

Press Release

(16th November 2010 – For Immediate Release)

FFOS-Y-FRAN GROUP LEGAL ACTION FAILS

The latest in a series of unsuccessful legal challenges against Miller Argent (South Wales) Limited, operators of the Ffos-y-fran Reclamation Scheme, has been dismissed in court. The defeat of the attempted Group Litigation Order may mean substantial claims for legal costs being brought against the prospective claimants.

His Honour Judge Jarman QC dismissed the application by a group of Merthyr residents asking for a Group Litigation Order (GLO) to be made against Miller Argent (South Wales) Limited, at a hearing in the Technology & Construction Court in Cardiff on **Thursday 11 November 2010**.

HHJ Jarman QC rejected the application for a GLO, which alleged that the Ffos-y-fran Land Reclamation Scheme had caused dust and noise nuisance to residents.

The GLO application was promoted by a small group of objectors who have repeatedly but unsuccessfully sought to block the planning permission granted for the site.

The Judge, in his reasoned decision, rejected the GLO application on the grounds that:

- the Claimant's lawyers, Richard Buxton & Co, had failed to obtain After The Event Insurance ("ATE"), despite previous assurances to the Court that cover would be in place. The lack of insurance means that individual claimants are exposed to the risk of significant legal costs if their claims are finally unsuccessful.
- the lack of sufficient evidence to show that any of the individual claims of alleged nuisance would, in fact, be viable if pursued to trial.

The Judge ordered that Miller Argent be allowed to recover its legal costs associated with the failed application. It is likely that these costs will have to be met by some or all of the prospective claimants in person, as there is no ATE Insurance in place.

More Follows

After the hearing, Stephen Tillman, Joint Managing Director of Miller Argent (South Wales) Limited, said:

"From the outset we said there was no basis for a Group Litigation Order due to the fact that the claimants had failed to put forward any real details of their claims or obtain ATE insurance cover. The Judgement clearly supported that view.

We have been seriously concerned how a small number of people with anti-coal and anti-Ffos-y-Fran agendas, have been encouraging others in Merthyr Tydfil to sign up for such potentially risky, complex and costly legal action.

They and their solicitors must now ask themselves whether their actions are truly in the wider interests of the rest of Merthyr Tydfil's communities.

We are pleased with the judgement, but it is really unfortunate that it has taken over 5 months, 3 court hearings and many tens of thousands of pounds in legal fees to reach this conclusion."

James Poyner, Joint Managing Director of Miller Argent, also commented:

"Ffos-y-fran is the one of the most highly regulated and monitored land reclamation schemes of its type in the UK. We are very aware that if we fail to show due consideration for the local community in the way we operate the site, we may be open to challenge both from the Local Authority and local residents.

The repeated untrue accusation from a very small group of individuals is that residents are intimidated from raising issues with us. We are always courteous to anyone who contacts us and the records show we investigate all complaints thoroughly.

We will always close down part of our operations or change our method of working if the weather conditions make it necessary to reduce noise or dust levels.

The Ffos-y-fran Land reclamation scheme remains a key scheme for the community of Merthyr, in reclaiming nearly a 1,000 acres of acutely derelict and unsafe land. This scheme not only provides numerous benefits to the community but also provides approximately 250 jobs of which around 80% come from the local area, providing valuable employment for a large number of families"

ENDS

NOTES TO EDITORS:

In previous judgements, various courts have rejected similar complaints:

- **High Court, Judge Mr Justice Collins** on 9th March 2009
- **Mr Justice Beatson** at the **Administrative Court in Cardiff**, on 30th April and 1st May 2009. In his detailed judgment, Mr Justice Beatson, robustly criticised the case brought by Richard Buxton Solicitors.
- The **Compliance Committee of the United Nations Aarhus Convention**, in Geneva Switzerland, on the 18th March 2010, found the case was not admissible, on the grounds that it was “manifestly unreasonable”.

Previously (24/05/2010), responding to the threat of imminent Group Litigation Order through private nuisance action, Miller Argent (South Wales) Limited denied that its operations create a nuisance and said that due to the history of extensive legal actions in future it would seek to recover costs from those making repeated groundless claims.

A company spokesman said at the time (24/05/2010) that

“...continued and persistent legal challenges to the scheme are hugely expensive to the public and the company. Despite the widely recognised and acknowledged benefits which the Ffos-y-fran Land Reclamation Scheme brings to the community, [the objectors] seem intent to bring the reclamation scheme to a halt.”

“Richard Buxton Solicitors has failed in no less than 11 legal challenges against, or associated with, the activities of Miller Argent, costing the company hundreds of thousands of pounds to defend.

It is believed these cases have used up very large amounts of public funds as they have largely been brought using Legal Aid, whilst the public authorities have had to defend the unmeritorious claims brought against them using tax payer's money. The lawyers are probably the only parties to have benefited from these challenges.”

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For more information about Miller Argent and the scheme see: www.millerargent.co.uk

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