



## **PWYLLGOR CYNLLUNIO**

**10.00 AM - DYDD MAWRTH, 8 MAWRTH 2022**

### **O BELL DRWY TEAMS**

1. Croeso a galw'r rhestr
2. Datganiadau o fuddiannau
3. Cofnodion y cyfarfod blaenorol (*Tudalennau 5 - 8*)
4. Gwneud cais am ymweliad(au) safle gan y ceisiadau a gyflwynwyd

**Adroddiad/au gan Bennaeth Cynllunio a Diogelu'r Cyhoedd  
Adran A - Materion i'w Penderfynu  
Ceisiadau Cynllunio wedi'u hargymell ar gyfer Cymeradwyaeth**

5. Cais Rhif P2021/1268 - Bayview, 3 Fernfield, Baglan (*Tudalennau 9 - 24*)  
Cynyddu uchder crib y byngalo presennol i ddarparu llety yn y gwagle sydd yn y to, estyniad deulawr yn y cefn gyda chyntedd, ynghyd â garej sy'n gysylltiedig â'r ystlyslun gyda theras do uwchben a gwaith cynnal cysylltiedig yn Bayview, 3 Fernfield, Baglan SA12 8AL.
  6. Cais Rhif P2021/0965 - Campfa 'Unit 9', Quay Road, Castell-nedd (*Tudalennau 25 - 38*)  
Amrywiad ar amodau 1, 3 a 4 caniatâd cynllunio P2019/5650 i ganiatáu caniatâd parhaol, newid amserau agor i 06:00 tan 21:00 o ddydd Llun i ddydd Gwener, 07:00 i 16:00 ar ddydd Sadwrn ac 08:00 i 15:00 ddydd Sul, a chaniatáu i gerddoriaeth uchel gael ei chwarae'n unol â'r adroddiad asesiad sŵn a gyflwynwyd yng Nghampfa 'Unit 9', Quay Road, Castell-nedd SA11 1SL.
- Adran B - Materion Er Gwybodaeth**
7. Penderfyniadau Dirprwyedig - 6 Chwefror i 27 Chwefror 2022 (*Tudalennau 39 - 48*)

8. Eitemau brys  
Unrhyw eitemau brys yn ôl disgrisiwn y Cadeirydd yn unol ag  
Adran 100B(4)(b) o Ddeddf Llywodraeth Lleol 1972.

**K.Jones**  
**Prif Weithredwr**

**Canolfan Ddinesig**  
**Port Talbot**

**Dydd Mercher, 2 Mawrth 2022**

## **Aelodaeth Pwyllgor:**

**Cadeirydd:** S.Paddison

**Is-Gadeirydd:** S.Pursey

**Aelodau:** Councillors D.Keogh, R.Mizen, S.Bamsey, R.Davies, S.K.Hunt, A.N.Woolcock, C.Williams, S.Renkes, M.Protheroe a/ac C.James

**Aelod Cabinet:** Councillor A.Wingrave

## **Gwneud cais i siarad yng nghyfarfod y Pwyllgor Cynllunio**

Mae gan y cyhoedd hawl i fynd i'r cyfarfod ac annerch y pwyllgor yn unol â gweithdrefn gytunedig y cyngor sydd ar gael yn [www.npt.gov.uk/planning](http://www.npt.gov.uk/planning).

Os hoffech siarad yn y Pwyllgor Cynllunio ynghylch cais yr adroddwyd amdano i'r pwyllgor hwn, mae'n rhaid i chi:

- Gysylltu â'r Gwasanaethau Democrataidd yn ysgrifenedig, naill ai drwy'r post yn: Y Ganolfan Ddinesig, Port Talbot SA13 1PJ, neu'n ddelfrydol drwy e-bostio: [democratic.services@npt.gov.uk](mailto:democratic.services@npt.gov.uk).
- Sicrhau eich bod yn gwneud eich cais i siarad ddau ddiwrnod gwaith cyn dyddiad y cyfarfod fan bellaf (erbyn 2pm ar y dydd Gwener blaenorol os yw'r cyfarfod ar ddydd Mawrth).
- Nodi'n glir rif yr eitem neu'r cais rydych am siarad amdani/o a chadarnhewch a ydych yn cefnogi'r cais neu'n ei wrthwynebu.
- Rhoi eich enw a'ch cyfeiriad (a fydd ar gael i'r cyhoedd oni bai fod rhesymau penodol dros gyfrinachedd).

Sylwer, dim ond un person sy'n gallu siarad ar ran pob 'categori' ar gyfer pob cais h.y. y gwrthwynebydd, y cefnogwr, yr ymgeisydd/asiant, y Cyngor Cymuned/Tref. Ceir manylion llawn yng ngweithdrefn gytunedig y cyngor.

Yn ogystal, os yw gwrthwynebydd yn dymuno siarad, hysbysir yr ymgeisydd/asiant gan y cyngor.

Os ydych yn dymuno trafod unrhyw agwedd ar siarad cyhoeddus, ffoniwch dîm y Gwasanaethau Democrataidd ar 01639 763313.

## **Cyflwyno sylwadau ar geisiadau cynllunio yr adroddir amdanynt i'r pwyllgor**

Os ydych yn dymuno cyflwyno sylwadau ar gais a gyflwynir i'r Pwyllgor Cynllunio hwn, sylwer bod rhaid i'r Adran Gynllunio dderbyn y rhain erbyn 2.00pm ar y dydd Gwener cyn cyfarfod y pwyllgor fan bellaf (yn seiliedig ar y cyfarfod dydd Mawrth arferol). Os nad yw'r cyfarfod ar ddydd Mawrth, dylid eu derbyn erbyn 2.00pm ar y diwrnod gwaith olaf ond un cyn y Pwyllgor Cynllunio fan bellaf.

Caiff sylwadau a dderbynnir yn unol â phrotocol y cyngor eu crynhoi a, lle y bo'n briodol, gwneir sylwadau arnynt ar ffurf Taflen Ddiwygio, a ddsberthir i aelodau'r Pwyllgor Cynllunio drwy e-bost ar y noson cyn cyfarfod y pwyllgor, a'i chyflwyno ar ffurf copi caled yn y cyfarfod.

## PLANNING COMMITTEE

(REMOTELY VIA TEAMS)

**Members Present:**

**15 February 2022**

**Chairperson:** Councillor S.Paddison

**Vice Chairperson:** Councillor S.Pursey

**Councillors:** D.Keogh, R.Mizen, S.K.Hunt, A.N.Woolcock,  
C.Williams, S.Renkes and M.Protheroe

**Officers In Attendance:** C.Morris, M.Shaw, J.Griffiths, R.Borthwick,  
C.Davies, N.Lake, G.White and T.Davies

---

### 1. **WELCOME AND ROLL CALL**

The Chair welcomed everyone to the meeting and roll call was taken.

### 2. **DECLARATIONS OF INTEREST**

The following Declaration of Interest was received at the start of the meeting:

Councillor C.Williams - Re Application No. P2019/5560 - Land Adjacent to the Towers Hotel, Jersey Marine, as he knows the Applicant personally – he considered this a prejudicial interest, and withdrew from the meeting and the discussion and voting thereon.

### 3. **MINUTES OF THE PREVIOUS MEETING**

**RESOLVED:** That the minutes of the previous meeting held on 25 January 2022, be approved.

4. **TO REQUEST SITE VISIT(S) FROM THE APPLICATIONS PRESENTED**

**RESOLVED:** That no site visits be held on the applications before committee today.

5. **APPLICATION NO. P2019/5560 - LAND ADJACENT TO THE TOWERS HOTEL, JERSEY MARINE**

(At this point in the meeting Councillor C.Williams reaffirmed his declaration of interest, and withdrew from the meeting, and the discussion and voting thereon.)

Officers made a presentation to the Planning Committee on this Application (Outline planning permission for the development of light industrial and office units (Use Class B1, B2 and B8) plus associated infrastructure at Land Adjacent to the Towers Hotel, Ashleigh Terrace, Jersey Marine), as detailed in the circulated report.

**RESOLVED:** That in accordance with Officers' recommendations, Application No. P2019/5560 be Approved.

6. **APPLICATION NO. P2021/1206 - GLANNANT PLACE, CWMGWRACH**

(Councillor C.Williams returned to the meeting)

Officers made a presentation to the Planning Committee on this Application (Two-storey detached dwelling with parking and associated works at Plot 1 Glannant Place, Cwmgwrach), as detailed in the circulated report.

**RESOLVED:** That in accordance with Officers' recommendations, Application No. P2021/1206 be Approved.

7. **DELEGATED DECISIONS - 17 JANUARY TO 6 FEBRUARY 2022**

Members noted the list of Delegated Decisions from 17 January to 6 February 2022.

**RESOLVED:** That the report be noted.

8. **URGENT ITEMS**

None were received.

**CHAIRPERSON**

Mae'r dudalen hon yn fwriadol wag



## SECTION A – MATTERS FOR DECISION

### Planning Applications Recommended For Approval

<b><u>APPLICATION NO:</u> P2021/1268</b>	<b><u>DATE:</u> 08/03/2021</b>
<b>PROPOSAL:</b>	Increase in ridge-height of existing bungalow to provide accommodation within the roof-space, two-storey rear extension with porch, plus attached garage to the side elevation with roof terrace above and associated retaining works
<b>LOCATION:</b>	Bayview, 3 Fernfield, Baglan, SA12 8AL
<b>APPLICANT:</b>	Mrs Donna Griffiths
<b>TYPE:</b>	Householder
<b>WARD:</b>	Baglan

### BACKGROUND INFORMATION

Cllr Renkes requested on 11<sup>th</sup> February 2022 that the application be determined via Planning Committee along with a request for a site visit, to consider the effect of the proposal on the residential amenity of neighbouring properties, particularly in respect of the potential for overlooking and overbearing impact.

The 'call-in' panel agreed that the application should be determined at Planning Committee on the above grounds. However, the request for a site visit was not upheld.

### SITE AND CONTEXT

The application site is located at the property known as Bayview, 3 Fernfield, Baglan.

The application site measures approximately 0.055 hectares in area and comprises of a detached bungalow with parking and associated garden areas.

The site is steeply sloping in profile from the west up to the east, with existing associated retaining works to the adjacent highway to the western and eastern sides. This highway curves around the site in a hairpin bend and is single-track width. The site is bounded by the highway to the north, east and west and a dwelling to the south. There is also a dwelling located below the site (Number 26 Pentwyn Baglan Road) on the western side. The site is located within the settlement of Baglan.

### DESCRIPTION OF DEVELOPMENT

This is a full planning application for the increase in ridge-height of the existing bungalow to provide accommodation within the roof-space, two-storey rear extension with porch, plus attached garage to the side elevation with roof terrace above, and associated retaining works.

Members should note that whilst this is a 'new' planning application, it is similar to that previously approved under Planning Application P2021/0406. Although each application is considered on its individual merits, the existing live permission will be a material consideration in the determination of this application, and any assessments or impacts will

need to be considered in light of the existing property, but also the 'fall-back' position with the scheme which has already been approved.

In respect of the roof extension element of this scheme, it is proposed to raise the ridge from its current height of approximately 4.6m to approximately 7.36m (measured in the centre). This is an increase of around 2.76m (compared to approximately 2.39m under the approved scheme). Additional windows are also proposed to all elevations, including roof-lights and a dormer. Figures 1, 2 and 3 below illustrate the existing and proposed front elevations (Not to Scale), as well as the previously approved scheme:



**1 Existing Front Elevation**  
1 : 100

*Figure 1 - Existing Elevation*



**Proposed Front Elevation**

*Figure 3 - Proposed Elevation (New Application)*



**1 Proposed Front Elevation**  
1 : 100

*Figure 2 - Proposed Elevation (as approved previously)*

In addition to the roof extension, an attached garage is proposed to the northern-side of the house with roof-terrace above. This will measure approximately 6.12m in length by 5m wide, and will reach a height of 3.8m to the top of the glass balustrading.

In respect of the rear extension, this will measure a total width of approximately 9.05m by 3.52m in depth (including the porch) and will reach a height of 7.47m. A cat-slide dormer is also proposed. The dwelling, as proposed, would be finished with light grey rendered walls at ground floor with cedar timber cladding at first-floor level, and with dark grey artificial slates for the roof. To the rear elevation, face-bricks are proposed at ground-floor level.

Externally, it should be noted that the rear porch would act as a retaining element. The existing retaining walls and hedging to the front of the property would remain in-situ. However, the existing pedestrian access steps/entrance is proposed to be blocked-up and the existing hedge extended across.

All plans / documents submitted in respect of this application can be viewed on the [Council's online register](#).

### NEGOTIATIONS

Not Applicable.

### PLANNING HISTORY

The application site has the following relevant planning history:

**P2003/1094** Construction of a single-storey extension. Approved 21/10/03.

**P2021/0406** Increase in ridge-height of existing bungalow to provide accommodation within the roof-space, two-storey rear extensions plus attached garage to the side elevation with roof terrace above, and associated retaining work. Approved 10/08/21.

### CONSULTATIONS

**Building Control Section:** Require design calculations for the retaining elements.

**Head of Engineering & Transport (Highways):** No objection, subject to conditions.

**Head of Engineering & Transport (Drainage):** No objection, subject to conditions.

**Contaminated Land Section:** No objection, subject to conditions.

### REPRESENTATIONS

The neighbouring properties were consulted on 11<sup>th</sup> January 2022 and a site notice was displayed on 11<sup>th</sup> January 2022.

In response, to date, 4 no. representations have been received, with the issues raised summarised as follows:

- Concerns regarding overlooking to the neighbouring properties (including windows and amenity space) from the proposal – including roof terrace and Juliet balcony.
- Concerns regarding overbearing to the neighbouring property from the proposal, exacerbated by the change in levels between the sites.
- The existing boundary fence to Number 26 should not be taken into consideration as it is unauthorised and not in the control of the applicant.
- The previously approved scheme constitutes overdevelopment and the various changes materially increases the bulk and massing of the building.
- The rear dormer adds further to the visual massing and creates an awkward and poorly resolved design, to the detriment of local character and quality.
- A number of trees have been removed from the site, thereby reducing overall landscaping.
- The proposal conflicts with Policy BE1 of the Local Development Plan, and the Council’s adopted Supplementary Planning Guidance on design.
- Concerns that the garage and roof terrace would extend beyond the principal elevation, which is not allowed.
- The last application had obscure-glazing to the front not a Juliet-balcony, which causes unacceptable overlooking.

## REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council’s duty and the “sustainable development principle”, as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

### National Planning Policy:

[Planning Policy Wales](#) (Edition 11) was revised and restructured in February 2021 to coincide with publication of, and take into account the policies, themes and approaches set out in, [Future Wales – the National Plan 2040](#) and to deliver the vision for Wales that is set out therein.

Future Wales now forms part of the Development Plan for all parts of Wales, comprising a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. All Development Management decisions, strategic and local development plans, planning appeals and all other work directed by the development plan need to accord with Future Wales.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015.

PPW11 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering

*Active and Social Places, Productive and Enterprising Places and Distinctive and Natural Places.* It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

PPW is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance:

- Technical Advice Note 12: Design

#### Local Planning Policies:

The Local Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

#### Topic Based Policies:

- **Policy SC1**      **Settlement Limits**
- **Policy EN8**    **Pollution and Land Stability**
- **Policy TR2**    **Design and Access of New Development**
- **Policy BE1**    **Design**

#### *Supplementary Planning Guidance:*

The following SPG is of relevance to this application:

- [Parking Standards](#) (October 2016)
- [Design](#) (July 2017)

#### Issues

Having regard to the above, the main issues to consider in this application relate to the principle of development, together with the impact on the visual amenity of the area, the amenities of neighbouring residents and highway safety.

#### Principle of Development

As the application site is located within the settlement limits defined by Policy SC1 of the adopted Neath Port Talbot Local Development Plan (LDP), the principle of the development at this location is generally acceptable, provided there are no overriding highway, amenity or environmental objections.

#### Impact on Visual Amenity

Whilst noting that the proposal would alter the appearance of the existing dwelling from a bungalow to a two-storey property, the proposal would have accommodation within the roof-space, rather than a full 'two-storey'. It is also noted that the proposal would retain three feature gables – albeit one would be larger. Nevertheless, it is considered that the overall dwelling (as extended) would have a modern attractive appearance with a mixture of gable-features to the front and rear and cat-slide dormer. Furthermore, it is also

considered that the use of render and cedar cladding would further add to the modern appearance.

In light of the above, and having regard to the scheme already approved under Planning Application P2021/0406, it is considered that the overall proposal would not have a detrimental impact upon the character and appearance of the surrounding area or street-scene, or the surrounding open countryside to the east.

### Impact on Residential Amenity

In respect of potential overlooking, it is noted that a number of new windows are proposed to the property. Due to the position of the application dwelling relative to surrounding properties the only windows/areas that have the potential to create overlooking issues face the southern and western boundaries.

In relation to the windows on the southern (side) elevation, these would serve a kitchen at ground floor and bathroom roof-light at first floor. In light of this and the fact that there is a separation distance of 20-21m to the neighbouring property (Number 2) to the south, it is considered that this element would not create any unacceptable overlooking issues.

Turning to the windows on the western (front) elevation facing Number 26, it is noted that there are three existing windows to the eastern side elevation of Number 26 facing the road – two of which are obscurely glazed, but one is clear glazing. As such, there is some potential for overlooking.

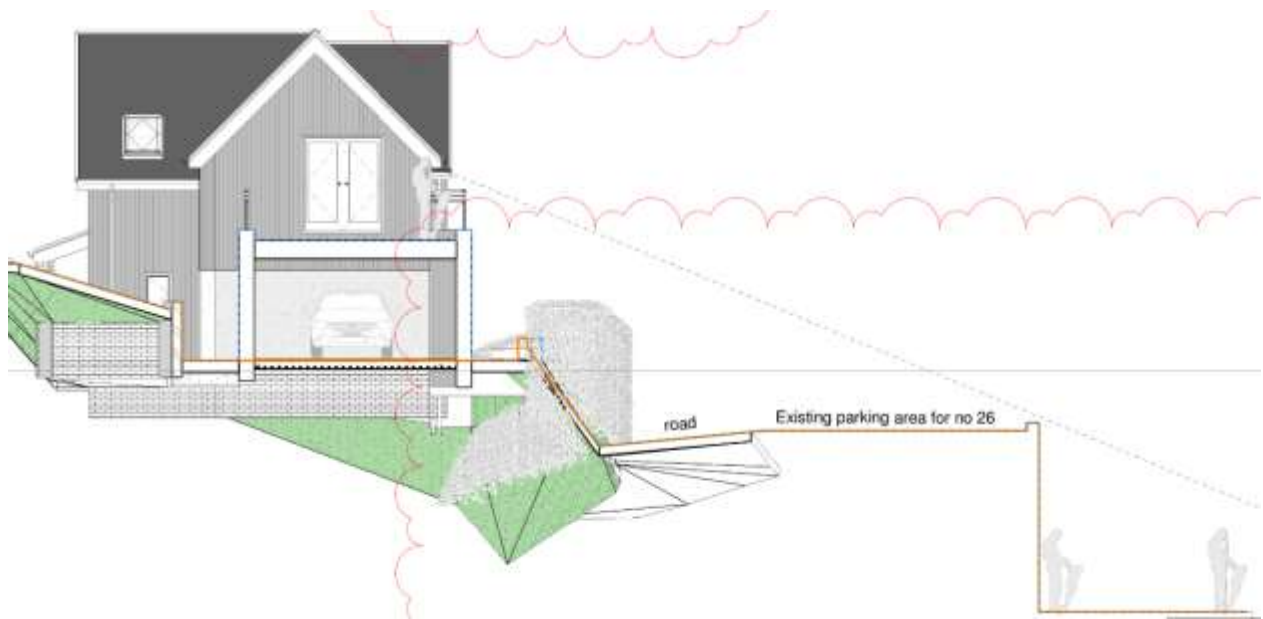
The floor level of Number 26 is located below the level of the road (with these windows also being below the level of the road level), as such there is already a degree of overlooking from the existing dwelling into Number 26. Furthermore, the owners of Number 26 have recently constructed fencing (albeit without the benefit of planning permission, but an application has now been submitted to retain them) to block any views into these windows from the road, and also potentially the application site. It is acknowledged however that this fence could potentially be removed in the future.

Notwithstanding this, it is considered that the change in levels, intervening highway, the respective angles and existing hedge to the front of Number 3 would ensure there is no unacceptable overlooking to the windows of Number 26.

In respect of the proposed roof terrace above the new garage, it is noted that this also has the potential to create overlooking into the garden area of Number 26. Again, however, it should be noted that there is a significant change in levels between the properties (approximately 5m – as shown in in Figure 4 overleaf – Not to Scale) between the floor-level of Number 3 and the pool/garden area of Number 26. There is also a separation distance from the top of the glass-railings along the roof terrace to the rear wall of the parking area at Number 26 of approximately 13m. It is also noted that there is a raised parking area and existing fencing on the boundary of Number 26 (albeit unauthorised), with a seating/barbeque 'amenity area' located below the parking area, as illustrated in Figure 5 below.

It is considered therefore that due to the change in levels and relative angles, existing boundary treatments to Number 26 and layout of the garden/amenity and parking areas,

this would ensure that there is no **unacceptable** overlooking into Number 26 below from the proposed roof terrace.



*Figure 5 - Cross Section through application site and Number 26 (NTS)*



*Figure 4 - Google Earth extract showing Number 26 in relation to the application site behind*

Although the occupiers of Number 26 have stated that the existing fence is unauthorised and could be removed, this would consequently mean that the amenity area would no longer remain 'private' as it would be visible from pedestrians and vehicles using the access road serving Fernfield (which leads to approximately 13 further dwellings). It should also be noted that the windows to Bedroom 1 and 2 would be obscurely-glazed, to prevent any unacceptable overlooking issues into the amenity area, while the landing area

would have a void in front and is non-habitable, so would not in itself create any unacceptable overlooking issues.

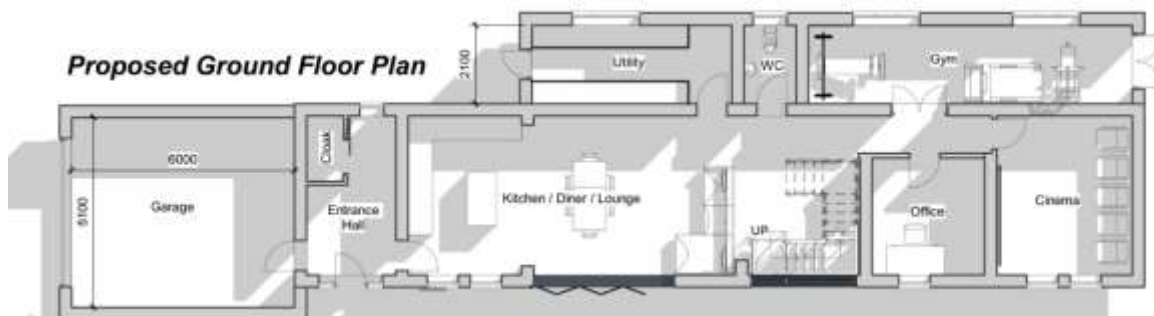
Finally, in respect of Bedroom 3 (on the southern side of the dwelling) it is noted that it would have French-doors with glazed 'Juliet-balcony' railings in front. As this is a railing only, and not a full balcony area, it is considered that this would not create any **unacceptable** overlooking issues above and beyond that of a window – especially as the patio/amenity area to Number 26 would be approximately 17-18m away at an angle of 30 degrees. Members should also note that bedrooms 3 and 4 on the previous scheme were not required or conditioned to be fitted with obscure-glazing, and the scheme now proposed would not create any additional overlooking over and above that of the one already consented. Figures 6 and 7 (below) illustrate the proposed floor plans, together with those of the previous approved scheme (Not to Scale).



**Proposed Ground Floor**  
1 : 100



**Proposed Ground Floor Plan**



**Proposed First Floor Plan**





With regard to potential overbearing and overshadowing, it is noted that the separation distance to the neighbouring properties (with the exemption of Number 26) is such that there would be no unacceptable issues. In respect of Number 26 specifically, it is noted that there is a change in levels between the application site and Number 26 (as illustrated by Figure 5 above). It is therefore considered that the dwelling, as proposed, would not create any unacceptable overbearing or overshadowing issues to such a degree to warrant refusal of the application – especially given the existing relationship between the two properties in terms of the changes in levels, intervening highway, retaining works and boundary treatments.

In addition, although the ridge-height of the current scheme would be higher than the previously approved scheme (by approximately 0.37m), the overall length and therefore massing has reduced from approximately 29.18m to 26.26m (which equates to approximately 2.92m).

In summary, it is considered that the proposed extension would have no unacceptable or detrimental impact upon the neighbouring properties in terms of overlooking, overbearing or overshadowing. Furthermore, this revised scheme would have no adverse impacts over and above the scheme previously approved that would warrant or justify refusal of this application.

#### Parking and Access Requirements and Impact on Highway Safety

The proposal provides for/retains three parking spaces on the site on the driveway area and within the garage. As such, the proposal would be considered acceptable in terms of parking provision.

The Head of Engineering and Transport (Highways Section) has assessed the proposal and offers no objection to the development, subject to conditions. These relate to the submission of a detailed Construction Method Statement (including emergency vehicles access and retaining wall methodology), drainage details, as well as a highway condition survey. Provided these are imposed on the application, it is therefore considered that the proposal would not have a detrimental impact in terms of highway and pedestrian safety.

#### Contaminated Land

The site has been identified as potentially contaminated land. However, as the Contaminated Land Unit offers no objection to the proposal, subject to conditions, it is considered that existing and future users of the site would not be adversely affected by ground contamination in terms of exposure to pollution.

#### Other Matters

As identified earlier in this report, a number of objections were received in response following the publicity exercise. In response to the main issues raised which have not been addressed elsewhere in this report, the following comments are made:

- In respect of the concerns regarding overdevelopment of the site, it should be noted that the total site area is 0.055 hectares or 555m<sup>2</sup> in area, and the dwelling (as extended) would have a footprint of approximately 157.6m<sup>2</sup>. This means that there is

approximately 397m<sup>2</sup> in land/garden area remaining on the application site and the development is not, therefore, 'overdevelopment' of the site.

- With regard to comments concerning the rear dormer, it should be noted that the cat-slide dormer would not be considered an incongruous addition to the property, and the use of the timber cladding would mean it would integrate with the other timber cladding on the property and is therefore acceptable in terms of visual amenity.
- The comments regarding the removal of trees are noted. However, this would not be a reason to refuse this application. Furthermore, it should be noted that under this scheme the existing hedge to the front of the property is proposed to be retained, in the interest of visual amenity and biodiversity.
- In respect of the comments that the proposal conflicts with Policy BE1 of the LDP and the Design SPG, it should be noted that this scheme, as well as the previous scheme, complies with the above, and is acceptable in terms of visual and residential amenity.
- With regards to the concerns that the garage and roof terrace would extend beyond the principal elevation, which is not allowed, it should be noted that this refers to which can be undertaken under 'Permitted Development' (i.e. without the benefit of planning permission). It does not preclude somebody applying for or being granted planning permission for such a development.
- Finally, in respect of the comments that the last application had obscure-glazing to the front not a Juliet-balcony, which causes unacceptable overlooking, it should be noted that not all of the first-floor windows to the front-elevation were required to be obscurely-glazed. Only the slotted windows serving Bedroom 1 and the window below the eaves serving Bedroom 2 were required/conditioned to be fitted with obscure-glazing. It should be noted that the remainder of the first-floor windows to the front elevation could be fitted with clear-glazing.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises Future Wales – the National Plan 2040 and the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

It is considered that the proposed development would not have a detrimental impact upon residential amenity or upon the character and appearance of the surrounding area/open countryside, and there would be no adverse impact upon highway and pedestrian safety. Hence, the proposed development would be in accordance with Policies SC1, EN8, TR2 and BE1 of the Neath Port Talbot Local Development Plan.

It is further considered that the decision complies with Future Wales - the National Plan 2040 and the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

RECOMMENDATION: Approval, subject to conditions.

## Conditions

### Time Limit Conditions

- 1 The development shall begin no later than five years from the date of this decision.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

#### List of Approved Plans

- 2 The development shall be carried out in accordance with the following approved plans and documents:

Dwg. No. A3-A105 Rev A.

Dwg. No. A3-A102 Rev B.

Dwg. No. A3-A104 Rev A.

Dwg. No. A3-A103 Rev B.

Dwg. No. A3-A100 Rev C.

Dwg. No. A3-A101 Rev B.

Dwg. No. A3-A110.

Dwg. No. A3-A107 Rev A.

Dwg. No. A3-A109 Rev A.

Reason:

In the interests of clarity.

#### Pre-Commencement Conditions

- 3 Prior to commencement of works on site, a scheme for the comprehensive and integrated drainage of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that no surface water or land drainage run off discharges directly or indirectly onto the public highway. The scheme, as approved, shall be fully implemented on site prior to the first beneficial occupation of the extension, and retained as such thereafter.

Reason:

In the interest of adequate drainage of the site and highway safety, and to comply with Policies BE1 and TR2 of the Neath Port Talbot Local Development Plan.

- 4 No development shall commence on site, including any works of demolition, until a detailed Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

a) the parking of vehicles of site operatives and visitors;

b) loading and unloading of plant and materials;

c) storage of plant and materials used in constructing the development;

d) measures to control the emission of dust and dirt during demolition and construction;

e) a scheme for recycling/disposing of waste resulting from demolition and construction works.

f) a scheme for the retention of vehicular access, including emergency vehicles, to Fernfield during construction works.

g) hours of works on site.

Reason:

In the interest of highway and pedestrian safety, the environment, and the amenity of residents, and to ensure accordance with Policies BE1 and TR2 of the adopted Neath Port Talbot Local Development Plan.

- 5 Notwithstanding the submitted details no development shall commence on site until revised site specific structural calculations for the retaining walls along the eastern side of the dwelling have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include detailed structural calculations and also include cross sections showing the relationship between the wall foundations and the existing highway supporting banking, and a timetable for their implementation on site. The scheme shall be fully implemented on site in accordance with the approved scheme, and retained as such thereafter.

Reason:

In the interest of visual amenity, residential amenity of the neighbouring properties and land stability, and to ensure compliance with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 6 No development shall take place on site until a condition survey of the existing highway along the boundary of the site has been submitted to and approved in writing by the Local Planning Authority. Following completion of the approved works on site a further condition survey of the existing highway along the boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. Any damage identified as being caused by the construction works hereby approved shall be detailed as part of the post-construction survey, along with a method for the repair or re-instatement and a timetable. The approved post-construction survey works shall be implemented on site in accordance with the agreed timetable, and retained as such thereafter.

Reason:

In the interest of identifying and rectifying damage to the Public Highway from delivery vehicles associated with the proposed development, and to comply with Policy TR2 of the Neath Port Talbot Local Development Plan.

- 7 No development shall commence on site until an assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the Local Planning Authority. This assessment must be carried out by or under the direction of a suitably qualified competent person in accordance with BS10175 (2011) 'Investigation of Potentially Contaminated Sites Code of Practice' and shall assess any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

(i) a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;

- (ii) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- (iii) an assessment of the potential risks to:
  - human health,
  - groundwater and surface waters
  - adjoining land,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,- ecological systems,
  - archaeological sites and ancient monuments; and
  - any other receptors identified at (i)
- (iv) an appraisal of remedial options, and justification for the preferred remedial option(s).

Reason:

To ensure that information provided for the assessment of the risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems is sufficient to enable a proper assessment, and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 8 No development shall commence on site until a remediation scheme (and if required by Condition 7) to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, buildings, other property and the natural and historic environment shall be prepared and submitted to and approved in writing with the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives, remediation criteria and site management procedures. The measures proposed within the remediation scheme shall be implemented in accordance with an agreed programme of works.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

### Action Conditions

- 9 Prior to beneficial use of the proposed development commencing, and if required by Condition 7, a verification report which demonstrates the effectiveness of the agreed remediation works carried out in accordance with Condition 8 shall have been submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease immediately and shall be reported in writing to the Local Planning Authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006). This document shall be submitted to and agreed in writing with the Local Planning Authority. Prior to occupation of the development, a verification report which demonstrates the effectiveness of the agreed remediation, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 11 Notwithstanding the details submitted and prior to the first beneficial use of the extension hereby approved, the windows on the front elevation serving the master-bedroom and small bedroom (as detailed on Dwg. No. A3-A103 Rev B) shall be fitted with obscured glazing, and any part of the windows that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained as such thereafter.

Reason:

In the interest of the amenities of the adjoining property, and to ensure accordance with Policy BE1 of the adopted Neath Port Talbot Local Development Plan.

- 12 Prior to their use in the construction of the development hereby permitted, details and samples of the materials to be used in the construction of the external surfaces of the development shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

In the interest of the visual amenity of the area and to ensure the development complies with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 13 The garage/car parking spaces as shown on the approved plans shall be provided prior to the first beneficial use of the extension hereby approved, and shall thereafter be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose, and permanently retained as such.

Reason:

In the interest of highway safety and to ensure the development complies with Policy TR2 of the Neath Port Talbot Local Development Plan.

## Regulatory Conditions

- 14 Any gates provided across the access drive or pedestrian access steps shall be of a type which open inward only and can be seen through, and shall be retained as such thereafter.

Reason:

In the in interest of highway and pedestrian safety and to ensure compliance with Policy TR2 of the Neath Port Talbot Local Development Plan.

- 15 Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no buildings shall be erected on site other than those expressly authorised by this permission and identified on the approved drawings.

Reason:

In order to safeguard the amenities of the area by enabling the Local Planning Authority to consider whether planning permission should be granted for garages or outbuildings having regard to the particular layout and topography of the site, residential amenity, and to accord with Policies BE1 and SC1 of the Neath Port Talbot Local Development Plan.

- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), there shall be no extension or external alteration to any building forming part of the development hereby permitted without the prior grant of planning permission in that behalf.

Reason:

In order to safeguard the amenities of the area by enabling the Local Planning Authority to consider whether planning permission should be granted for extensions, having regard to the particular layout and topography of the development and need to protect the amenity of nearby properties, and to accord with Policies BE1 and SC1 of the Neath Port Talbot Local Development Plan.

- 17 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no doors, windows or dormer windows (other than those expressly authorised by this permission) shall be constructed without the prior grant of planning permission in that behalf.

Reason:

In order to safeguard the amenities of the area by enabling the Local Planning Authority to consider whether planning permission should be granted for such additional doors/windows, having regard to the particular layout and design of the development and need to protect the amenity of nearby properties, and to accord with Policies BE1 and SC1 of the Neath Port Talbot Local Development Plan.

Mae'r dudalen hon yn fwriadol wag



## SECTION A – MATTERS FOR DECISION

### Planning Applications Recommended For Approval

<b><u>APPLICATION NO:</u> P2021/0965</b>	<b><u>DATE:</u> 29/09/2021</b>
<b>PROPOSAL:</b>	Variation of conditions 1, 3 and 4 of planning permission P2019/5650 to allow a permanent consent, change of opening times to 06:00 to 21:00 Monday to Friday, 07:00 to 16:00 Saturday and 08:00 to 15:00 Sunday, and to allow the playing of amplified music in accordance with submitted noise assessment report.
<b>LOCATION:</b>	Unit 9 Gym, Quay Road, Neath SA11 1SL
<b>APPLICANT:</b>	Mr Tavis Knoyle
<b>TYPE:</b>	S73 – Variation of Conditions
<b>WARD:</b>	Neath North

### BACKGROUND

This application is reported to Planning Committee due to an ongoing enforcement complaint regarding a breach of condition in relation to the playing of amplified music at Unit 9 Gym.

The site initially benefitted from a temporary consent under planning permission P2017/0990 for the change of use of the building (Class B8) to a gym (Class D2), conditioned to cease on 22<sup>nd</sup> November 2019.

An extension of time to that planning permission P2019/5650 was granted on 29<sup>th</sup> January 2020 for the retention of a gym and sports facility (Class D2) until January 2023, subject to several conditions.

As no scheme for noise management and/or mitigation measures were submitted with the application, a condition was placed on the consent to prohibit the playing of amplified music in order to prevent any issues relating to noise and disturbance on the adjacent and nearby premises.

However, since February 2020 the Council's Planning Enforcement team have received continuous complaints regarding the playing of amplified music from the premises, with reference to ongoing disturbance and impacts on the overall well-being of nearby occupiers. Numerous site visits have been carried out by Planning Enforcement that have confirmed the playing of amplified music from the gym, including at unsociable hours, therefore establishing an ongoing breach of Condition 4 of planning permission P2019/5650 that relates to the prohibiting of amplified music.

This Section 73 application aims to address this issue and remove the condition by proposing a noise management scheme in order to prevent any further adverse impacts with regards to residential amenity and noise pollution on the occupiers of the

nearby commercial premises and residential property. This application also seeks to vary the opening hours and obtain a permanent planning consent.

## SITE AND CONTEXT

The application site comprises a gym and sports facility (Class D2) at the former J Saville Gordon premises, Quay Road, Neath. The building is of typical industrial unit construction, with a large car park set within a gated area off Quay Road. Quay Road forms a dead end street and therefore has no passing traffic. The site is in close proximity to other industrial style buildings which host other commercial and business uses, most of which lie to the south of Quay Road. To the north of Quay Road is a church, Neath Athletic RFC and a single residential property.

The premises comprises a double bay industrial building measuring approximately 34m x 13m, with a concrete block curtain wall and profiled metal sheet roof.

## DESCRIPTION OF DEVELOPMENT

This Section 73 application seeks full planning permission to vary Conditions 1 (Temporary Consent), 3 (Opening Hours) and 4 (Noise) of planning permission P2019/5650, granted on 29<sup>th</sup> January 2020. The conditions attached to P2019/5650 read as follows:

*1 The development hereby permitted is for a temporary period only and shall cease not later than 24<sup>th</sup> January 2023 after this time the gym shall cease trading and the use revert back to a B8 use.*

*Reason: To provide a suitable period in which the planning authority can assess the impact of the development and to consider if the planning use is appropriate for the building and that the use does not accord with policies EC4.*

*3 Customers shall only be allowed on the premises between 06:00 to 21:00 Monday to Friday and 08:00 to 14:00 on a Saturday and Sunday.*

*Reason: In the interest of clarity.*

*4 There shall be no playing of amplified music at the premises or activities associated with the gym outside of the gym building. In the event of noise complaints being received, the Local Authority may require the applicant to undertake a suitable and appropriate noise assessment and produce the findings and recommendations in a written report. The assessment shall be undertaken by a suitably qualified and competent person. The methodology shall be agreed with the Local Authority prior to the assessment. The assessment and subsequent report shall be submitted to the Local Authority within 6 weeks of the Authority making the request. If an extension of time is required, then an application must be put in writing to the Authority for consideration. The request for an extension must detail the reasoning why an extension of time is required and detail how much of an extension is sought. Recommendations contained within the report shall be implemented within 4 weeks of submitting the report to the Authority. If an extension of time is required, then an*

*application must be put in writing to the Authority for consideration. The request for an extension must detail the reasoning why an extension of time is required and detail how much of an extension is sought.*

*Reason: To ensure that the amenities of occupiers of other buildings in the vicinity are protected, and to ensure compliance with Policies SP16, EN8 and BE1 of the Neath Port Talbot Local Development Plan.*

Planning permission is sought under this application to vary the conditions as follows:

Condition 1: To allow for a permanent consent

Condition 3: To extend opening hours to

06:00 to 21:00 Monday to Friday

07:00 to 16:00 Saturday

08:00 to 15:00 Sunday

Condition 4: To allow the playing of amplified music in accordance with the submitted noise report.

It is noted that only by addressing the impacts of noise and condition 4, can the Authority consider acceptance of conditions 1 and 3.

The 'Feasibility Assessment of Proposed Noise Management Report' submitted on behalf of the applicant is summarised as follows:

- Due to inclement weather providing unsuitable conditions for the initial proposed methodology, a noise limiter was set to a level agreed suitable by Planning Enforcement during a previous site visit. The level was considered acceptable in a somewhat subjective context on the basis that the music was inaudible to Council Officer's during the site visit (approx. 6.30am on 11<sup>th</sup> August 2021) at the boundary of the nearby residential property, 1-3 Bridge Street.
- The tamper proof noise limiter is presently in situ.
- It is considered that the agreed level is suitable for the operation of the gym and does not result in any adverse impacts of the nearby residential occupier.

### NEGOTIATIONS

Ongoing extensive dialogue has taken place between Planning and Environmental Health Officers and the noise consultant in order to achieve an appropriate solution that would allow the playing of amplified music to be permitted.

### PLANNING HISTORY

The application site has the following relevant planning history:

Tudalen27

- P2017/0990 Change of use of building (Class B8) to a gym (Class D2)
- P2019/5650 Retention of gym and sports facility (Class D2)

## CONSULTATIONS

**Environmental Health:** Approve subject to conditions

**Community Council:** No reply, therefore no observations to make.

## REPRESENTATIONS

The neighbouring properties were consulted on 18<sup>th</sup> February 2022 and a Site Notice was displayed on 17<sup>th</sup> February 2022.

In response, to date multiple representations have been received from one individual over a sustained period, with the issues raised summarised as follows:

- Ongoing intermittent disturbance in terms of noise and vibration due to the playing of amplified music.
- Resultant impact on health and overall well-being.

In addition to the above objection, the Council has received ongoing dairy entries with regards to noise due to the continuous breach of planning control from the complainant. However, it must be noted that the complaints are mostly the same (i.e. noise, opening hours and well-being) and therefore this one objection can be considered to be a sustained objection from a single objector.

It must also be noted that whilst the complaints have been received over an extended period of time, the gym has been closed intermittently due to Covid-19 restrictions over the last 2 years.

Further complaints have been received concerning the noise levels from other points within the vicinity such as at the canal, and Bridge Street following implementation of the noise limiter. Plus concerns over the effectiveness of the limiter in relation to the potential ventilation of the building in the summer months.

## REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

As a Section 73 application, the Local Planning Authority must only consider the question of the conditions to which planning permission is being sought to vary. The Local Planning Authority must not reconsider the full merits of the original planning permission. Should the S73 application be approved it will form a new planning

permission, which should include all the previous conditions (where necessary) to avoid the possibility of the new permission being interpreted as having no conditions other than those applied to vary.

The Local Planning Authority should consider any other material change in circumstances since the original planning permission was granted. There has been no change in Local Planning Policy since the approval of the previous application.

#### National Planning Policy:

[Planning Policy Wales](#) (Edition 11) was revised and restructured in February 2021 to coincide with publication of, and take into account the policies, themes and approaches set out in, [Future Wales - the National Plan 2040](#) and to deliver the vision for Wales that is set out therein.

Future Wales now forms part of the Development Plan for all parts of Wales, comprising a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. All Development Management decisions, strategic and local development plans, planning appeals and all other work directed by the development plan need to accord with Future Wales.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015.

PPW11 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

PPW is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance: -

- Technical Advice Note 11: Noise

#### Local Planning Policies

The Local Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

#### Topic Based Policies:

- [Policy SC1](#)      [Settlement Limits](#)
- [Policy EC2](#)      [Existing Employment Areas](#)

- [Policy EC3](#)      [Employment Area Uses](#)
- [Policy EC4](#)      [Protection of Existing Employment Uses](#)
- [Policy EN8](#)      [Pollution and Land Stability](#)
- [Policy BE1](#)      [Design](#)

Supplementary Planning Guidance:

The following SPG is of relevance to this application: -

- [Pollution](#) (October 2016)

### Issues

Having regard to the above, the main issues to consider in this application relate to whether there has been a material change in circumstance with regards to the principle of a gym and sports facility at the site, together with the principle of development which removes a temporary consent and allows a permanent consent as a D2 use, resulting in the loss of an employment use and the impact of the development on the neighbouring occupiers with regards to noise pollution and disturbance.

### Principle of Development

Whilst the principle of development has been established on a temporary basis, this application must consider the impacts in land use terms on a permanent basis, namely the loss of land/building from its employment use.

The site lies within the Settlement Limits as defined by Policy SC1 of the Neath Port Talbot Local Development Plan, however it is not specifically allocated as an Existing Employment Area under Policy EC2 and is therefore not restricted to Use Classes B1, B2 and B8, ancillary facilities and other non Use Class B Commercial Services under Policy EC3 Employment Area Uses.

Policy EC4 Protection of Existing Employment Uses states that proposals which result in the loss of employment uses as defined by Policy EC3 will only be permitted where certain criteria relating to change in viability or appropriateness, unacceptable impacts on amenity and adjacent uses or by introducing new uses that increase the combined level of employment.

The Officer Report for planning permission P2019/5650 notes that:

*The use proposed is one that is more appropriately sited within a designated retail centre, as a supporting use, one that would support the vitality, viability and attractiveness of an existing centre. Whilst it is accepted that the site lies within proximity to the designated town centre of Neath, the location is isolated, and not visually linked or easily accessible by public transport.*

*The principle of the change of use of this industrial building is contrary to policy, however, the applicant has indicated that this building had been vacant for several years prior to the temporary consent in 2017 and was becoming in a state of disrepair.*

*The applicant has not provided any additional information on the present situation, however, as the use is operating from the unit, it is unlikely that the site has continued to be marketed for an alternative, and Policy compliant use in the interim.*

It must be noted that these points remain relevant to consider in the determination of this application and notwithstanding the requirements of Policy EC4, it is considered that as the Council is not aware of any significant demand of employment uses within the area, on balance the permanent loss of one unit is acceptable. Furthermore, a temporary consent has been granted twice as a non-conforming use from a previous employment use and has been operational as a gym throughout the time period.

Additionally, the gym employs 8 full time and 7 part time workers. The applicant has made a significant investment into the building and the gym as a business is operating successfully. There are also no existing buildings of this scale for such a use within the existing town centre. The site whilst isolated from the town centre is within proximity to it that would allow joint trips, and access by public transport and an area that is accessible for walking and cycling. There are also other retail uses in the area, including garden centre and pet stores that also require larger scale buildings that are prevalent within this edge of centre location.

Overall, it is considered that the loss of one unit and to permit a permanent permission would not significantly affect the land bank of employment land and buildings in the area. Therefore, subject to other material considerations being satisfactory, it is considered that the use of the site as a gym (Class D2 use) would be an acceptable form of development at this edge of centre location with regards to Policies SC1, EC2, EC3 and EC4 of the Neath Port Talbot Local Development Plan.

### Noise and Disturbance

Policy EN8 Pollution and Land Stability of the Local Development Plan states:

*Proposals which would be likely to have an unacceptable adverse effect on health, biodiversity and/or local amenity or would expose people to unacceptable risk due to the following will not be permitted:*

- *Air pollution;*
- *Noise pollution;*
- *Light pollution;*
- *Contamination;*
- *Land instability;*
- *Water (including groundwater) pollution.*

*Proposals which would create new problems or exacerbate existing problems detailed above will not be acceptable unless mitigation measures are included to reduce the risk of harm to public health, biodiversity and/or local amenity to an acceptable level.*

The explanation of this Policy in respect of noise goes further adding:

*In relation to noise, potentially noisy proposals should not be located close to sensitive uses (such as hospitals, schools and housing) and new noise sensitive developments should not be located near to existing noisy uses (including industry and existing or proposed transport infrastructure) unless it can be shown that adverse effects can be dealt with through mitigation measures incorporated into the design. Where noise levels are likely to be a significant issue, developers may be required to provide information to show that no nuisance is likely to be caused through increased noise levels at sensitive locations if the development proceeds.*

In the above policy and in relation to this development it is important to differentiate between noise as a statutory nuisance, and that which can result in an unacceptable amenity issue.

The Environmental Health Section have undertaken visits, which have concluded that the level of noise from the use does not constitute a “Statutory Noise Nuisance”. However, the Planning Authority must consider the noise impacts under Policy EN8, which relates to an adverse impact on health and well-being through unacceptable impacts on amenity. As such it does not follow that just because the development does not create a statutory noise nuisance, that amenity issues do not arise.

The impacts were evident from the development following numerous site visits by officers of the Planning Department. This was considered to result in an unacceptable impact upon the amenity of occupiers within the nearest residential property, where the noise levels were found to be at an unreasonable level. As such ongoing efforts to address these impacts to an acceptable level have taken place over the period leading up to and during the submission of this application.

The Local Authority must be reasonable and endeavour to seek resolution to any issue arising and consider the appropriateness of any formal enforcement action. In this case considerable time and effort has gone into negotiating with the applicant to seek technical expertise to mitigate the noise impacts.

The following section clarifies what measures have been agreed/implemented to mitigate these impacts on amenity to an acceptable level.

Due to the construction of the building, it is not viable to incorporate physical sound proofing measure to the structure and therefore it is more appropriate in this circumstance for a noise management scheme to address the matter at hand.

Planning and Environmental Health officers have carried out extensive dialogue and negotiation with the agent and noise consultant working on behalf of the applicant to agree to a suitable methodology, noise levels and appropriate management scheme to enable amplified music to be played at the gym. The Environmental Health officer has offered the following (summarised) comments on the proposed scheme:

- *During a site visit to the premises the music was played at the levels previously agreed with Planning. The music could not be heard from the nearby residential*



*property and therefore EVH are satisfied that it is possible for the gym to operate with noise at a level that will not have any detrimental effect on the amenity of the nearby residential property.*

- A noise limiter has been installed on the gym audio system at the previously agreed levels that has been deemed to be inaudible from the residential property. This prevents any increase in the sound level over that agreed and is tamperproof.*
- A condition is recommended requiring the gym to comply with these levels at all times and also to ensure that the limiter remains in place and set at the agreed levels at all times.*
- The Feasibility Assessment of Proposed Noise Management of Unit 9 Gym including use of limiter, 14 February 2022 proposes that a verification assessment is carried out to demonstrate that the subjective inaudible levels are also unmeasurable. This would mean that noise monitoring will be used to demonstrate that the music at the agreed level adds no additional noise to the existing background at the nearest residential receptor. A condition is recommended to ensure that this piece of work is carried out within 3 months of permission being granted.*

It is considered that sufficient testing has been carried out, and that the proposed controls and conditions imposed would prevent the development resulting in any adverse impacts with regards to noise and disturbance, general amenity and overall well-being on the neighbouring occupiers, compliant with Policies BE1 and EN8 of the Neath Port Talbot Local Development Plan.

#### Assessment/ Review of Existing Conditions

The following sections of this report describe the modifications that are proposed to permission P2019/5650 rather than reiterating everything that was outlined in the original report. The original report, which remains relevant for all matters not considered within this report, can be viewed on the [Council's online register](#).

On the basis that the temporary consent was issued due to concerns over potential issues regarding noise which have been proved to have materialised over the time period in which the gym has operated, it is considered logical to assess the application to vary the condition in relation to noise prior to considering the application to allow for a permanent consent.

#### Noise

Noise complaints have also previously been submitted to and investigated by Environmental Health where it was determined the noise issue does not meet the test to be considered a statutory nuisance. As such no further action was taken. The noise concerns are considered to be an amenity issue under planning, and therefore it is appropriate for the issue to be addressed under the planning system.

The 'Feasibility Assessment of Proposed Noise Management Report' has been reviewed by Environmental Health Officers as discussed above, and subject to appropriate conditions, it is considered that the applicant has mitigated the issue sufficiently for the Local Planning Authority to agree to vary the condition to allow the playing of amplified music. The noise limiter is in place and a further site visit on 17<sup>th</sup> February 2022 confirms that the playing of music at the agreed level cannot be heard from 1-3 Bridge Street.

### Opening Hours

It is considered that in light of the noise management scheme, an extension of opening hours would not result in any adverse impact on the nearby residential occupiers, inclusive of unsociable hours.

This industrial / business prominent area is located within close proximity to main thorough fares and a train line and it is considered that the additional traffic at the proposed extended weekend time are sociable hours and would not be over and above the noise levels that already exist in the area.

Additionally given the industrial nature of the area it is not anticipated that the increased level of traffic at such times would be sufficient to result in any adverse impacts relating to noise and disturbance on the single residential property. The proposed variation of condition in relation to opening hours is therefore considered to be compliant with Policies EN8 and BE1 of the Neath Port Talbot Local Development Plan.

*Plan Indicating Distance from Unit 9 Gym to 1-3 Bridge Street*



Tudalen34

### To Allow of a Permanent Consent

The consideration of the issues above demonstrates that the proposal has mitigated any adverse impacts on the amenity of the neighbouring occupiers and nearby residential occupiers, and therefore all previous justifications for granting a temporary consent are no longer relevant. The development can be considered to be acceptable for a permanent consent in regard to Policies BE1 and EN8 of the Neath Port Talbot Local Development Plan.

### Summary of Issues

In light of the above it is considered that the proposal constitutes an appropriate form of development with sufficient measures to mitigate previous and ongoing issues. In order to grant planning permission, it is considered that conditions in relation to the following would be necessary:

- Control of opening hours;
- Condition to prevent noise levels from exceeding the agreed internal levels;
- Condition to require the noise limiter to remain in place on a permanent basis;
- Condition to verify noise levels by way of a factual and interpretive report to be completed and submitted to the Local Planning Authority.

### Other Matters

As identified earlier in this report, a number of objections were received in response following the publicity exercise. In response to the main issues raised which have not been addressed elsewhere in this report, the following comments are made.

The Council has been addressing the issue of the site operating in breach of its conditions which has resulted in the application to adequately address these matters, and impose suitably worded enforceable conditions.

The mitigation and conditions imposed also address the issues raised, taking into consideration the construction of the building. As such it is considered that this suite of controls will ensure that there is no unacceptable impact upon residential amenity.

Returning to the issue of noise from the gym being heard at alternative locations in the wider area since the noise limiter has been in place. In addition, the matters raised regarding the ventilation requirements that may affect the noise levels in day to day operation of the site are already addressed in the wording of the verification condition, and supporting note to developer.

The intention of the limiter is for the noise not to be heard from the nearby residential property (the nearest noise sensitive property) and it would not be considered an amenity issue for the noise to be heard at an acceptable level in the wider commercial area, where other activities take place. As stated previously, the noise prior to the limiter being in place was investigated by Environmental Health and not considered to warrant a statutory nuisance.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises Future Wales – the National Plan 2040 and the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

It is considered that the proposal represents an appropriate form of development that would have no unacceptable impact on the local land bank of employment uses and the amenity of the neighbouring occupiers subject to the recommended conditions. Accordingly, the proposed development is in accordance with Policies SC1, EC2, EC3, EC4, BE1 and EN 8 of the Neath Port Talbot Local Development Plan.

It is further considered that the decision complies with Future Wales – the National Plan 2040 and the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

RECOMMENDATION: Approval, subject to conditions.

### Conditions

- 1) The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan received 16<sup>th</sup> September 2021.

Reason: In the interests of clarity.

- 2) The use hereby approved shall operate and be open to customers between 06:00 to 21:00 Monday to Friday, 07:00 to 16:00 Saturday, 08:00 to 15:00 Sunday only. No amplified music shall be played outside of these hours.

Reason: In the interests of amenity, and to accord with Policies EN8 and BE1 of the Neath Port Talbot Local Development Plan.

- 3) Operational Noise Levels

During the operation of the development hereby permitted, noise levels shall not exceed the agreed internal levels at any location as set out in Section 2.4 of the Noise Management Assessment of Unit 9 Gym dated 20 August 2021 (reproduced below) unless amended in compliance with condition 5 of this permission.

	Measured sound level $L_{Aeq,1min}$		
	Near Speaker cluster	Far Speaker cluster	Centre of Counter
6am Levels 4 & 5	77	74	69
7am Levels 4 & 5	77	74	69
9am Levels 4 & 6	77	89	80
6pm Levels 4 & 6	77	89	80
Daytime (no classes) Levels 4 & 4	76	76	69

Reason: In the interest of clarity and the amenity of the neighbouring occupiers and to accord with Policies BE1 and EN8 of the Neath Port Talbot Local Development Plan.

#### 4) Noise Limiting Device

The noise limiting device, as detailed in Feasibility Assessment of Proposed Noise Management of Unit 9 Gym including use of limiter dated 14<sup>th</sup> February 2022 must be fully functional and in proper working order at all times during the playing of recorded music and retained as such thereafter.

If the noise limiting device breaks down the responsible person shall inform the Local Planning Authority as soon as reasonably practicable. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay.

Reason: In the interest of the amenity and Policies BE1 and EN8 of the Neath Port Talbot Local Development Plan

#### 5) Monitoring for Verification of Noise Levels

Within 3 months of the date of this permission the following actions must be completed and a factual and interpretive report demonstrating the completion must be submitted to and approved in writing by the Local Planning Authority.

1. Adjust the Gym sound system taking account of day to day operation of the site, including any adjustable ventilation methods for the building (see note 1) to an acceptable level for operation of the Gym (see condition 3) and measure the sound level in the same location “the monitoring location” used to establish background levels in Feasibility Assessment of Proposed Noise Management of Unit 9 Gym dated 24<sup>th</sup> January 2022.

2. If the operational level is not measurable at the monitoring location confirm the internal level at the locations identified in condition 1. If the operational level is measurable reduce the sound system to a level that is not at the monitoring location and record this level as the operational level to be used as the new control point for the electronic limiter.

3. Seal Noise Limiting Device with a tamper proof seal to be retained as such thereafter

Reason: To ensure that the development operates within the limits permitted in the interest of the amenity and to accord with Policies BE1 and EN8 of the Neath Port Talbot Local Development Plan.

6 There shall be no playing of amplified music or activities associated/ancillary to the use hereby approved outside of the building other than for the parking of motor vehicles.

Reason: In the interest of the amenity and to accord with Policies BE1 and EN8 of the Neath Port Talbot Local Development Plan.

## SECTION B – MATTERS FOR INFORMATION

### DELEGATED APPLICATIONS

DETERMINED BETWEEN 6<sup>TH</sup> FEBRUARY 2022 AND 27<sup>TH</sup> FEBRUARY 2022

App No: **P2020/1066**

Proposal: Construction of ramp to facilitate access to the front of the property.

Location: Masonic Lodge Forge Road Port Talbot SA131US

Decision: Approved

Ward: Port Talbot

App No: **P2021/0075**

Proposal: Application for Approval of Details under Conditions 69 a (Written Scheme for the setting up and running of a Nature Conservation Steering Committee) of Planning permission P2018/0636

Location: East Pit East Occs Tairgwaith Gwaun Cae Gurwen Ammanford SA181UP

Decision: Approved

Ward: Gwaun Cae Gurwen

App No: **P2021/0469**

Proposal: Change of use of ground floor shop (A3) to create three self contained apartments together with two storey rear extension and ancillary parking

Location: 17 Wern Road Ystalyfera Swansea SA9 2LX

Decision: Approved

Ward: Ystalyfera

App No: **P2021/0832**

Proposal: Lawful Development Certificate (Proposed) for siting of a mobile caravan with the curtilage of a dwelling house.

Location: 19 Brwyna Avenue Aberavon Port Talbot Neath Port Talbot SA12 6YY

Decision: Issue Certificate

Ward: Aberavon

App No: **P2021/0855**  
Proposal: Change of use from offices to house of multiple occupation for up to a maximum of nine residents and one self-contained residential unit to rear, together with associated works including demolition of outbuilding to facilitate a single storey side/rear extension, together with external alterations, associated works and change of use of land for parking (Additional plan received 25.10.21 and amended and additional plans received 26.10.21)  
Location: Compass House 1A Baldwins Crescent Crymlyn Burrows SA1 8QE  
Decision: Approved  
Ward: Coedffranc West

App No: **P2021/0910**  
Proposal: External alterations including over cladding of existing external walls and to the external surfaces of existing roof (using a combination of composite slatted cladding and box profile sheets) together with render finish to existing external brick walls of the building  
Location: British Legion Club Eastland Road Neath SA11 1LA  
Decision: Approved  
Ward: Neath East

App No: **P2021/1004**  
Proposal: Non Material Amendment to approved Planning Application P2020/0111 to facilitate the change in material of the front elevations of the front extensions from Horizontal Cladding and natural stone to just natural stone  
Location: 73 Glyn Road Lower Brynamman SA18 1SS  
Decision: Approved  
Ward: Lower Brynamman

App No: **P2021/1081**



Proposal: Raising height of roof by 0.5 metres and installation of 3 no. dormers to front and 1 no. dormer to rear elevations to facilitate the conversion of attic space to living accommodation.  
Location: Beeches Bungalow Primrose Bank Bryncoch SA10 7BX  
Decision: Approved  
Ward: Bryncoch North

App No: **P2021/1099**  
Proposal: Ground floor side extension to include kitchen, lounge and shower room.  
Location: 15A Coombe Tennant Avenue Skewen SA10 6EB  
Decision: Approved  
Ward: Coedffranc West

App No: **P2021/1100**  
Proposal: Replacement shop front  
Location: Gift Shop The Mews Courtyard Margam Country Park Water Street Margam  
Decision: Approved  
Ward: Margam

App No: **P2021/1119**  
Proposal: Change of use to dog day care facility and dog grooming parlour (Sui Generis).  
Location: Chain Works Fabian Way Crymlyn Burrows Swansea Neath Port Talbot  
Decision: Approved  
Ward: Coedffranc West

App No: **P2021/1142**  
Proposal: Trough illuminated fascia and projecting sign  
Location: Commercial Buildings - Unit 1 & 2, Talbot Road Port Talbot SA13 1DR  
Decision: Approved  
Ward: Port Talbot

App No: **P2021/1146**  
Proposal: Retention of external air handling units at rear of store and provision of acoustic screening.  
Location: CK's Supermarkets 18 Gwilym Road Cwmllynfell Swansea Neath Port Talbot  
Decision: Refused  
Ward: Cwmllynfell

App No: **P2021/1154**  
Proposal: Part single/part two storey rear and side extensions, vehicular access and parking area and new bathroom window to first floor side elevation of main dwelling house.  
Location: 46 Brynglas Avenue Cwmavon Port Talbot Neath Port Talbot SA12 9LF  
Decision: Approved  
Ward: Bryn And Cwmavon

App No: **P2021/1191**  
Proposal: Ground floor side garage extension  
Location: Tygarreg Goch 4 Brynawel Close Crynant Neath Neath Port Talbot  
Decision: Approved  
Ward: Crynant

App No: **P2021/1205**  
Proposal: Change of use from a minimum support residential unit to one private residential dwelling (Use Class C3)  
Location: 46 Sycamore Crescent Baglan Port Talbot Neath Port Talbot SA12 8PL  
Decision: Approved  
Ward: Baglan

App No: **P2021/1213**  
Proposal: Alterations to an existing commercial building to create two number new first floor apartments  
Location: 20 Queen Street Neath SA11 1DL  
Decision: Approved

Ward: Neath North

App No: **P2021/1232**

Proposal: Erection of a building to cover an existing sports facility

Location: Llandarcy Academy Of Sport Llandarcy Park,  
Llandarcy Skewen Neath SA10 6JD

Decision: Approved

Ward: Coedffranc West

App No: **P2021/1241**

Proposal: Conservation Area Consent for the demolition of single storey garage to rear of property.

Location: 40 Victoria Gardens Neath SA11 3BH

Decision: Approved

Ward: Neath North

App No: **P2021/1242**

Proposal: Proposed single storey rear and side extension plus conversion of attached garage into living space.

Location: 92 Priory Court Bryncoch SA10 7RZ

Decision: Approved

Ward: Bryncoch South

App No: **P2021/1263**

Proposal: Single storey link extension plus alterations to existing garage and conversion of garage

Location: 1 Drummau Park Skewen SA10 6PL

Decision: Approved

Ward: Coedffranc North

App No: **P2021/1265**

Proposal: Two storey side extension and juliet balcony to first floor side elevation.

Location: 96 Village Gardens Aberavon SA12 7LP

Decision: Approved

Ward: Aberavon

App No: **P2021/1266**  
Proposal: First floor rear extension, alterations to and new roof over existing single storey rear extension.  
Location: 24 James Street Port Talbot Neath Port Talbot SA13 1AW  
Decision: Approved  
Ward: Port Talbot

App No: **P2022/0011**  
Proposal: Formation of new entrance door, rendering of the external elevations and alterations to rear external exit door  
Location: Cilfrew Community Centre New Road Cilfrew Neath Neath Port Talbot  
Decision: Approved  
Ward: Aberdulais

App No: **P2022/0013**  
Proposal: Erection of replacement single detached garage and boundary wall, including access gate to service compound  
Location: 1 Goshen Park Skewen Neath Neath Port Talbot SA10 6PT  
Decision: Approved  
Ward: Coedffranc North

App No: **P2022/0023**  
Proposal: Single storey rear extension  
Location: 33 Dunraven Street Aberavon SA12 6EG  
Decision: Approved  
Ward: Aberavon

App No: **P2022/0025**  
Proposal: Single storey rear extension and replacement detached garage  
Location: 72 Albion Road Baglan Port Talbot Neath Port Talbot SA12 8DB  
Decision: Approved

Ward: Baglan

App No: **P2022/0027**

Proposal: Submission of details pursuant to discharge of conditions 16 (surface water drainage strategy) of planning application P2020/0174 granted on April 23rd 2020

Location: Land at Cramic Way

Decision: Approved

Ward: Margam

App No: **P2022/0031**

Proposal: Details pursuant to the discharge of condition 7 (landscaping) of planning permission P2020/0429 (CISM Building)

Location: Swansea University Bay Campus Fabian Way  
Crymlyn Burrows SA1 8EN

Decision: Approved

Ward: Coedffranc West

App No: **P2022/0035**

Proposal: Single storey side/rear extensions, reduction in length and part new parapet roof to existing garage and conversion of garage to wc/shower and store rooms.

Location: 18 Lodge Drive Baglan SA12 8UB

Decision: Approved

Ward: Baglan

App No: **P2022/0036**

Proposal: Single storey rear extension - Lawful Development Certificate Proposed.

Location: 20 Sycamore Court Baglan SA12 8PY

Decision: Issue Certificate

Ward: Baglan

App No: **P2022/0051**

Proposal: Retention and completion of detached split level garage with garden room to lower level, garage to ground level and storage to first floor level, external staircase and driveway  
Location: Glyncastle House Glyncastle Resolven SA11 4NW  
Decision: Approved  
Ward: Resolven

App No: **P2022/0057**  
Proposal: Construction of single storey shower room extension to side / rear of property  
Location: 7 Pen Y Bryn Cimla SA11 1JE  
Decision: Issue Certificate  
Ward: Neath South

App No: **P2022/0067**  
Proposal: Non-Material Amendment to planning application P2019/5237 in respect of alteration to the walkway to the western side of the building showing it extend out further; increase width of pedestrian doors to north elevation; missing solder bond added to brickwork on western elevation and additional render to Eagles Mews and addition of missing kick plates to main entrance doors  
Location: Plaza Talbot Street Port Talbot  
Decision: Approved  
Ward: Port Talbot

App No: **P2022/0069**  
Proposal: Single storey rear extension - Lawful Development Certificate Proposed  
Location: 17 Wern Road Taibach SA13 2BD  
Decision: Issue Certificate  
Ward: Taibach

App No: **P2022/0071**

Proposal: Details to be agreed in association within Condition 4 (details of the materials to be used in the construction of the external surfaces of the development) and 5 (a scheme indicating screening to be erected to the east boundary of the raised rear patio) of Planning Permission P2020/1120 granted on 16/12/2020  
Location: 22F Taillwyd Road Neath Abbey Neath Neath Port Talbot SA10 7DY  
Decision: Approved  
Ward: Bryncoch South

App No: **P2022/0104**  
Proposal: Single storey rear extension - Lawful Development Certificate Proposed.  
Location: 5 Brook Street Taibach Port Talbot Neath Port Talbot SA13 1TG  
Decision: Issue Certificate  
Ward: Taibach

Mae'r dudalen hon yn fwriadol wag