

Case Name: *Coal Action Network, R (On the Application Of) v Welsh Ministers & Anor* [2023] EWHC 1194 (Admin) (19 May 2023)

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Commentary:

In this case the High Court dismissed a judicial review challenge by Coal Action Network, regarding two decisions relating to the discharge of conditions on a licence for mining activities at a coal mine in Aberpergwm in the Vale of Neath, Wales. The court found that the decisions were correctly made, so the licence is valid.

Coal Action Network claimed firstly that the Welsh Ministers did not have the power pursuant to s26A of the Coal Industry Act 1994 to approve or refuse the authorisation of the coal mining operations which are the subject of the licence application. Secondly Coal Action Network challenged the decision of the Coal Authority to approve the licence application.

On the first point of challenge, the Court held that the Welsh Ministers were correct in their assertion that they did not have the power under s26A of the Coal industry Act 1994 - that power cannot be used when the conditional licence was granted before the s26A provisions came into force in 2017.

On the second point, Coal Action Network claimed that the Coal Authority had misinterpreted its powers, fettered its discretion and failed to take into account material considerations. The Court held that the Coal Authority had not fettered its discretion and had taken into account relevant material considerations in making its decision on whether the conditions precedent had been fulfilled.

This case is unusual in considering the discharge of conditions on coal mining licences and the remit of s26A under the Coal Industry Act 1994.

Case summary prepared by Lucy Morton