



## **PLANNING & DEVELOPMENT COMMITTEE**

**21 OCTOBER 2021**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 21/1193/15 (KL)  
**APPLICANT:** Rhondda Cynon Taf CBC  
**DEVELOPMENT:** Removal of condition 13 (retaining walls) of planning permission ref: 21/0378/08.  
**LOCATION:** YSGOL GYNRADD GYMRAEG ABERDAR,  
LABURNUM DRIVE, CWMDARE, ABERDARE, CF44 8RT  
**DATE REGISTERED:** 25/08/2021  
**ELECTORAL DIVISION:** Aberdare West/Llwydcoed

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**RECOMMENDATION:** Approve

#### **REASONS:**

It is considered that the proposal to remove condition 13 (retaining wall details) from planning ref. 21/0378 is acceptable as the issue will be dealt with under a Design and Build Contract undertaken by the developer which would require the works to be carried out in accordance with British Standards and industry best practice. Furthermore, the developer/contractor would be required to satisfy the requirements of Section 13 of the Mid Glamorgan County Council Act 1987 and the works are therefore covered by separate legislation.

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#### **REASON APPLICATION REPORTED TO COMMITTEE**

- The application has been submitted by, or on behalf of the Council or involving land owned by the Council, where the Council's interest is of more than a minor nature.

#### **APPLICATION DETAILS**

This application seeks to remove condition 13 of planning permission ref. 21/0378, which granted consent for a part two-storey, part single storey extension and associated works at Ysgol Gynradd Gymraeg Aberdar, Laburnum Drive, Cwmdare.

The previous application was granted on 26<sup>th</sup> May 2021, subject to a number of conditions.

Condition 13 of the permission states:

*Prior to the construction of any retaining wall, the developer shall submit to the Local Authority details of all retaining walls to be built as part of the development, including drawings and structural calculations. The submitted details shall be accompanied by a certificate from an appropriately accredited independent consulting engineer confirming that the proposed retaining wall(s) are acceptable from a structural perspective. The approved retaining wall(s) shall be built in accordance with the agreed details. Following construction of the retaining wall(s), additional certification from an independent suitably accredited engineer confirming that the works have been constructed in accordance with the agreed details and that they are physically fit for their intended purpose shall be supplied to the Local Planning Authority.*

*Reason: In the interests of amenity and public safety, in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.*

The condition was appended to the original permission as the proposal indicated that a number of retaining walls would be constructed however, no details were included.

Since the approval of the original application, the applicant has advised that the retaining walls would be designed and constructed under a Design and Build Contract which means that the contractor is responsible for designing the walls in accordance with British industry standards and best practice. The contract would also require the contractor to put right any defects that may occur following the completion of the works. It is advised that a Structural Engineer would oversee the structural elements of the works however, a Supervisor, who has a contractual responsibility, would check that the works are being/have been constructed in accordance with the Scope of Works (i.e. in compliance with the structural drawings, specifications and calculations). The Supervisor would be responsible for signing off the works as being in compliance with the Scope of Works.

## **SITE APPRAISAL**

The application site relates to an existing Welsh-medium primary school which is located within the village of Cwmdare, Aberdare. The site extends to approximately 0.95 ha with the existing school building being located towards the northern end. The site is accessed off Laburnum Drive to the western boundary where a vehicular drop-off/pick-up loop is also provided. A staff car park is provided to the north of the existing school building whilst the remaining area consists of grass and hard-surface play areas. Ground levels within the site fall gradually from north to south however, the existing school building is situated on a flat plateau. The works approved in the previous permission have already commenced.

The surrounding area is predominantly residential in character with the nearest properties to the proposed development being located immediately adjacent to the eastern boundary (nos. 12, 14 & 15 Cherry Court). There are further properties located on the opposite side of Cherry Court (nos. 14, 17, 19, 21 & 23 Camelia Close and nos. 20 22 Sycamore Close) and to the south (nos. 1, 9, 10 & 11 Cherry Court).

## **PLANNING HISTORY**

21/0378	Ysgol Gynradd Gymraeg Aberdar, Laburnu Drive, Cwmdare, Aberdare	Part two-storey, part single-storey extension of existing school to facilitate additional classrooms and extension to hall, together with a fully accessible Welsh-medium childcare facility. Includes a car park extension and additional hard surface play area.	Granted 26/05/21
08/1818	Ysgol Gynradd Gymraeg Aberdar, Laburnu Drive, Cwmdare, Aberdare	Eco School Green Flag	Granted 20/01/09
06/0807	Ysgol Gynradd Gymraeg Aberdar, Laburnu Drive, Cwmdare, Aberdare	Erection of demountable classroom	Granted 14/07/06
05/1912	Ysgol Gynradd Gymraeg Aberdar, Laburnu Drive, Cwmdare, Aberdare	Proposed water-tight, air-tight storage container for storage of school equipment, a free-standing portable unit.	Granted 19/12/05

## **PUBLICITY**

The application has been advertised by means of direct neighbour notification and through the erection of 5no. site notices in the vicinity of the site. No letters of objection or representation have been received.

## **CONSULTATION**

None undertaken

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

The application site is located inside the defined settlement boundary and is unallocated. The following policies are considered to be relevant in the determination of the application:

**Policy AW2** - advises that development proposals on non-allocated sites will only be supported in sustainable locations.

**Policy AW5** - sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6** - requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

**Policy AW8** - seeks to preserve and enhance the natural environment, including protected and priority species.

**Policy AW10** - sets out criteria for environmental protection and public health.

**Policy NSA12** - identified criteria for assessment of development proposals within and adjacent to settlement boundaries

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24<sup>th</sup> February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WG's current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

Welsh Office Circular 016/14: The Use of Planning Conditions for Development Management.

Paragraph 2.4 indicates that Section 73 of the Town and Country Planning Act 1990 provides for applications to be made to vary or remove conditions attached to existing planning permissions.

Paragraph 3 states that Conditions should only be imposed on planning permissions if the conditions meet the six tests, these being:

1. Necessary
2. Relevant to planning
3. Relevant to the development to be permitted
4. Enforceable
5. Precise
6. Reasonable in all other respects

Other relevant policy guidance consulted:

PPW Technical Advice Note 5: Nature Conservation and Planning;  
PPW Technical Advice Note 11: Noise;  
PPW Technical Advice Note 12: Design;  
PPW Technical Advice Note 18: Transport;  
PPW Technical Advice Note 21: Waste;  
Manual for Streets

## **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

### **Main Issues:**

#### **Principle of the proposed development**

Planning permission (ref. 21/0378) has previously been granted for the construction of an extension and associated works at Ysgol Gynradd Gymraeg Aberdar, Laburnum Drive, Cwmdare. The works involve the construction of a number of retaining walls within the site but no details were submitted with the original application. As such, a condition (condition 13) was imposed on the consent to ensure that the walls are built to an acceptable standard.

This application seeks the removal of condition 13 under Section 73 of the Town and Country Planning Act 1990. Applications made under Section 73 allow the Local Planning Authority to do one of two things. It can: -

1. Grant consent either with or without conditions; or,
2. Refuse

The principle of the proposed development has already been established in the granting of planning permission ref. 21/0378 and the key considerations in the determination of this application is whether condition 13 is still necessary and reasonable.

As indicated previously in this the report, the applicant has indicated that the retaining walls would be designed and constructed under a Design and Build Contract which means that the contractor is responsible for designing the walls in accordance with British industry standards and best practice. The contract would also require the contractor to put right any defects that may occur following the completion of the works. It is advised that a Structural Engineer would oversee the structural elements of the works however, a Supervisor, who has a contractual responsibility, would check that the works are being/has been constructed in accordance with the Scope of Works (i.e. in compliance with the structural drawings, specifications and calculations). The Supervisor would then be responsible for signing off the works as being in compliance with the Scope of Works.

As the information provided by the applicant indicates that assurances are already in place to safeguard against any potential future problems and that the works would be carried out and supervised by qualified Structure Engineers and in accordance with British industry standards and best practice, the condition is no longer considered necessary or reasonable. Furthermore, the developer/contractor would be required to satisfy the requirements of Section 13 of the Mid Glamorgan County Council Act 1987 and the works are therefore covered by separate legislation.

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 (as amended) however, the CIL rate for this type of development as set out in the Charging Schedule is £nil and therefore no CIL is payable.

### **Conclusion**

It is considered that the proposal to remove condition 13 (retaining wall details) from planning ref. 21/0378 is acceptable as the issue will be dealt with under a Design and Build Contract undertaken by the developer which would require the works to be carried out in accordance with British Standards and industry best practice. Furthermore, the developer/contractor would be required to satisfy the requirements of Section 13 of the Mid Glamorgan County Council Act 1987 and the works are therefore covered by separate legislation.

**RECOMMENDATION: Grant**

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents received on 15<sup>th</sup> March 2021 unless otherwise to be approved and superseded by details required by any other condition attached to this consent:

- Drawing No. YGA-ASL-00-ZZ-DR-A-0100 Rev. P3: Site Location Plan
- Drawing No. YGA-ASL-00-00-DR-A-0102 Rev. P4: Proposed Ground Floor Plans
- Drawing No. YGA-ASL-00-02-DR-A-0104 Rev. P4: Proposed Roof Plans
- Drawing No. YGA-ASL-00-ZZ-DR-A-0105 Rev. P4: Proposed Site Elevations Sheet 1
- Drawing No. YGA-ASL-00-ZZ-DR-A-0106 Rev P4: Proposed Site Elevations Sheet 2
- Drawing No. YGA-ASL-00-00-DR-A-0202 Rev P6: Proposed Two Storey Extension Ground Floor Plan
- Drawing No. YGA-ASL-00-ZZ-DR-A-0204 Rev. P6: Proposed Elevations Sheet 1
- Drawing No. YGA-ASL-00-ZZ-DR-A-0205 Rev P6: Proposed South and East Elevations
- Drawing No. YGA-ASL-00-ZZ-DR-A-0206 Rev. P6: Hall Extension Elevations
- Drawing No. YGA-ASL-00-ZZ-DR-A-0209 Rev. P2: 3D Views
- Drawing No. YGA-ASL-00-ZZ-DR-L-0900 Rev P7: Landscape General Arrangement
- Drawing No. YBM-ASL-00-B1-DR-A-0101 Rev. P4: Proposed Lower Ground Floor Plans
- Drawing No. ASL-YGA-00-01-DR-A-0103 Rev. P4: Proposed First Floor Plans
- Drawing No. 6700-BHP-VE-XX-DR-C-(50)002 Rev. P02: Drainage Long Sections
- Drawing No. 6700-BHP-VE-XX-DR-C-(50)005 Rev. PO1: Drainage Construction Details
- Drawing No. 6700-BHP-VE-XX-DR-C-(50)006 Rev. PO1: Attenuation Tank Details – Sheet 1
- Drawing No. 6700-BHP-VE-XX-DR-C-(50)007 Rev. PO1: Attenuation Tank Details – Sheet 2

- Drawing No. 6700-BHP-VE-XX-DR-C-(50)101 Rec. PO2: Proposed Overland Flow Routes
- Drawing No. 6700-BHP-VE-XX-DR-C-(60)001 Rev. PO1: General Arrangement
- Drawing No. 6700-BHP-VE-XX-DR-C-(60)005 Rev. PO1: External Works Construction Details
- Drawing No. 2021-008 E10 Rev. 01: Proposed External Lighting Layout
- Drawing No. FDS-36993-00-0901 Rev. PO1: Fire Sprinkler Installation – Builders Work Plan and Sections
- Document Ref. ArbTS\_1060.3\_YGGAberdare: Arboricultural Report (dated 8<sup>th</sup> March 2021)
- Document Ref. 1885: Archaeological Desk Based Assessment (dated November 2019)
- Document Ref. 8769/JA: Noise Impact Assessment (dated 10<sup>th</sup> March 2021)
- Document Ref. FM-SITE-020: Site Waste Management Plan (dated 17/02/2021)
- Document Ref. FM-SITE-001: Construction Management Plan (dated 17/02/2021)
- Document Ref. YGG-HYD-XX-XX-RP-GE-1000: Phase 1 Ground Conditions Desk Study (dated 16 December 2019)
- Document Ref. YGG-HYD-XX-XX-RP-GE-1002: Phase 2 Ground Investigation Report (dated 10 June 2020)

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. The means of access, together with the parking and turning facilities, shall be laid out in accordance with the submitted plan (60) 001 REV PO1 and approved by the Local Planning Authority. The off-street car parking shall remain for the parking of vehicles associated with both schools thereafter.

Reason: In the interests of highway safety and to ensure vehicles are parked off the highway, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

4. The only access permitted off Cherry Court after construction will be for maintenance vehicles only with no pedestrian access or pick up and drop off facilities permitted.

Reason: In the interests of highway and pedestrian safety, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.



5. The vehicular crossover for maintenance vehicles served off Cherry Court shall be constructed in accordance with drawing No. YGA-BHP-VE-XX-DR-C-(70)00 (received by the Local Planning Authority on 25<sup>th</sup> June 2021 and agreed on 29<sup>th</sup> June 2021 - ref. 21/0843). The works shall be implemented prior to beneficial use, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

6. The approved Construction Method Statement shall be adhered to throughout the development process unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of the safety and free flow of traffic, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

7. HGV's used during construction shall be restricted to 09:00am to 15:00pm weekdays, 09:00am to 13:00pm Saturdays with no deliveries on Sundays and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety and free flow of traffic, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

8. The development shall be implemented in accordance with the Wheel Washing and Traffic Management Plan (received by the Local Planning Authority on 9<sup>th</sup> June 2021 and agreed on 26<sup>th</sup> June 2021 – ref. 21/0843). The approved details shall be maintained throughout the construction period unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that mud and debris are not deposited from the construction site onto the public highway, in the interests of highway safety, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

9. Surface water run-off from the proposed development shall not discharge onto the public highway or connected to any highway drainage system unless otherwise agreed in writing by the LPA.

Reason: In the interests of highway safety and to prevent overcapacity of the existing highway drainage system and potential flooding, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

10. The balustrade at the edge of the raised walkway to the north and eastern elevations of the extension shall be erected in accordance with the approved

details (drawing no. YGA-ASL-00-00-DR-A-0502: Retaining Wall Guarding, received by the Local Planning Authority on 31<sup>st</sup> August 2021 and agreed on 24<sup>th</sup> September 2021 – ref. 21/1206). The balustrade shall be installed as per the agreed details prior to the extension being brought into beneficial use, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity and privacy of neighbouring residential properties immediately adjacent to the site and in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

11. The external lighting scheme shall be implemented in accordance with the approved details (External Lighting Lux, Lighting Details -Sirocco Park: Data Sheet received by the Local Planning Authority on 24<sup>th</sup> August 2021 and agreed on 24<sup>th</sup> September 2021 – as per Discharge of conditions ref. 21/1151)

Reason: In the interests of the amenity of neighbouring residential properties immediately adjacent to the site and in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

12. All planting, seeding or turfing comprised in the approved details of landscaping (drawing no. YGA-ASL-00-ZZ-DR-L-0900 Rev. P7) 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, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

13. Any external plant (including the sprinkler water tank) shall not exceed the plant noise limits set out in Section 8 of the approved Noise Impact Assessment.

Reason: In the interests of amenity and public safety, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

14. The scheme shall be implemented, retained and maintained in accordance with the approved ecological mitigation and enhancement measures (doc ref. 320025 YGG Aberdar: External Works Specification rec. 08/07/21, drawing nos. YGA-ASL-00-ZZ-DR-A-0205: Proposed Elevation Sheet 2, YGA-ASL-00-ZZ-DR-L-0900: Landscape General Arrangement, YSA-ASL-00-ZZ-DR-L-0910: Planting Plan, YGA-ASL-00-ZZ-DR-L-0930: External Works Details 01, YGA-ASL-00-ZZ-DR-L-0931: External Works Details 02, YGA-ASL-00-

ZZ-DR-L-0932: External Works Details 03, YGA-ASL-00-ZZ-DR-L-0933: External Works Details 04, received by the Local Planning Authority on 9<sup>th</sup> July 2021 and agreed on 23<sup>rd</sup> July 2021 – ref. 21/0802).

Reason: To provide biodiversity mitigation and enhancement, in accordance with Policy AW8 of the Rhondda Cynon Taf Local Development Plan.

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

Reason: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

16. No infiltration of surface water drainage into the ground site is permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To prevent both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

17. The piling/foundation designs shall be implemented in accordance with the approved details (Document Ref. YGA-BHP-V1-XX-SP-S-0001, Drawing No. YGA-BHP-V1-XX-DR-S-(10)001 PO1 and Drawing No. YGA-BHP-ZZ-XX-DR-S-SK03 PO3 received by the Local Planning Authority on 14<sup>th</sup> June 2021 and agreed on 30<sup>th</sup> June 2021).

Reason: To ensure there is no unacceptable risk to groundwater during construction and methods/design, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.