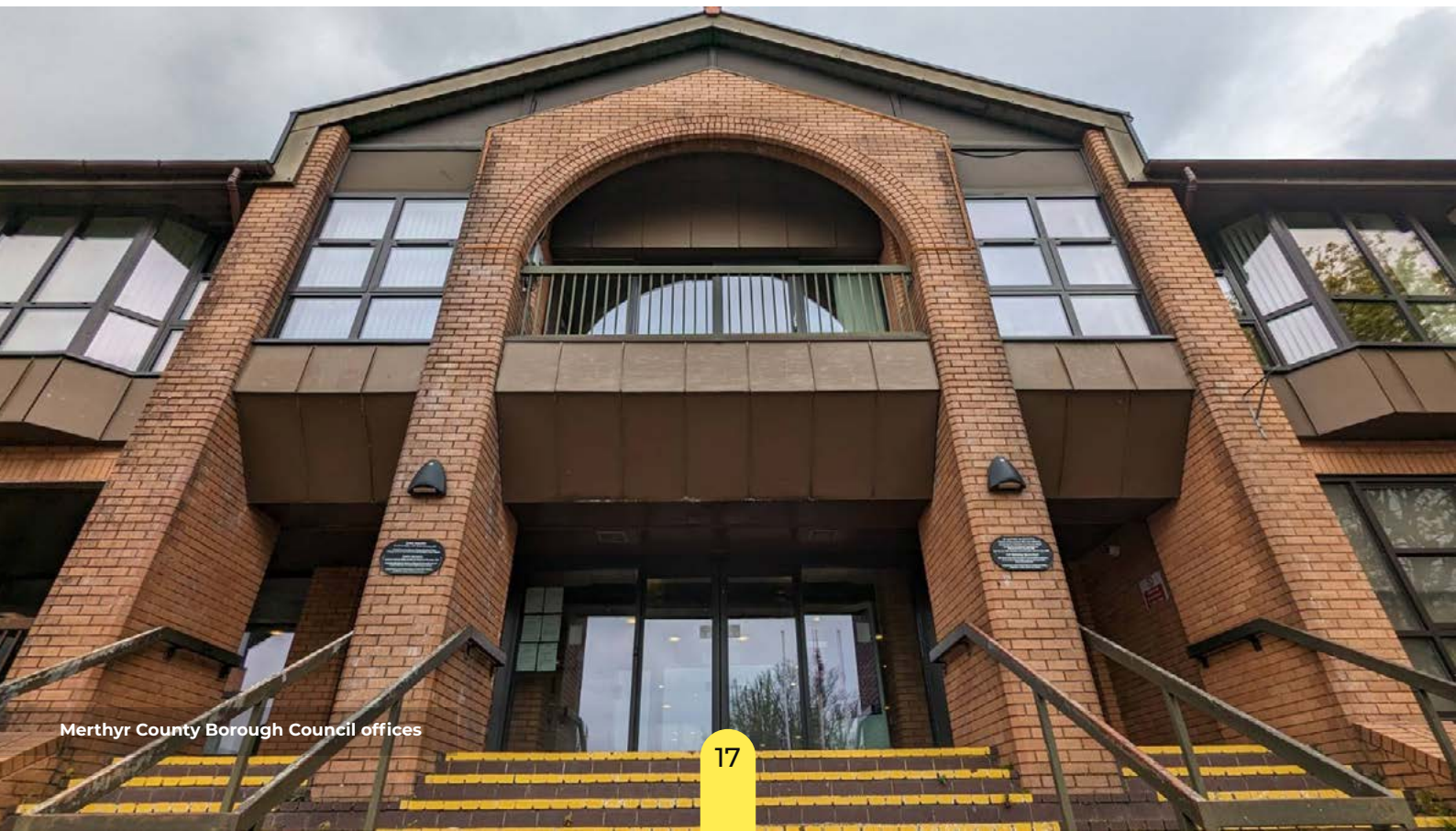
Merthyr Tydfil County Borough Council should publish, the application for the revised restoration plan at Ffos-y-Fran and the planning, officer's associated reports

Merthyr Tydfil County Borough Council

Response to both: "Noted"

Coal Action Network

We encourage MTCBC to explain what is meant by 'noted' and ask MTCBC to more fully respond to the CCEIC's recommendation 24 and 25.



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