

## **The Vale of Glamorgan Council**

### **Cabinet Meeting: 21 January 2019**

#### **Report of the Cabinet Member for Learning and Culture**

#### **Proposal to increase the number of primary school places at St David's Church in Wales Primary School**

##### **Purpose of the Report**

1. To advise Cabinet of the proposal put forward by the governing body of St David's Church in Wales Primary School to undertake a statutory consultation to make a regulated alteration by increasing the number of primary school places from 140 places to 210 places from September 2021.

##### **Recommendations**

1. That Cabinet notes the contents of this report.
2. That Cabinet agrees to receive a further report detailing the outcome of the consultation exercise.

##### **Reasons for the Recommendations**

1. To ensure Cabinet is fully apprised of the decision made by the governing body of St David's Church in Wales Primary School to undertake a statutory consultation to make a regulated alteration by increasing the number of school places from 140 places to 210 places from September 2021.
2. To ensure that Cabinet receives a further report detailing the outcome of the consultation exercise.

##### **Background**

2. The 21st Century Schools Programme is a long term strategic investment in educational estate throughout Wales. It is a unique collaboration between Welsh Government, the Welsh Local Government Association (WLGA), local authorities, colleges and diocesan authorities.
3. The second wave of investment in the 21st Century Schools Programme commences in April 2019 and requires the Council to meet the following investment objectives:
  - addressing growth in demand for Welsh medium education;
  - reductions of surplus capacity and inefficiency in the system;

- expansion of schools in areas of increased demand for educational services;
  - address condition of educational assets; and
  - making assets available for community use where demand exists.
4. A proposal submitted as part of the Council's Strategic Outline Programme (SOP) Band B submission was the establishment of a new 210 place school for St David's Church in Wales (C/W) Primary School.
  5. St David's C/W Primary School is one of 7 Church in Wales voluntary aided primary schools in the Vale of Glamorgan.

### **Relevant Issues and Options**

6. A number of large scale housing developments are planned for the Vale of Glamorgan area. Planning permission has been granted for 475 dwellings on the land to the north and west of Darren Close, Cowbridge.
7. This housing development is situated within the catchment area for St David's C/W Primary School.
8. The projected number of pupils emanating from a development is calculated using a formula derived from census data of householders in the Vale of Glamorgan. The formula is contained within the Council's Supplementary Guidance for planning purposes.
9. The Cowbridge development in total is projected to yield around 48 nursery, 132 primary and 118 secondary school pupils.
10. The demand for schooling required for the 132 primary age children emanating from the development, based on current demand in the area, would result in 69 pupils requiring Church in Wales education.
11. In order to ensure St David's C/W Primary School is able to meet anticipated future demand for Church in Wales education, its capacity would need to increase.
12. St David's C/W Primary School building has been categorised as being in poor condition and suitability. This means the school is exhibiting major defects and teaching methods are adversely affected. It would not be possible to refurbish teaching areas to fully meet 21st century standards. The school currently utilises temporary accommodation to provide sufficient space for the numbers of pupils on roll.
13. St David's has been included as part of the Council's 21st Century Schools Programme. A new 210 place school building will be built on the existing school site. It is anticipated that the new school building would open by September 2021, to provide sufficient space for the increased demand.
14. Pupils would be educated in a high quality modern building which would be able to support the delivery of a broad and balanced curriculum.

### **Statutory Process**

15. Welsh Government issued a revised School Organisation Code in 2018 ("the Code") which came into force on the 1st November 2018. The Council must "act in accordance with the Code" as determined by the School Standards and Organisation (Wales) Act 2013.

16. As St David's C/W Primary School is a voluntary aided primary school, the governing body may make proposals which include making a regulated alteration to their school and the publication of school organisation proposals.
17. Section 48 of the School Standards and Organisation (Wales) Act 2013 Act requires that before school organisation proposals are published they must first be subject to consultation. A consultation document must be published and provided to prescribed consultees and Welsh Ministers.
18. Consultees must be advised by letter or email of the availability of the consultation document and that a hard copy can be obtained on request. Consultees must be given at least 42 days to respond to the document, with at least 20 of these being school days. Meetings will be held during the consultation period to provide additional information as requested and would include meetings with parents, pupil representatives, staff of the school and the community as set out in the Code.
19. A consultation report must be published including a summary of comments received and the proposer's response to these comments, at least two weeks prior to the publication of any statutory notice.
20. The proposer must then decide whether or not to proceed with the proposal within twenty six weeks of the end of the period allowed for consultation responses. If following the consultation process the governing body decides to progress the proposal, a statutory notice would be published providing 28 days for objections. The notice must be published on a school day and must include 15 school days (in addition to the day on which it is published).
21. If no objections are received to the statutory notice, the governing body are responsible for approving and determining the proposal. Where objections are received the Council will be required to approve the proposal on behalf of the proposer
22. Appendix A sets out the anticipated timescale for this process.

### **Resource Implications (Financial and Employment)**

23. It is estimated that the total capital funding required to build a new school on the proposed site would be £4.185M. This funding is included in the approved 21st Century Schools Programme.
24. A schools delegated budget is driven by pupils on roll rather than capacity, therefore, the schools budget would gradually increase in line with the growth of pupils on roll.
25. The staff, governing body and pupils at St David's C/W Primary School would move to the new school building. Staff would remain on current terms and conditions.

### **Legal Implications (to Include Human Rights Implications)**

26. Part 1 of the Education Act 1996 ("the 1996 Act") imposes a number of general duties on all local authorities in Wales. The general duty in section 13 of the 1996 Act is to contribute (so far as the Council's powers enable them to do so) towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education and secondary education are available to meet the needs of the population of their area.
27. Section 13A(3) of the 1996 Act states that a local authority in Wales must ensure that their relevant education functions and their relevant training functions are exercised by the authority with a view to promoting high standards, and promoting the fulfilment

of learning potential by every person to whom the subsection applies, including those who are of compulsory school age or are below school age and are registered as pupils at schools maintained by the authority.

28. Section 14 of the 1996 Act then provides that the Council shall secure that sufficient schools for providing primary education and secondary education are available in the Council's area. Schools available for an area shall not be regarded as sufficient unless they are sufficient in number, character and equipment to provide for all pupils the opportunity for appropriate education. Appropriate education means education which offers such variety of instruction and training as may be desirable in view of (a) the pupils' different ages, abilities and aptitudes; and (b) the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their different needs.

29. Powers for Councils and governing bodies to develop school organisation proposals are governed by the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code 2018. The Council and governing bodies are required to comply with the relevant provisions in connection with the proposal.

(1) School Standards and Organisation (Wales) Act 2013

30. Part 3 of the School Standards and Organisation (Wales) Act 2013 ("the 2013 Act") is concerned with school organisation. The Welsh Ministers have issued the School Organisation Code ("the Code"). Local authorities and governing bodies must, when exercising functions under Part 3 of the 2013 Act, act in accordance with any relevant requirements contained in the Code, and must have regard to any relevant guidelines contained in it. A copy of the Code is found here:

<http://www.assembly.wales/laid%20documents/sub-ld11730/sub-ld11730-e.pdf>

31. Chapter 2 of Part 3 of the 2013 Act deals with school organisation proposals. An alteration which is a "regulated alteration" in relation to the type of school in question may be made to a maintained school only in accordance with Part 3 of the 2013 Act. The term "regulated alteration" is defined in Schedule 2 to the Act. The following change is a regulated alteration relevant to this proposal:

- The enlargement of the premises of the school which would increase the capacity of the school by at least 25% or 200 pupils as compared with the school's capacity on the appropriate date. (see paragraph 10 of Schedule 2 to the Act)

32. Under section 42(2) of the 2013 Act, a governing body has the power to make proposals to make a regulated alteration to a voluntary school.

33. Section 48(2) of the 2013 Act provides that before publishing such proposals, a proposer (in this case, the governing body) must consult on its proposals in accordance with the Code. The consultation document must be issued during the term time of the schools affected and consultees must be given at least 42 days to respond to the document, with at least 20 of these being school days.

34. The proposer must publish a report on the consultation it has carried out in accordance with the Code. The consultation report must summarise each of the issues raised by consultees, responding to these by means of clarification, amendment to the proposal or rejection of the concerns, with supporting reasons; and setting out Estyn's view (as provided in its consultation response) of the overall merits of the proposal.

35. If a local authority or governing body decide to proceed with a proposal to make a regulated alteration to a maintained school, it must publish proposals to that effect in

accordance with the Code (section 48(1)). The proposal must be published by way of statutory notice. Chapter 4 of the Code sets out specific requirements as to how statutory proposals must be published. Proposals must be published on a school day and the objection period must include 15 school days (in addition to the day on which it is published).

36. Section 49 of the 2013 Act makes provision for any person to object to proposals published under section 48 within the objection period of 28 days. The proposer must then publish a summary of all objections made to the proposal and its response to those objections before the end of 28 days beginning with the end of the objection period.
37. The proposer must then determine whether the proposals should be implemented. Where a governing body's proposals have received objections, which have not been withdrawn before the end of 28 days beginning with the end of the objection period, the proposer must send a copy of the documents listed in 51(3) to the relevant local authority before the end of 35 days beginning with the end of the objection period and who will be required to approve the proposal.

## (2) The Code

38. The Code contains the following elements:
  - It imposes requirements in accordance with which relevant bodies must act. Where mandatory requirements are imposed by the Code or by the 2013 Act or another statute or statutory instrument, it is stated that the relevant bodies must comply with the particular provision. Where practices are prohibited, it is stated that the relevant bodies must not use this practice.
  - It includes statutory guidance to which the proposer must have due regard and sets out the policy context, general principles and factors that should be taken into account by those bringing forward proposals to reconfigure school provision and by those responsible for determining proposals. Where guidance is given by the Code, it is stated that relevant bodies should follow this guidance unless they can demonstrate that they are justified in not doing so.
39. Paragraph 1.1 of the Code sets out the key background principles and policies, which should be taken into account by the Council in developing school organisation proposals. These include:
  - United Nations Convention on the Rights of the Child
  - The Well-being of Future Generations (Wales) Act 2015 (see below)
  - Cymraeg 2050, A Million Welsh Speakers
  - Action Plan, Cymraeg 2050
  - One Wales: One planet, a new sustainable development scheme for Wales May 2009 or any successor strategy
  - Child Poverty Strategy for Wales (issued February 2011 Information document number 95/2011), or any successor strategy
  - Faith in Education
  - Local plans for economic or housing development
  - Welsh in Education Strategic Plans (made under part 4 of the School Standards and Organisation (Wales) Act 2013)

- Children and Young People's Plans (or successor plans)
  - 21st Century Schools – Capital Investment Programme and the relevant wave of investment
  - Learner Travel Statutory Provision and Operational Guidance 2014:  
<https://beta.gov.wales/learner-travel-statutory-provision-and-operational-guidance>
  - Measuring the capacity of schools in Wales, Circular No: 021/2011:  
<https://beta.gov.wales/measuring-capacity-schools-guidance>
  - Children and Young People's National Participation Standards
40. If following the consultation process and the consideration of responses a decision is made to proceed to a statutory notice to increase the number of school places at St David's Church in Wales Primary School from 140 places to 210 places, the notice will comply with the requirements of the Schools Standards and Organisation (Wales) Act 2013 and the School Organisation Code 2018, Statutory Code Document no. 011/2018.

### **The Well-being of Future Generations (Wales) Act 2015**

41. The Well-being of Future Generations (Wales) Act 2015 ('the 2015 Act') sets out new ways of working – of planning and making decisions – for local authorities and other public bodies it lists. The aim is that, by improving these things, the overall well-being of Wales will be better improved by the things public bodies collectively do. The Act and the statutory guidance makes it clear that local authorities must, in the course of their corporate planning and their delivery against those plans:
- balance short term needs against the ability to meet long term needs;
  - think about the impact their objectives have on other organisations' objectives, and on the well-being of Wales, in an integrated way;
  - involve in those processes people who reflect the diversity of the population they serve;
  - work together collaboratively with other organisations to better meet each other's objectives; and
  - deploy their resources to prevent problems from getting worse or from occurring in the first.
42. The statutory guidance, for organisations subject to the Act, sets out the expectations for how the duties should be met:
43. <http://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>
- The Act itself is available to view online:
44. <http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>
- Current practice on the use of surplus school accommodation, Information document No 158/2014

### **Sustainability and Climate Change Implications**

45. Increasing the number of school places from 140 to 210 offers a more efficient and sustainable model than a 140 place school. The proposal also addresses issues with the existing building.

46. The proposals will ensure that new buildings will meet modern building standards to reduce carbon emissions, meet BREEAM Excellence standards, and will achieve the highest rating of A for the Energy Performance Certificate (EPC).
47. A minimum of 80% of services and materials will be procured locally as part of the Welsh Government 21st Century Schools programme.

### **Crime and Disorder Implications**

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

### **Equal Opportunities Implications (to include Welsh Language issues)**

49. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics.
50. A full Equality Impact Assessment will be developed as part of the consultation exercise and will be included within the consultation report.

### **Corporate/Service Objectives**

51. This proposal contributes to the Council's wellbeing outcome: an aspirational and culturally vibrant Vale and to the corporate objective of raising overall standards of achievement.

### **Policy Framework and Budget**

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

### **Consultation (including Ward Member Consultation)**

53. Public consultation with all interested parties will be carried out in accordance with legislation, following the statutory processes set out in the School Standards and Organisation (Wales) Act 2013.

### **Relevant Scrutiny Committee**

54. Learning and Culture.

### **Background Papers**

55. On 19th February 2018, full council approved the capital programme for 2018/19 - 2022/23 which included the proposed Band B phase of the 21st Century Schools Programme (minute C225).

### **Contact Officer**

Matthew Curtis      21st Century Schools Project Manager

### **Officers Consulted**

Trevor Baker	Head of Strategy, Community Learning & Resources
Lisa Lewis	Operational Manager, Strategy & Resources
Jane O'Leary	21st Century Schools Programme Manager

Mike Matthews      Principal Strategic Planning Officer

**Responsible Officer:**

Paula Ham, Director of Learning and Skills

Proposed timetable for increasing the capacity of St David's Church in Wales  
Primary School from 140 places to 210 places

Prepare, approve and print consultation documents.	December 2018 – January 2019
Consultation period.	28 January 2019 – 15 March 2019
Prepare consultation report.	March 2019 – April 2019
Consultation report presented to governing body (If approved – proceed to statutory notice).	April 2019
Statutory notice period.	May 2019
Objection report.	June 2019 - July 2019
Decision notification.	July 2019
Implementation of proposal.	September 2021

**The proposed timetable is subject to change.**