

# The Ffos-y-fran Land Reclamation Scheme

## A Brief History Of The Scheme

Following the terrible Aberfan disaster in 1966 the Government issued an edict to all Local Authorities to examine and appraise all derelict land that fell within their jurisdiction and come up with plans for land reclamation.

Unsurprisingly, because of its industrial heritage, Merthyr Tydfil had the largest amount of dereliction in Wales, if not in the UK. The Authorities came up with a scheme in the 1980s known as the East Merthyr Land Reclamation Scheme (EMRS), which was so big it was split into three phases. Phases 1 and 2 were completed in 1993 and 1997 respectively. However, Ffos-y-fran, the third and final Phase was not commenced under that consent because of land ownership problems.

Those land ownership problems have since been addressed and Miller Argent (South Wales) Limited obtained a separate planning permission for the Ffos-y-fran Land Reclamation Scheme (FLRS) in April 2005, which effectively is a finessing of the original Phase 3 Scheme, to ensure that the Scheme complied with the most up to date planning and environmental requirements.

The Community has already enjoyed, and continues to enjoy, benefits from the EMRS which have a value of more than **£10 million**. In addition, the Community was awarded the Millennium Marque Award in May 2000 for **“Environmental Excellence”** in respect of the Scheme as a whole.

## Land Reclamation or Opencast?

The land was in urgent need of reclamation due to being **Unightly, Unproductive** and more importantly **Unsafe**.

There are over 100 recorded mine shafts and adits on the land leading to abandoned mine workings. There are unquestionably many more that exist that are not recorded and no one knows which of these have been safely filled or not. A number have already been encountered that are completely open with no protection to unsuspecting members of the general public. There are also many old mine workings, which are in varying states of collapse – cavitating toward ground surface adding to land instability.

In addition some 12 million cubic metres of loose material had been deposited over the lower slopes of Ffos-y-fran and this material was

unstable and moving. This was responsible for the multiple fracturing of the old water main serving Bedlinog.

There were also three landfill tips on the lower slopes of the mountain which had been placed there unlawfully which would have had to be removed by the Local Authority at a cost of approximately **£20 million**. Miller Argent took on this liability and completed the works without a single complaint being made. There is also a deficit of over 2 million tonnes of soil which has either been destroyed or buried at depth.

To properly reclaim the site, without the income derived from the sale of the coal, would have cost the Local Authority (the community) well over **£100 million** and it is argued that without major excavation works the dangers could not sensibly and adequately have been addressed.

63% of the site area is subject to Urban Common, where the general public have the right to roam for the purpose of air and exercise – the public were innocently roaming over dangers that they did not know existed – **an accident waiting to happen!** This right for the public to roam is temporarily suspended for the life of the project.

In the circumstances the only practicable means of reclaiming the site and making it safe is through opencast working.

The extraction of the coal at Ffos-y-fran pays for all the reclamation works – **all the works are carried out at no cost to the public purse**.

## What are the Benefits that the Scheme brings to the Community?

- Reclamation of 1,000 acres of derelict and dangerous land at no cost to the Public Purse.
- Creation of 250 jobs – over 80% of employees live in the direct community.
- Training for all employees.
- Removal of Waste Tip Liabilities.
- Two Community mini buses for the free use of community groups – over 80 different groups within the community regularly use these buses – one of which is fully equipped to take wheelchair passengers.
- A Community benefit fund which will realise £11 million over the life of the Scheme.
- Support for Community Groups.
- Provision of a new water main for the Community of Bedlinog at a cost of £1 million.

## Impacts

No one has ever said that there will not be impacts from the Scheme. A full Public Inquiry was held in September 2004 when the impacts were discussed and challenged in detail.

The Inspector wrote in his subsequent report and recommendation that **“the Scheme would be in accordance with development plan and national policy and that the benefits would far outweigh the objections.”** He did however recommend a number of conditions which serve to **“minimise and mitigate any detrimental impacts”** – namely noise, dust and blasting.

The weather has a tremendous effect on the impacts, particularly wind speed and direction. We have all been reminded very vividly how the winds can exacerbate problems – the volcano in Iceland.

## Complaints

Miller Argent has a rigorous procedure in place to investigate complaints when they are received (regardless of who makes the complaint) and where necessary and appropriate it takes action. All complaints are logged and reported and followed up with personal contact from an experienced member of the Miller Argent team.

Miller Argent manages its operations on a proactive basis doing all it can to anticipate conditions that may give rise to concerns and to introduce measures to mitigate the effects of the works before they become a concern.

## Is Miller Argent a Bad Neighbour?

Miller Argent does recognise that its activities may be of concern to some people but its approach is always to deal with complaints positively and pro-actively.

Members of the community contacting Miller Argent will always find our staff to be courteous and professional, regardless of whom they are. Our team is trained to be sympathetic and sensitive when dealing with people who feel aggrieved by the works being carried out.

## Legal Challenges to date against the Scheme

Objectors to our operations have sought to bring a number of legal challenges to our operations:

- Section 288 High Court Challenge to the validity of the FLRS planning permission.
- Court of Appeal.
- House of Lords.
- Request for Revocation.
- JR re Welsh Assembly Government taking too long to decide request for Revocation.

- JR re Welsh Assembly Government (WAG) making the wrong decision re Revocation.
- JR MTCBC for not enforcing Planning Conditions.
- JR MTCBC & CCBC re Planning Consent for operations within the Disposal Point<sup>†</sup>.
- Application to the European Parliament.
- Application to the Aarhus Convention at the United Nations in Geneva.

(JR denotes an application for and/or pre-action protocol correspondence seeking a Judicial Review.)

<sup>†</sup> Twice refused by the High Court and still awaiting decision of the Court of Appeal.

Miller Argent has helped MTCBC and the Welsh Assembly Government successfully to defend the challenges brought to date. Those challenges have cost the parties millions of pounds (with the Council's and WAG's costs being met by tax payers). The same firm of lawyers involved in those unsuccessful claims is now looking to bring a private nuisance action on behalf of some members of the community.

So far as the proposed Private Nuisance Claim is concerned - Miller Argent denies that its operations are creating a nuisance and will vigorously defend any legal action brought against it **and will seek to recover its costs in defending the proceedings from the claimants through the courts.**

Therefore Miller Argent asks everyone who is minded to sign up to the proposed legal action to fully consider the consequences should the action fail. For those who may believe that they may be entitled to a payout simply by signing up then please think again – what they should be considering is *“it is not what we may win but what we could lose”*.

## Community Information Meetings

Given the investment it is making in the local community Miller Argent has always tried to keep local people informed about its operations and as a result we have already given a number of talks and provided visual presentations around the community but we are very willing to do more – if you would like to arrange one please contact us on 0870 111 5600 and ask for Mrs Lisa Llewellyn-Williams.

## Alleged Private Nuisance

Members of the community: please approach your decision whether or not to join the action with a balanced and open mind. Think about the lasting benefits that the Scheme brings to the community at no cost to the public purse, and of the 250 families who depend on the Scheme for their livelihood and wellbeing.

Thank you.

On behalf of Miller Argent (South Wales) Limited.  
20<sup>th</sup> April 2010