

**Application No.**  
P/15/0184

**Date**  
10th June 2015

**Determining Authority**  
MTCBC

**Proposed Development**

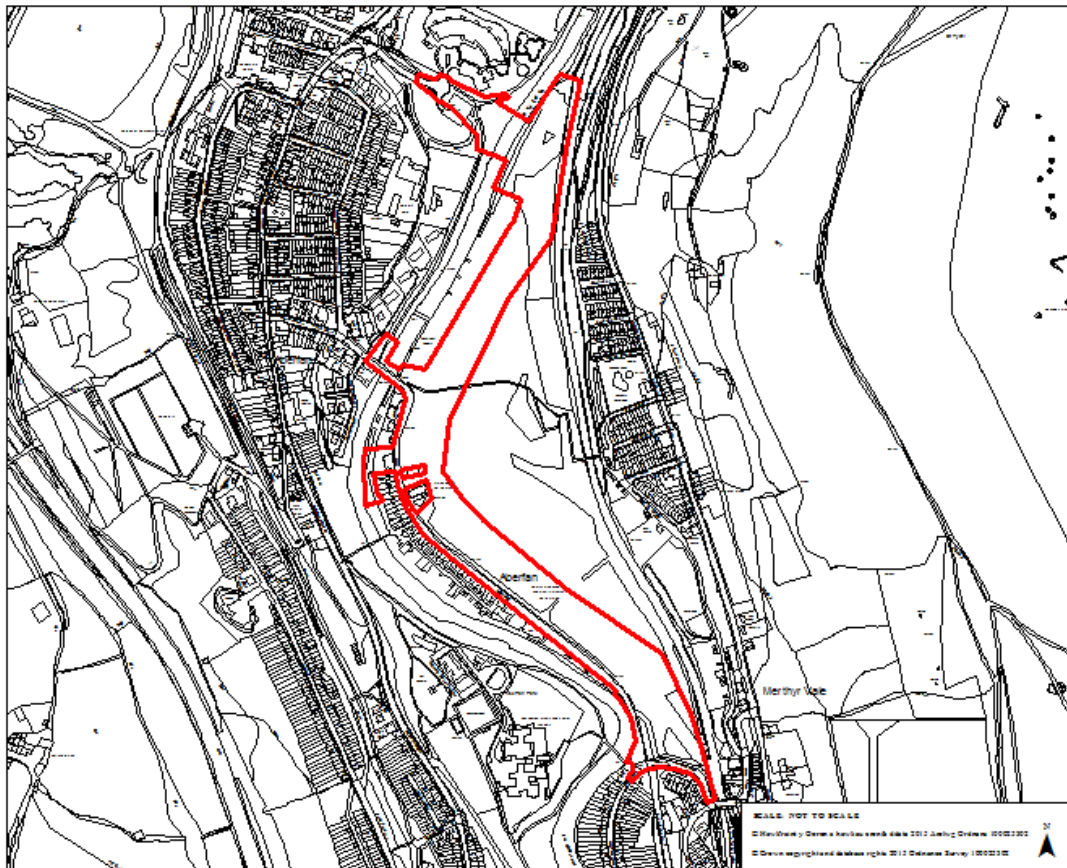
**Location**

**Name & Address of Applicant/Agent**

A revised scheme (following planning permission P/09/0287) for the construction of a new highway including a roundabout, a road bridge, a footbridge, footpaths and cycle paths, lighting, earth bunding, an area for the disposal of Japanese Knotweed and other associated works

Former Merthyr Vale Colliery Site  
Bells Hill  
Nixonville  
Merthyr Vale  
Merthyr Tydfil

Merthyr Tydfil County Borough Council  
F.a.o. Mr K Lee  
Unit 5 Triangle Business Park  
Pentrebach  
Merthyr Tydfil



**APPLICATION SITE**

The application relates to land within the settlements of Aberfan and Merthyr Vale and occupies an area covering approximately 8.2 hectares. It is predominantly flat in profile although it rises steeply at the southern end of the site.

The application site meanders its way through the former Merthyr Vale colliery site, from Crescent Street, Tudor Close, Taff Street and a railway bridge (forming part of Bells Hill) in the south to Ynysowen Primary School and the new Aberfan civic amenity site in the north. Part of the southern section of the site also includes a dismantled railway line. The majority

of the western boundary is bound by the embankments of the River Taff and the properties in Nixonville. The eastern boundary abuts part of the reclaimed colliery site and railway line beyond. The application site also includes the Bridge Street road bridge and an area of land to the north of this structure.

## PROPOSED DEVELOPMENT

Full planning permission is sought for a revised scheme (following planning permission P/09/0287) for the construction of a new highway including a roundabout, a road bridge, a footbridge, footpaths and cycle paths, lighting, earth bunding, an area for the disposal of Japanese Knotweed and other associated works. A considerable amount of the construction work is nearing completion and as such the application is retrospective. Once completed the infrastructure will comprise a new highway travelling in a north to south direction between the new Ynysowen Primary School and Crescent Street/Bells Hill, and will include the following elements:-

- A new roundabout at the southern end with four spurs. The southern two spurs would connect to Crescent Street and Bells Hill. The northern two spurs would enable access to Nixonville and form the main highway route between the two settlements.
- A new road bridge across the River Taff at the northern end of the site adjacent to the new Ynysowen Primary School.
- The demolition of the Bridge Street road bridge and construction of a new footbridge;
- Four new bus stops (two south bound and two north bound);
- Five junctions to enable access to future development land to the east and west of the new highway.
- A small section of road linking the northern end of Nixonville to the new highway.
- A new hammerhead turning facility at the northern end of Nixonville.
- Footpaths/cycle paths along the new highway.
- 14 off-street car parking spaces opposite 1-9 Tudor Close.
- Street lighting.
- Underground services and utilities, including a ground water storage tank to the south of the roundabout.
- Flood protection earth embankments, general infrastructure and landscape works.

The proposal also includes an area of land at the extreme north of the site which has been used as a cell to bury, treat and eradicate Japanese Knotweed which has been found within the application site.

The application was supported by the following:

- A Design and Access Statement (DAS) (including the 'original' DAS submitted with P/09/0287 attached as an appendix).
- Flood Consequences Assessment (FCA) modelling Report Addendum (Mott MacDonald September 2014).
- FCA Addendum: Damage Assessment (Mott MacDonald November 2014).
- Preliminary Ecological Appraisal (Wyedean Ecology June 2014).
- Tree Inspection and Activity Survey for Bats (Wyedean Ecology September 2014).

- Otter Assessment (Wydean Ecology September 2014)
- Habitat Management Plan.
- Bat and Otter Conservation and Mitigation Plan.
- Lighting Management Plan.
- Construction Management information.

The 'original' DAS states:

*“The proposed realigned B4285 spine road forms the core of the current application, which also includes a proposal to replace the existing weak road bridge at Bridge Street with a new footbridge. The B4285 will be reconfigured to create a bypass that will circumvent a multitude of traffic safety problems in both Nixonville and Aberfan Road”.*

*“The new road bridge will provide a direct vehicular link to the new school for buses and vehicles travelling from the south of the Merthyr Vale ward, and a new footbridge proposed at Bridge Street will offer an alternative route to the school for pedestrians”.*

The main amendments from the scheme previously permitted (P/09/0287) are the construction of a larger single roundabout rather than two smaller roundabouts, a change in the foundation design and geometry of the road bridge, a change in the geometry of the road, a change in the position and geometry of the access road into Nixonville and the inclusion of flood defence bunds.

## PLANNING HISTORY

The application site has a fairly extensive planning history, most of which is not directly relevant to the consideration of this application. The details of the previous applications relating to the site is summarised below:-

P/04/0641 (Outline) - Project Riverside mixed use development comprising - 230 dwellings, primary school, nursing home/residential home, two shops, office complex, pub/restaurant and demolition of Taff Street and Crescent Street - Secretary of State Call-in – Approved subject to conditions 11<sup>th</sup> March 2008.

P/09/0287 (Full) - Project Riverside Infrastructure incorporating new highways including two roundabouts, a road bridge across the River Taff, a footbridge, four bus stops with shelters, a public car park, a 'Home Zone' at Nixonville, footpaths and cycle paths, underground services and utilities (including sewers and a pumping station), flood protection walls, general infrastructure and landscape works. Approved 16<sup>th</sup> December 2010.

## CONSULTATION

### Internal

Town Planning Division's Policy & Implementation Group Leader - No objection.

Engineering and Highways Manager - No objection.

Town Planning Division's Landscape Architect - No objection.

Town Planning Division's Countryside Officer/Ecologist – No objection.

Environmental Health Manager - No objection subject to conditions.

Parks Manager – No objection.

### External

Natural Resources Wales (NRW) – No objection subject to conditions.

Glamorgan Gwent Archaeological Trust – No objection.

Welsh Water – No objection subject to advisory notes.

### PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012 the application was advertised by the following means:

- A press notice was published in the Merthyr Express newspaper on the 18/06/15.
- Site notices displayed in 17 locations in areas surrounding the site.
- Letters were sent to 99 surrounding properties.

As a result of this publicity exercise three letters of objection were received raising, in summary, the following concerns:

- The drawings showing the bund in relation to Ty Newydd are not correct.
- The bund by virtue of its height and close proximity to Ty Newydd would result in overlooking to this property and therefore a loss of privacy. The owner points out that the proposed planting of trees on the bund would result in an overbearing impact, overshadowing effect and not provide sufficient screening.
- The proposal would prejudice the security of Ty Newydd.
- The development is in breach of the Human Rights Act as the development would have a dominating impact and harm the quiet enjoyment of Ty Newydd.
- There is no provision for land drainage at the base of the bund adjacent to Ty Newydd.
- Loss of value of Ty Newydd as a result of the proposed development.
- The proposed footbridge would result in additional pedestrian traffic crossing River View which increases wear on the road and maintenance responsibilities with the increased possibilities of accidents. This road is not adopted.
- There is concern over the height of the bund to the rear of St Benedict's Catholic Church and over the potential flooding of the building and its boiler house.
- The boundary fence of St Benedict's Catholic Church has been disturbed.

### POLICY CONTEXT

#### National Planning Policy

Planning Policy Wales, 7th Edition (PPW) sets out the land use policies of the Welsh Government. The most relevant sections to the proposal are:

Section 2.6.1 – Development Plans - Planning applications must be considered in light of the strategy and policies in the adopted development plan.

Sections 5.5.1 – 5.5.3 – Development Management and the Conservation and Improvement of the Natural Heritage - note that the impact a development proposal may have on wildlife or the landscape is an important consideration in determining applications. Wherever possible adverse effects on the environment should be avoided or acceptably minimised.

Section 7.6.1 – Development Management and the Economy - indicates that a positive and constructive approach to applications which have economic benefits should be adopted.

Section 8.7.1 – Development Management and Transport - sets out the criterion that should be considered where transport implications may occur, such as impacts on local travel demand, public transport provision, accessibility and highway safety.

Paragraph 13.4.1 – Development Management and Flood Risk - Development proposals in areas defined as being of high flood hazard should only be considered where:

- New development can be justified in that location, even though it is likely to be at risk from flooding; and
- The development proposal would not result in the intensification of existing development which may itself be at risk; and
- New development would not increase the potential adverse impacts of a flood event.

Paragraph 13.4.3 – Development Management and Flood Risk - It is essential that Natural Resources Wales' advice is obtained and given due weight as a material consideration by planning authorities in determining individual planning applications.

13.7.1 – Development Management and Contaminated Land - Planning decisions need to take into account:

- The potential hazard that contamination presents to the development itself, its occupants and the local environment; and
- The results of a specialist investigation and assessment by the developer to determine the contamination of the ground and to identify any remedial measures required to deal with any contamination.

The policies in PPW are supported by Technical Advice Notes (TANs). The most relevant TANs to this application are as follows:-

TAN5 - Nature Conservation and Planning sets out measures that should be followed in delivering the protection and enhancement of nature conservation.

TAN 12 - Design advises that the Assembly Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and

delivers environmental sustainability, economic development, and social inclusion at every scale throughout Wales.

TAN 1 - Development and Flood Risk provides a framework within which risks arising from both river and coastal flooding, and from additional run-off from development in any location, can be assessed.

TAN 18 – Transport describes how to integrate land use and transport planning and explains how transport impact should be assessed and mitigated.

TAN 23 - Economic Development advises on, amongst other issues, assessing the economic benefits of new development.

### Local Planning Policy

The following policies of the Merthyr Tydfil Local Development Plan (LDP) 2006-2021 are relevant to the determination of this application.

Policy AS10: Core highway network improvements.

This policy safeguards land from development where it would prejudice the implementation of the Aberfan – Merthyr Vale Link (T1) and other highway improvements.

- Policy BW4 - Settlement boundaries/location constraints.
- Policy BW5 - Natural heritage.
- Policy BW6 - Townscape and built heritage.
- Policy BW7 - Sustainable design and place making.
- Policy BW8 - Development and the water environment.
- Policy BW11 - Transport, cycling and pedestrian proposals.
- Policy BW12 - Development proposals and transport.
- Policy BW16 - Protecting/enhancing the network of leisure facilities.
- Policy BW18 - Contaminated land.
- Policy TB11 - Access, parking and accessibility of local facilities.
- Policy AS3 - Housing allocations in other growth areas (H39 – Former Merthyr Vale Colliery – Project Riverside) for 150 houses in the LDP.

Supplementary Planning Guidance (SPG):

SPG Note 4: Sustainable Design (July 2013)

SPG Note 5: Nature and Development (May 2015)

### PLANNING CONSIDERATIONS

The principle of this proposal has firmly been established by the granting of planning permission P/09/0287. Committee will note that this permission is still extant and does not expire until December 2015. As noted above, land is also safeguarded in LDP (policy AS10) for a new road scheme Aberfan - Merthyr Vale link – T1. Paragraph 4.10.3 of the LDP points out that this proposal '*is designed to knit the two communities of Aberfan and Merthyr Vale together more effectively and to provide better access to the development proposals on the former Merthyr Vale Colliery Site (Project Riverside)*'. Therefore, whilst

this proposal is specifically for the construction of the new road and associated bridges and infrastructure, it has been designed to ensure that the surrounding land can be developed without being at risk of flooding. It should also be noted that the impact of the proposal on surrounding highway networks and junctions has been fully considered under the previous permitted application and found to be acceptable. As such, it is not considered necessary to explore such issues again under this application. Therefore, given the principle of the development is acceptable, the main considerations in the assessment of this application are:

- The impact on fluvial flood risk from the River Taff.
- The impact on the character and appearance of the area.
- Highway and pedestrian safety.
- The impact on residential amenity.
- The impact on ecology.

#### The impact on fluvial flood risk from the River Taff.

The application site lies within Zone C2 as defined by the Development Advice Maps (DAMs) referred to under TAN15: Development and Flood Risk. The DAMs dictate which areas are considered liable to flooding. Figure 1 of TAN 15 describes Zone C2 as areas of the floodplain without significant flood defence infrastructure. This is used to indicate that only less vulnerable development should be considered subject to the application of a justification test, including acceptability of consequences. Figure 2 of TAN 15 lists the types of development that are defined as less vulnerable development, most notably this includes transport and utilities infrastructure, which is the nature of this application.

Following extensive negotiation and the subsequent submission of the above mentioned FCA reports, NRW has raised no objection to the application. To ensure that the proposed road and any future residential development (i.e. on housing allocation H39) on the eastern side of the proposed road are flood free for the 0.1% (1 in 1000 year) extreme flood event, a flood defence (in the form of grassed embankments) has been incorporated into the design of the scheme. These embankments mainly line the western extremities of the carriageway (including the foot/cycle path) and have been constructed to a maximum height of approximately 2.8m. The modelling undertaken as part of this application also indicates that the proposed flood defence would have an overall positive impact, in terms of protecting existing properties in the surrounding area from flooding. Indeed, the properties in Nixonville are likely to experience the best enhanced protection.

Given the above and the fact that NRW have raised no objection to the proposal it accords with policy BW8 of the LDP.

#### The impact on the character and appearance of the area.

The greatest visual impact would undoubtedly be from the road bridge and footbridge. They will clearly be large visible structures in the landscape. Their height above the river bed is not only dictated by the river bank either side but also by the level of the 1 in 1000 year flood event. However, their simple structures will ensure that they do not dominate the landscape. It should also be noted that the proposed footbridge replaces the existing road bridge and as such it could be argued that, given the reduced scale of the footbridge, there would be a positive impact on the character and appearance of the area. Committee should

also note that the design and size of both structures is not dissimilar to those previously permitted (P/09/0287).

The grassed bunds will not only ensure flood protection but also help to soften the hard appearance of the road. Semi-mature tree planting and further native tree planting, when combined with existing landscaping, will help integrate the development with the surrounding area. Clusters of semi-mature trees, planted at strategic locations (i.e. on the roundabout and at the junctions of the roundabout), would ensure a positive immediate visual effect. Further landscaping along the edge of the carriageway would, in time, result in a far more pleasing environment for all users of the road and surrounding residents. It is also proposed to display a historic pit wheel in the centre of the roundabout. If Committee are minded to permit this application further details of the wheel, including its size and intended position on the roundabout, can be sought via a suitably worded condition.

Whilst the proposal does result in a minor encroachment into land protected by the LDP for informal recreation, it should be noted that the allocation was delineated from a relatively basic indicative masterplan drawn for the area. The road layout will also not prohibit access to the remaining area for informal recreation, or have an unacceptable impact on the designation as a whole. The LDP recognises this in paragraph 4.10.3 relating Policy AS10 where it states whilst the land formation to facilitate this highway improvement was carried out as part of the original reclamation works on the former colliery site, the “*precise highway details remain to be determined.*”

The Town Planning Division’s Landscape Architect and Policy & Implementation Group Leader have raised no objection to the proposal and as such it accords with policies BW5, BW6, BW7 and BW16 of the LDP.

#### Highway and pedestrian safety.

As highlighted above, the proposal would result in a number of benefits to pedestrians, cyclists and motorists both in terms of safety and ease of movement. There is also the potential for economic benefits from the increased accessibility to the surrounding settlements.

The Engineering and Highways Manager has advised that the submitted details are acceptable and has no objection to the proposed development in access, pedestrian and highway safety terms. The proposed development is therefore considered acceptable in this respect and complies with policies BW11, BW12 and TB11 of the LDP.

#### The impact on residential amenity.

The objections raised in relation to the impact of the development on Ty Newydd are fully appreciated. The construction of a bund, approximately 2.8 metres high, immediately adjacent to the rear boundary of this property has undoubtedly resulted in some loss of amenity. The affects that must be considered are those of overbearing impact, loss of light and overlooking (from people standing on the bund and looking into the garden and habitable rooms of the property).

The initial proposal included the landscaping of a section of the bund to the rear of Ty Newydd and the adjoining premises St Benedict’s Catholic Church with a combination of a



native hedge and tree planting. These planted areas would have been secured by a 1.2 metre high fence in an attempt to deter intruders. Following the objection from the owner of Ty Newydd (i.e. overbearing and overshadowing impact), this planting has been removed (along with the fence) from the proposal. The Council's Parks Manager also considers that the introduction of planting and fencing would significantly hinder the maintenance of this part of the bund. The landscaping plans have therefore been amended and now propose a grass seeded embankment that would be cut four times per year. This overcomes any overbearing and overshadowing impact that planted trees may have had on the amenities of the occupiers of Ty Newydd.

The above clearly does not overcome the objectors concerns with regard to overlooking. Therefore, a judgement has to be made of the likelihood of anyone walking on the bund and looking directly into Ty Newydd. If this happens, the frequency of such an event also has been assessed. The road has been designed with footpaths on both sides. Therefore it is anticipated that anyone walking along the road would use these designated areas. Given the layout of the scheme and future desire walking lines, it is difficult to envisage anyone needing to utilise the bund to get to a specific destination. There may of course be odd occasions when, for example, children may climb up the bund, however, such potential sporadic events (which may result in the loss of some residential amenity) would not warrant a refusal of this application. The security concerns of the owner of Ty Newydd are also fully appreciated. However it is considered that the proposal would not have a detrimental impact on security. Indeed, the use of the road may improve surveillance in this area.

Given the sun's path, the bund does not result in any significant loss of light to Ty-Newydd and its garden. There is an overbearing impact, however; this is relatively minor particularly when standing in the house and garden and comparing the height of the bund to the height of the rear boundary fence. The bund also slopes away from the rear boundary of Ty-Newydd which helps reduce any impact. Furthermore, it is anticipated that any sense of being dominated by the bund would lessen when its appearance is softened by grass. As Committee already appreciate the potential loss of value of a property, as a result of a proposed development, is not a material planning consideration.

With regards to the objections raised by St. Benedict's Catholic Church and the owner of Ty-Newydd concerning surface water run-off, amended plans have been submitted in an attempt to overcome these concerns. Whilst it is considered there would not be a significant amount of water run-off from the bund to the rear of these properties, the applicant has agreed to provide a surface water drainage system the entire length of the rear of these properties. This is considered acceptable. The submitted plans also propose a 1.8 metre high fence to the rear and side of the church and disused St John's Ambulance site and building. Committee will be aware that this is permitted development (i.e. does not require planning permission). As in the case of Ty Newydd, the bund does not result in any significant overbearing impact or loss of light to the church and its grounds.

Finally, it is considered that the bund does have the added benefit of providing some attenuation to these properties from the noise of vehicles travelling along the road.

The objections raised in relation to the impact of the development on properties in River View are noted. However, the intention is that the footbridge would connect to the existing riverside footpath the west of this cul-de-sac and an existing pavement in the ownership of the Council. The footbridge would not provide any additional potential for

pedestrians/cyclists to use River View than currently exists. As this is not adopted and as such a private road, any unauthorised use of the road is a civil matter.

Given the above the proposal accords with policy BW7 of the LDP.

### The impact on ecology

The Town Planning Division's Countryside Officer along with NRW have raised no objection to the proposal. The Bat and Otter Conservation and Mitigation Plan has been welcomed however, further details of compensation and mitigation measures need to be secured via a suitably worded condition if Committee are minded to permit this application. The proposal is therefore considered acceptable in ecological terms and therefore accords with policy BW5 of the LDP.

### CONCLUSION

The LDP recognises the importance of this core highway network improvement by its allocation in policy AS10. This application is a revision which both simplifies (e.g. a single roundabout rather than the double roundabout previously permitted) and enhances (improved road geometry and flood defences) the previously permitted scheme. It would also ensure that the adjacent allocated housing land is capable of being developed without the need for further flood mitigation. For an infrastructure scheme of this size there is almost certainly going to be objections. The objections have to be balanced against the wider benefits of the proposal which in this case significantly outweigh any harm caused to three neighbouring residents. It is considered that the proposal complies with the relevant policies contained within the LDP and is acceptable in terms of its impact on flooding, the character and appearance of the area, highway and pedestrian safety, residential amenity and ecology.

### **RECOMMENDATION: BE APPROVED** subject to the following **CONDITIONS:-**

1. All planting and seeding comprised in the approved details of landscaping (Drawings CS/072769/P/SK3001/A; CS/072769/P/SK3002/A; CS/072769/P/SK3003/A) shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason** - To ensure that the new development will be visually attractive in the interests of amenity and to protect the habitat of foraging bats in accordance with policies BW5 and BW7 of the Merthyr Tydfil Local Development Plan.

2. Prior to the road, hereby permitted, being brought into use full details of bat and otter compensation and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be undertaken in accordance with a time scale to be set out in submitted full details.

**Reason** - To safeguard European Protected species in accordance with policy BW5 of the Merthyr Tydfil Local Development Plan.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

**Reason** - In the interest of health and safety and environmental amenity and so as to accord with Policy BW18 of the Merthyr Tydfil Local Development Plan.

4. Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1400 on Saturdays and at no time on Sundays or Public Holidays, unless otherwise agreed in writing by the Local Planning Authority.

**Reason** - To ensure that the noise emitted/activities are not a source of nuisance to occupants of nearby properties in accordance with Policy BW7 of the Merthyr Tydfil Local Development Plan.

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