

The Vale of Glamorgan Council

Cabinet Meeting: 6 March, 2017

Report of the Cabinet Member for Regeneration and Education

Proposal to Establish Two New Mixed-Sex Secondary Schools in Barry

Purpose of the Report

1. To advise Cabinet of the outcome of the statutory notice to establish two new mixed-sex secondary schools in Barry and the process to be followed to allow a determination to be made.

Recommendations

1. That Cabinet considers the findings of the objection report on the proposal.
2. Subject to consideration of the above, Cabinet approves implementation of the proposal to establish two new mixed-sex secondary schools on the current sites of Barry Comprehensive and Bryn Hafren Comprehensive schools and to establish a joint sixth form across both schools in Barry by closing the existing single sex English medium Barry Comprehensive and Bryn Hafren Comprehensive schools from September 2018.

Reasons for the Recommendations

1. To ensure the views of objectors are taken into account in the decision making process.
2. Following the completion of a period of statutory notice, a decision is required on whether to implement the proposal to establish new mixed-sex secondary schools in Barry.

Background

2. A Cabinet report recommending that the Council consult on a proposal to establish new mixed sex secondary schools in Barry was presented to Cabinet on 4 July 2016.
3. The proposal was to establish two new mixed sex secondary schools in Barry by closing the existing single sex English medium Barry Comprehensive and Bryn Hafren Comprehensive schools from September 2018. Cabinet approved the recommendation to carry out a consultation exercise for a period of 6 weeks (minute ref C3230) to take place between 05 September 2016 and 17 October 2016. The

consultation document is attached as [Appendix A](#), and is available on the Council's website.

4. A consultation report ([Appendix B](#)) was presented to Cabinet on 12 December 2016 and published on 14 December 2016 in accordance with the statutory requirement to publish within 13 weeks after the end of the consultation period.
5. Cabinet approved the recommendation to proceed to issue a statutory notice on the proposal (ref Cabinet Minute C3396).
6. A statutory notice was published on 3 January 2017. The statutory notice period of 28 days (including 20 school days), was closed on 31 January 2016. A copy of the notice is attached as at [Appendix C](#).

Relevant Issues and Options

7. The Welsh Government issued a School Organisation Code in 2013 that came into effect on 1 October 2013. The Local Authority must “act in accordance with the Code” as determined by the School Standards and Organisation (Wales) Act 2013.
8. In line with the School Organisation Code (2013) requirements the statutory notice was published in English and Welsh on the Council's website and posted at the main entrances and surrounding area of both school sites. Both schools were provided with hard copies of the notice to distribute to pupils, parents, governors and staff members. Both schools provided links to the notice on their websites.
9. On the day of the statutory notice being published, the following stakeholders received either a hard copy or were e-mailed a link to the Council's website together with an electronic copy of the document:
 - Cardiff City Council, Bridgend County Borough Council and Rhondda Cynon Taf County Borough Council;
 - the Church in Wales and Roman Catholic Diocesan Authority for the area;
 - the Governing Body of Barry Comprehensive and Bryn Hafren Comprehensive schools
 - The Governing Body of all other Vale of Glamorgan primary and secondary schools
 - the Welsh Ministers;
 - Assembly Members (AMs) and Members of Parliament (MPs) representing the area
 - Estyn;
 - the relevant teaching and trade unions representing staff;
 - Central South Consortium(Joint Education Service) - the relevant Regional Education consortium;
 - the Council's Transportation Department;
 - the Police and Crime Commissioner for South Wales;
 - Barry Town Council and other Vale Town Councils
 - Vale of Glamorgan Community Councils
 - Vale of Glamorgan Councillors;
 - the Vale of Glamorgan Communities First Partnership;

- the Vale of Glamorgan Early Years Development and Childcare Partnership (EYDCP) and the Children's and Young People's Partnership;
 - Welsh Language Commissioner and RHAG.
 - Cardiff and Vale College
10. All objections submitted during the notice period had to be made in writing or by email. By the end of the statutory notice period on 31 January 2017, the Council had received 3 objections.
11. Under section 49 of the School Standards and Organisation (Wales) Act 2013, the Council must publish a summary of the statutory objections and a response to those objections - the Objection Report. This is attached at [Appendix D](#).

Process:

12. In determining the proposal the School Organisation Code states that decision makers:
- **must** consider whether are any other related proposals;
 - **must** ensure that the statutory consultation has been conducted in accordance with the Code; <http://wales.gov.uk/topics/educationandskills/publications/guidance/school-organisation-code/?lang=en>
 - **must** ensure that the proposal has been published in accordance with this Code and the notice contains all the required information;
 - **must** consider the consultation document and consultation report;
 - **must** consider the objections and the objection report and any response to the notice supporting the proposals.
13. The School Organisation Code clearly states that "where a local authority's proposals have received objections, and require determination under section 53 of the Act, the local authority must not approach the determination of these proposals with a closed mind. Objections must be conscientiously considered alongside the arguments in respect of the proposals and in light of the factors set out in section 1.3 - 1.6 of this code". The factors are as follows:
- Quality and standards in education.
 - Need for places and the impact and accessibility of schools.
 - Resourcing of education and other financial implications.
 - Other general factors
14. In considering the quality and standards of education Members should have specific regard to the impact of the proposals on the quality of:
- Outcomes (standards and wellbeing);
 - Provision (learning experiences, teaching, care, support and guidance and learning environment); and
 - Leadership and management (leadership, improving quality, partnership working and resource management.
15. In assessing the impact of proposals on quality and standards in education and how effectively the curriculum is being delivered, members should also consider any relevant advice from Estyn, refer to the most recent Estyn reports or other evidence

derived from performance monitoring, and take into consideration any other available information on the school's effectiveness.

16. In accordance with the Act (2013), Cabinet are required to give full consideration to the objections received to the proposal. The Objection Report (attached as at Appendix D), details the objections received and the Council's responses to these concerns.
17. Following careful planning and considered management, there is no reason why the implementation of this proposal would not be able to at the very least maintain the current level of provision, however it is anticipated that this proposal would significantly enhance the learning environments for pupils, and therefore contribute to raising standards.
18. A number of key issues were raised during the objection period, with a focus on funding, staffing, the transition plan, and school catchment areas. A respondent also questioned the need to close both schools and another requested that the Council maintain the status quo.
19. The Council has set aside £22m, which includes realisation of S106 contributions and capital receipts towards the estimated cost of the scheme and will be bidding for match funding through Band B of the Welsh Government's 21st Century Schools Programme. Welsh Government is actively encouraging local authorities which have schemes scheduled to start in 2019/20 to submit a business case a year in advance. By preparing a clear vision to transform secondary schools in Barry the Council will be well placed to access Band B funding. If funding is not available from the Welsh Government, it may not be possible to provide a new building and extensive refurbishment of the other school building as described in the consultation document. In these circumstances, it would be necessary to review the investment options for delivering improvements to the school buildings. This will not alter the Council's commitment to establishing mixed secondary education in Barry.
20. Budgets for the schools will be determined by the Mainstream Schools Funding Formula which is based on a number of factors including pupil numbers. There are no savings identified as a result of the proposal. A key driver for this proposal is to improve educational outcomes for children and young people and to narrow the inequalities in achievement between advantaged and disadvantaged groups and individuals.
21. Implications on job security for staff resulting from the proposal have been a key concern for all stakeholders, and the focus of discussion between the Council, school staff, parents, pupils and trade unions as part of the Council's ongoing engagement process. Decisions regarding changes to staffing structures within schools are a matter for the respective school's governing body, and not within control of the Council. The Council has been clear, however, that it will strongly recommend ring fencing posts (both teaching and support staff) to both schools, seeking expressions of interest from current staff, and will not support plans to dismiss and re-engage staff or to advertise externally with the exception of the Headteacher and Deputy Headteacher positions. The Council has stated that should governing bodies choose not to follow this recommendation, it would be limited in its ability to provide support.
22. Transitional arrangements were also identified as a key element for improvement from the previous proposal to create mixed sex education in 2015. The current proposal outlines specific details on staff and pupil arrangements to address this, with a specific programme of work having been undertaken to inform the proposal put forward. Careful planning will take place during the proposed period of change to

reduce any risk of distraction or disruption that could impact on learning during transition and building work. The Council will be committing resources to employ a project manager to concentrate on supporting the new schools and the transition for pupils.

23. A number of catchment area options for the schools were developed in consultation with the existing headteachers at Barry Comprehensive and Bryn Hafren Comprehensive schools, their chairs of governors, and representation from feeder primary schools. The preferred option was agreed by all parties as one which provides as much parity as possible in relation to the number of pupils residing in each catchment area, relative levels of deprivation and the distance pupils would have to travel to school. The preferred catchment area option also follows logical geographical boundaries.
24. The proposal will ensure that there is a sustainable balance between the supply and demand for school places in Barry and that schools are easily accessible for pupils. Both Barry and Bryn Hafren Comprehensive schools have significant surplus capacity that will be addressed by this proposal. Pupils in the immediate area of the schools will live within 3 miles walking distance of their catchment or nearest school with the exception of pupils living within Rhoose and Heol Collen, Parc Y Gwenfo who will qualify for free school transport to their catchment area school.

Resource Implications (Financial and Employment)

25. The estimated cost of the scheme is £44M. This comprises £11.5M for the scheme on the Bryn Hafren site and £32.5M for the new school building and behaviour centre on the Barry Comprehensive School site. It is anticipated that part-funding would be provided by Welsh Government under Band B of its 21st Century Schools Programme. The remainder of the capital funding would be contributed by the Council.
26. Band B of 21st Century Schools funding starts in 2019/20 and extends up to 2024/25. Welsh Government is actively encouraging local authorities which have schemes scheduled to start in 2019/20 to submit a business case a year in advance. This would enable the funding to be agreed and work to commence on site from 2019/20.
27. A grant intervention rate of 50% is available under Band A of the 21st Century Schools Programme which means that Welsh Government contributes 50% of the cost of approved capital schemes that meet the published criteria. Welsh Government has acknowledged formal feedback from local authorities on the need to increase the intervention rate for Band B but has yet to publicise its funding plans.
28. There is a risk that the Council will not be able to secure the funding necessary to deliver the scheme as described. If this were to be the case, the establishment of the mixed sex schools would still be progressed although the amount and nature of the investment in the school buildings would need to be reassessed.
29. Funding has been included in the Council's Capital Programme for the refurbishment of toilets and changing rooms to enable the schools to operate as mixed sex schools from the academic year 2018/19 pending the significant building work which would commence from 2019/20.
30. Whilst the decision regarding re-organisation of the schools can be made by Cabinet, capital funding for schemes must be approved by Full Council.

31. With the establishment of two new mixed sex English medium secondary schools the first role of the temporary governing bodies will be to appoint headteachers. They have the option of ring fencing to the headteachers in post at the time or advertising externally in accordance with The Staffing of Maintained Schools (Wales) (Amendment No. 2) Regulations 2009. After appointing the Headteachers for the new schools, the governing body will then need to consider the staffing structures at each school. The above Regulations also apply to Deputy Headteacher posts. Changes to staffing would be subject to full consultation with staff and the relevant trade unions.
32. It is recognised that this proposal will create a great deal of uncertainty for the current staff of the schools. It is clear that the ambition to transform educational outcomes needs the very best staff to remain working in the schools. The Council has sought to reassure employees that the aim of the proposal is not to reduce the amount of staff or to save costs, but rather to improve secondary provision within Barry. A programme of training and development will be, where appropriate, provided to support staff throughout the transition and in working within the new schools.

Sustainability and Climate Change Implications

33. The proposals will ensure that new and refurbished buildings will meet modern building standards to reduce carbon emissions and will achieve the highest rating of A for the Energy Performance Certificate (EPC).
34. It is not anticipated that travel to school journeys by car or bus will increase as a result of this proposal. Pupils will be encouraged to travel to school by environmentally sustainable methods of transportation.

Legal Implications (to Include Human Rights Implications)

35. Powers for Councils to develop school organisation proposals derive from the School Standards and Organisation (Wales) Act 2013 which was enacted on 1 October 2013.
36. These proposals will lead to other implications which will include, for example, employment law, contract law and property law. Advice in relation to these matters is being taken and will continue to be taken from the Council's legal advisors as appropriate.

Crime and Disorder Implications

37. There are no direct crime and disorder implications as a result of this report.

Equal Opportunities Implications (to include Welsh Language issues)

38. A key driver to all school reorganisation proposals is to improve educational outcomes for children and young people in all phases and help to narrow the inequalities in achievement between advantaged and disadvantaged groups and individuals. The scheme has the potential to ensure that pupils of both sexes have access to a broad curriculum and that some of our most vulnerable young people are supported to achieve their full potential through the provision of inspirational learning environments and specialist support.
39. The new and refurbished buildings will be fully DDA compliant.
40. The Council must comply with the public sector equality duty (section 149) of the Equality Act 2010 when coming to a decision on whether to establish mixed-sex

secondary schools in Barry. Section 149 requires the Council to have due regard to the need to:

- eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 s149 (1).
41. The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation: section 149 (7) of the Equality Act 2010. And in Wales we also have to treat Welsh and English on an equal basis as well as promoting and facilitating the use of the Welsh language.
42. Section 149 (3) of the Equality Act states that having due regard to the need to advance equality of opportunity involves due regard, in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low; and
 - the steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
43. Section 149 (5) of the Equalities Act states that having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding. Compliance with the duties in this section may involve treating some persons more favourably than others.
44. To discharge the public sector equality duty the decision maker must analyse all the relevant material with the specific statutory consideration in mind. This includes considering whether the proposed decision is capable of having an adverse impact on persons who have any of the relevant protected characteristics. If it is, consideration must be given to whether there are any steps that could be taken (by way of modification of the proposed decision) to avoid or mitigate that impact. If there are such steps, consideration must be given to whether or not to adopt any of them as part of the final decision.
45. An Equality Impact Assessment on the proposal to establish mixed-sex secondary schools in Barry is attached at [Appendix E](#). The Equality Impact Assessment did not identify any potential for adverse impacts as a result of implementing the proposal and as a result, it has not been necessary to identify mitigating actions to address any negative impact. It has been identified that the proposal would provide a neutral impact, and in the case of Gender reassignment and disability, a positive impact to the current and future children and staff of the school.

Corporate/Service Objectives

46. The development of proposals for secondary school provision in Barry is a corporate priority for the Council, outlined under Well-being Outcome 3: An Aspiration and Culturally Vibrant Vale, Objective 5: Raising overall standards of achievement.
47. Consultation on the establishment of two new mixed sex English medium schools is a key component of this work and features in the Strategy, Community Learning and Resources Service Plan 2016 - 2020.

Policy Framework and Budget

48. This is a matter for Executive decision by the Cabinet.

Consultation (including Ward Member Consultation)

49. Public consultation with all interested parties has been carried out, in accordance with legislation.

Relevant Scrutiny Committee

50. Learning and Culture.

Background Papers

Individual objections to the statutory notice have been made available in the member's room.

Contact Officer

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Officers Consulted

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