

Committee: **Community Services Scrutiny**
Date of meeting: **1st March 2021**
Report Subject: **Disused Spoil Tips Update**
Portfolio Holder: **Cllr J Wilkins, Executive Member Environment**
Report Submitted by: **Clive Rogers, Head of Community Services**

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Other (please state)
04.02.21	11.02.21	16.02.21			01.03.21	14.04.21		

1. Purpose of the Report

- 1.1 The purpose of the report is to update Members on the current position in relation to disused spoil tips within Blaenau Gwent and to detail the implementation of key actions and tasks in line with Coal Tip Safety Policy Taskforce.

2. Scope and Background

Mines and Quarries [Tips] Act 1969

- 2.1 The report provides the background to the Mines Tips and Quarries Act and identifies the objectives and measures currently being undertaken by Welsh Government, Coal Authority and BGCBC.
- 2.2 The Mines and Quarries (Tips) Act 1969 was implemented as a result of the Aberfan Disaster, which occurred in October 1966. The Act is separated into two parts; Part I outlines the legislation with respect to active tips and the liabilities and powers landowners and local authorities have respectively, whilst Part II outlines the legislation with respect to disused tips and the liabilities and powers landowners and local authorities have respectively.
- 2.3 With the exception of Trefil Quarry, currently there are no other active tipping operations or active tips within Blaenau Gwent that come under the Part 1 of the Mines and Quarries (Tips) Act. Trefil Quarry is remote and not within close proximity of houses or schools.
- 2.4 There are many disused tips within Blaenau Gwent, and therefore Part II of the Act applies to Blaenau Gwent CBC as a disused tip owner (liability) and as a local authority in terms of public protection with powers to enter land and enforce landowners to undertake remedial work if there is cause to believe the tip poses a threat to public safety.
- 2.5 In the early 1970s a list of sites containing active tips, disused tips and naturally unstable land was drawn up by the former Gwent CC and contained approximately 100 sites these included both privately owned and Blaenau Gwent CBC's sites - 37 Number of these are currently situated on Council Land.

2.6 A review of the current inspection list has previously been undertaken. However, the list needs to be reviewed and rationalised for reasons as detailed in the following points.

1. Clarification as to what is classified as a 'disused tip' under Part II of the Act as opposed to 'naturally unstable ground' and to understand the legal instruments Blaenau Gwent has as a local authority to enter and enforce remedial action if required.
2. To determine which of these sites are within Blaenau Gwent CBC's ownership and which are privately owned. This will then provide clarity on what are the Authority's duties and responsibilities under the Act, i.e. where Blaenau Gwent CBC is a landowner and therefore has a duty to ensure and carry out works to ensure it remains stable. Where a tip is located on private land, the Authority has powers under Part II of the Act to inspect the site and enforce remedial action should there be a concern on stability of a tip.
3. Updating of the current historical Inspection List where potentially many of the sites on the list have since been reclaimed and redeveloped.
4. Finally, reclassifying of sites on the List that are remote and inaccessible and hence unlikely to present a danger to the public.

Coal Tip Safety Policy Taskforce (CTSPT) - Tylorstown Slip February 2020

2.7 Following the unprecedented weather in February 2020 and the Tip failure at Tylorstown (Rhondda CT) the Welsh Government and the Coal Authority set up a Coal Tip Safety Policy Taskforce (CTSPT) to co-ordinate a national data collection and to assist local authorities in assessing their high risk spoil tips.

- Phase 1 Emergency Response (ongoing)
- Phase 2 Technical & Policy Development (current to April 2021)
- Phase 3 Long Term Policy (target date 2022)
- Phase 4 Continual risk management & remediation (2023 onwards)

Blaenau Gwent Keys Actions & Tasks

2.8 Phase 1 - Emergency Response [Ongoing]

Key Actions & Tasks

- 'Walk over' inspections of the highest risk sites have been undertaken and no signs of instability was identified.

- Liaising with the Coal Authority to develop information / data base of tips within the County Borough and identifying where a joint inspection of a selected number of our highest risk tips is required.
- Undertaking a review of all the tip locations and category within the County Borough with a view to updating the current database.
- Confirming ownership of each tip.
- Liaising with the Coal Authority to standardise the approach to assessment category and periodic future inspections regime.

2.9 Phase 2 - Technical & Policy Development

New legislation relating to Mines Tips and Quarries is to be available for comments later this year and will probably form the base line for future long term policies and risk management of these tips.

3. Options for Recommendation

3.1 Options Appraisal

- **Option 1:** That Members accept the report and Key Actions and Tasks set out in paragraphs 2.8 to 2.9
- **Option 2:** That Members do not accept the report and Key Actions and Tasks set out paragraphs 2.8 to 2.9 respectively and provide alternate proposals

Preferred Option – **Option 1**

4. Evidence of how this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan

- 4.1** The Authority has a statutory duty to maintain a database of tip sites and has permissive powers to inspect and take action at disused tip sites (privately owned) to prevent danger to the public but does not impose a specific statutory provision for regular inspections.
- 4.2** Following meetings with the Coal Authority and sharing of data the Coal Authority carried out a desk study of our sites and produced a series of plans for each tip site to enable the Borough's Engineers, who has the local knowledge, to compare data, assess and modify the assessment plans if necessary.

The spoil tips are ranked into the following categories (Coal Authority criteria)

- Category A minimal or no risk
- Category B Tip is unlikely to cause risk to life or property due to size or location and no known history of movement / signs of instability

- Category C There is potential to cause risk to life or property and no known history of movement / signs of instability
- Category D There is potential to cause risk to life or property and site has known history of movement / signs of instability
- Category R Fully Restored (not included within BGCBC risk assessment)

4.3 The figures below show the number of spoil tips within each category currently on the historic BGCBC register.

Category	Blaenau Gwent
D	4
C	12
B	49
A	33
R	Note included in BGCBC register

4.4 The Authority has currently undertaken inspections of the category D & C spoil tips and are in the process of amending the categories (if required) using the Coal Authority criteria to ensure a standard reporting mechanism.

4.5 Following a review / inspection of the higher risk sites the database has been preliminary revised as follows

- 4.6 Category D - 1 No. (this area is currently being reviewed to assess its classification and whether it should be included within the Coal Tip register)
- Category C - 16 No
- Category B - 30 No
- Category A - 37 No
- Category R - 14 No.

Inspection of the lower risk sites (A & B's) is scheduled to be undertaken over the forthcoming months – subject to staff availability

5 Implications Against Each Option

5.1 **Option 1:** That Members accept the ongoing tasks currently being undertaken by BGCBC staff to categorise / inspect the tips.

5.2 Staffing:

The post of spoil tip inspector was deleted from the Environment Structure and the task of inspections now tend to be ad hoc and dependent upon current workload – no specific Engineer tasked with work.

5.3 Assistance will be required from the Council'd Estates section with regards to identifying the landowners where disused tips are present.

5.4 **Impact on Budget**

Current annual revenue funding for the Reservoirs, Tips and Quarries is

- £4320 – general repair and maintenance
- £5810 – professional fees (usually utilised for the appointment of Reservoir Engineer to undertake the statutory Section 10 surveys on Reservoirs)

5.5 **Risk including mitigating actions**

Without a designated officer to undertake the inspections / assessments there will be a risk that the task may be delayed due to other priorities within the section.

5.6 There is a risk that private landowners will ignore their responsibilities under the Act. In this case, Blaenau Gwent will continue to respond to any concerns made about the stability of land, whether the site be a disused tip or site of natural instability

5.7 **Legal**

No legal issues at present but it is anticipated that new legislation will be introduced to replace the current Mines Tips and Quarries Act that may require additional duties for the local Authority to undertake.

5.8 **Option 2.** That Members' do not accept the Report and recommend alternative actions going forward.

5.9 **Implications:**

Dependant on the alternative action and the ability to inspect and categorise the tip within the set timeframe.

6. **Supporting Evidence**

Performance Information and Data

6.1 Inspect and re-categorise the spoil tips will ensure limited staff resources are directed towards the higher risk rankings

6.2 ***Expected outcome for the public***

Inspection and remedial works will increase public safety

6.3 ***Involvement (consultation, engagement, participation)***

To work with the Coal Tip Safety Policy Taskforce (CTSPT) to establish a mechanism for inspection

6.4 ***Thinking for the Long term (forward planning)***

6.5 ***Preventative focus***

NA

6.6 ***Collaboration / partnership working***

Work with the Coal Tip Safety Policy Taskforce (CTSPT)

6.7 ***Integration (across service areas)***

NA

6.8 ***EqIA***

NA

7. **Monitoring Arrangements**

To work with the Coal Authority to achieve the timeframes

Background Documents /Electronic Links

Mines Tip & Quarries Act