

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 04 November 2019</b>
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Proposal to increase the number of primary school places in Cowbridge to meet the increased demand as a result of recent and proposed housing developments through the amalgamation of Y Bont Faen Primary School and Cowbridge Comprehensive School.
Purpose of Report:	To seek Cabinet approval to consult stakeholders on the proposal to increase the number of primary school places in Cowbridge to meet the increased demand as a result of recent and proposed housing developments through the amalgamation of Y Bont Faen Primary School and Cowbridge Comprehensive School.
Report Owner:	Deputy Leader and Cabinet Member for Education and Regeneration
Responsible Officer:	Paula Ham, Director of Learning and Skills
Elected Member and Officer Consultation:	<p>Lisa Lewis: Operational Manager, Strategy &amp; Resources  Jane O'Leary: 21st Century Schools Programme Manager  Carolyn Michael: Operational Manager, Accountancy  Trevor Baker: Head of Strategy, Community Learning &amp; Resources</p> <p>Committee Reports</p> <p>Local Ward Members would be consulted as part of the consultation process in accordance with the School Organisation Code 2018.</p>
Policy Framework:	This is a matter for Executive decision by Cabinet.

Executive Summary:

- This report seeks Cabinet approval to increase the number of primary school places in Cowbridge to meet the increased demand as a result of recent and proposed housing developments and to undertake a statutory consultation, as outlined in the School Organisation Code 2018 ("the code"), on a proposal to establish a new 2006 place 3 - 19 all through school from September 2022 through the amalgamation of Y Bont Faen Primary School and Cowbridge Comprehensive School by:
  - Changing the age range of Cowbridge Comprehensive School from 11 - 19 to 3 - 19;
  - Increasing the capacity of Cowbridge Comprehensive School from to 1586 places to 2006 places to accommodate 420 English medium primary school places with 96 part-time nursery places;
  - Constructing a new school building on the Cowbridge Comprehensive School site to accommodate the primary and nursery phases; and
  - Discontinuing Y Bont Faen Primary School as an entity while transferring all staff and pupils to the new building for September 2022.
- The proposal would result in an additional 210 primary places to meet increased demand for English medium primary school places as a result of recent and proposed housing developments within the catchment area and would address the condition and suitability issues with the existing buildings.
- Welsh medium primary capacity would be addressed as part of Band C of the 21st Century Schools Programme.

## **Recommendations**

1. That Cabinet authorises the Director of Learning & Skills to undertake consultation from 18 November 2019 to 20 December 2019 on the proposal to increase the number of primary school places in Cowbridge to meet the increased demand as a result of recent and proposed housing developments and to establish a new 2006 place 3 - 19 all through school from September 2022 through the amalgamation of Y Bont Faen Primary School and Cowbridge Comprehensive School by:
  - Changing the age range of Cowbridge Comprehensive School from 11 - 19 to 3 - 19;
  - Increasing the capacity of Cowbridge Comprehensive School from 1586 places to 2006 places to accommodate 420 English medium primary school places 96 part-time nursery places;
  - Constructing a new school building on the Cowbridge Comprehensive School site to accommodate the primary and nursery phases; and
  - Discontinuing Y Bont Faen Primary School as an entity while transferring all staff and pupils to the new building.
2. That Cabinet refers this report to the Learning and Culture Scrutiny Committee for consideration as part of the proposed consultation exercise.

## **Reasons for Recommendations**

1. To seek feedback on the proposal through a formal consultation with prescribed stakeholders, and to enable the Council to comply with the requirements of the Schools Standards and Organisation (Wales) Act 2013 and the School Organisation Code 2018.
2. To ensure that the Learning and Culture Scrutiny Committee is consulted on the proposal.

## **1. Background**

- 1.1 The 21st Century Schools and Education Programme is a unique collaboration between Welsh Government and Local Authorities. It is a major long term strategic capital investment programme with the aim of creating a generation of 21st Century Schools in Wales.
- 1.2 In July 2017, the Council submitted its Strategic Outline Programme (SOP) for Welsh Government approval, identifying the priorities included within the Band B programme.
- 1.3 On 10 November 2017, the Cabinet Secretary for Education confirmed that the Council's proposals met Welsh Government's investment objectives and, subject to approval of the individual business cases, Welsh Government's commitment to supporting all of the projects presented. This was confirmed in writing on 6 December 2017.

- 1.4** On 22 January 2018, Cabinet approved the proposed Band B phase of the 21st Century Schools Programme (minute C199). Funding for the projects was based on an anticipated Welsh Government intervention rate of 50% funding for non-faith school schemes and 85% funding for Voluntary Aided faith school schemes.
- 1.5** On 21 November 2018, Welsh Government and the WLGA issued a joint statement announcing a change to the Welsh Government intervention rate for the 21st Century Schools Programme. Welsh government funding for non-faith school schemes would increase from 50% to 65%. A new intervention rate was introduced for facilities for those pupils with additional learning needs (ALN) and those in pupil referral units (PRU) at 75% Welsh Government funding.
- 1.6** On 15 July 2019, Cabinet approved a more robust 21st Century Schools Programme that re-invested the Council's capital to deliver additional projects. As a result the Primary Education in Cowbridge Project was removed from the programme to be fully funded by the Council with £7.417m allocated to the scheme.

## **2. Key Issues for Consideration**

### **Demand for School Places**

- 2.1** A number of housing developments in Cowbridge have been included in the Council's Local Development Plan (LDP) 2011 - 2026. The largest of these developments being the 'Land to the north and west of Darren Close' with 475 dwellings. This development has obtained planning permission and construction has begun on site.
- 2.2** The LDP also states that a 2 hectare site has been allocated as part of this development for a new school building to meet the demand of the development.
- 2.3** The three primary schools serving this area are St David's Church in Wales Primary School for denominational education, Y Bont Faen Primary School for English medium education and Ysgol Iolo Morganwg for Welsh medium education. Cowbridge Comprehensive School is an English medium secondary school in Cowbridge.
- 2.4** 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.
- 2.5** The development is projected to yield around 48 nursery, 132 primary pupils, 99 secondary pupils and 19 sixth form pupils. As Cowbridge Comprehensive School has a relatively small catchment population compared with its capacity, additional demand for English medium secondary education would be met within existing capacity.
- 2.6** The following table shows current and projected pupil numbers at the primary schools serving the development.

School	School Capacity	Current Number on Roll	Under /over	PLASC 2020	PLASC 2021	PLASC 2022	PLASC 2023	PLASC 2024
<b>St David's CIW Primary School (Faith)</b>	140	135	5	148	151	163	175	182
<b>Y Bont Faen Primary School (English Medium)</b>	210	209	1	223	243	258	273	287
<b>Ysgol Iolo Morganwg (Welsh Medium)</b>	210	173	37	176	179	184	187	192

**2.7** There are also a number of additional developments included within the LDP that fall within the catchment area of the Cowbridge schools. The table below shows the projected demand for primary education in each of the sectors (faith, English medium and Welsh medium) should all these developments go ahead as outlined in the LDP.

Individual Schools	School Capacity	Current Number on Roll	Under /over	PLASC 2020	PLASC 2021	PLASC 2022	PLASC 2023	PLASC 2024
<b>St David's CIW Primary School (Faith)</b>	140	135	5	148	151	165	181	192
<b>Y Bont Faen Primary School (English Medium)</b>	210	209	1	223	243	265	299	329
<b>Ysgol Iolo Morganwg (Welsh Medium)</b>	210	173	37	180	187	199	205	212

**2.8** Welsh medium education is increasing in popularity and has seen significant growth over the last 18 years since the opening of Ysgol Gymraeg Bro Morgannwg. This has been evident in the recent 'Transforming Secondary Education in Barry' project which has seen a reduction in the number of English medium secondary places available in Barry from 2754 to 2200 and an increase in the number of Welsh medium secondary places available from 1151 to 1450.

- 2.9** Ysgol Dewi Sant is a Welsh medium primary school in Llantwit Major that opened in September 2011. In the first year of opening, the reception intake contained just 3 pupils. Just 7 years later, the September 2018 intake was oversubscribed with 32 applicants for 30 places.
- 2.10** The Council acknowledges there may be some concern that the demand for Welsh medium places does not materialise. However, the Council is confident that there is sufficient evidence to suggest demand for Welsh medium education will continue to grow, reflective of Welsh Government's strategy, Cymraeg 2050: A million Welsh speakers, and its projections for the number of Welsh speakers aged three and over up to 2050, having been produced as part of the strategy. It is anticipated that the requirement and pro-active nature of promoting bilingual education and creating additional provision to support parents and pupils who decide to transition into Welsh medium education via a regional immersion centre or similar provision as outlined in the Welsh in Education Strategic Plan will further increase uptake over the long term.
- 2.11** Welsh Government is projecting an increase in Welsh medium speakers of around 8% by 2030 and 16% overall by 2050. If the same ratio is applied to the Welsh medium primary school sector, overall primary school numbers would almost double by 2050 requiring substantial changes to the Council's school infrastructure.
- 2.12** Capacity at St David's Church in Wales Primary School has been addressed with the approval of the proposal to increase the capacity of the school from 140 places to 210 places from September 2021.
- 2.13** Based on the above projections Y Bont Faen Primary School would not be able to meet the demand for English medium primary education from September 2020. Ysgol Iolo Morganwg would be able to meet the demand for Welsh medium primary education. However, if all developments included within the LDP materialise, there would be a shortfall in September 2025.

### **Land & Buildings**

- 2.14** In order to meet the demand from the current and proposed developments, a 2 hectare site has been allocated on the Darren Close development. It was originally proposed that a new 420 place school would be built on this site with one of the existing schools in Cowbridge transferring to the new school. Y Bont Faen Primary School and Ysgol Iolo Morganwg are both 210 place schools. Therefore the transfer would result in an additional 210 school places. As outlined in the above projections, Y Bont Faen Primary School does not have sufficient capacity to meet anticipated demand for English medium primary education. Ysgol Iolo Morganwg does have sufficient capacity to meet anticipated future demand for Welsh medium primary education. However, there would be limited capacity to meet future growth in Welsh medium education.
- 2.15** The condition of the existing school buildings is outlined below:

	<b>Condition</b>	<b>Suitability</b>	<b>Backlog Maintenance</b>	<b>Temporary Structures</b>
<b>Y Bont Faen Primary School</b>	C (Poor)	B (Satisfactory)	£301,990	0
<b>Ysgol Iolo Morganwg</b>	B (Satisfactory)	C (Poor)	£222,200	2

**2.16** Initial feasibility has been undertaken on the existing sites. An expansion of the existing Ysgol Iolo Morganwg building would not be possible due to the limited site size which would not be compliant with Building Bulletin 99: Framework for Primary School Projects (BB99). An expansion of the existing Y Bont Faen Primary School building would be possible in terms of overall site size. However, access to this site is extremely limited, which would cause logistical issues throughout construction which could result in increased costs. There would also be limited funding to refurbish existing elements of the school building which is in poor condition.

### **Preferred Way Forward**

**2.17** Alternative options for Primary Provision in Cowbridge have been considered and the preferred option would be to adopt a phased approach. Phase one would be to increase English medium capacity from 210 places to 420 places from September 2022 to meet increased demand. Nursery provision would also be increased from 60 part-time places to 96 part-time places. It is proposed that the new school building would be built on the existing Cowbridge Comprehensive School site to provide continuity between primary and secondary provision.

**2.18** The new school site on the Darren Farm development would be utilised as part of phase two to increase the capacity of Ysgol Iolo Morganwg. However, as projections indicate the existing capacity at Ysgol Iolo Morganwg would be sufficient to meet demand until 2024, it is proposed that this is delivered as part of Band C of the 21st Century Schools Programme. There is a risk that Band C of the 21st Century Schools Programme is delayed or does not materialise. However, Welsh Government has indicated that additional funding could be made available towards the end of Band B which would potentially allow the project to be brought forward prior to the end of the Band B programme.

**2.19** The Section 106 agreement for the Darren Farm development states that a 2-hectare site shall be transferred to the Council on the occupation of one hundred and fifty dwellings. From the point of transfer, the Council has 5 years to enter into a build contract for the construction of the primary school otherwise the land shall be transferred back to the developer. These timescales would be consistent with Band C of the 21st Century Schools Programme which is due to begin from April 2024 or the latter part of the current band B programme. The programme would need to be managed carefully to take this into account and to ensure a contractor is appointed within the timescales.

- 2.20** The expansion of Ysgol Iolo Morganwg would be subject to a separate consultation exercise in accordance with the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code (2018).
- 2.21** The preferred way forward would address a number of challenges, including:
- Providing sufficient places to meet anticipated demand for primary education in Cowbridge as a result of recent and proposed housing developments.
  - Supporting the Council's Welsh in Education Strategic Plan by increasing capacity of Welsh medium primary education in Cowbridge to promote future growth in Welsh medium education.
  - Supporting Welsh Government's 'Cymraeg 2050' strategy.
  - Addressing the poor condition and suitability of the existing Y Bont Faen and Ysgol Iolo Morganwg school buildings.
  - The new buildings would meet BREEAM Excellent standard promoting sustainability.
  - Addressing access issues at Y Bont Faen Primary School.
  - Achieving continuity and progression in children's learning.
  - Preventing surplus capacity by adopting a phased approach to delivery.
- 2.22** No decision has been made in respect of the future use of the site and buildings. If the proposal outlined in this report is implemented, all options would be considered, including designating the site as surplus or exploring alternative uses. Any future development of the site would be managed in accordance with the relevant council policy and its statutory and fiduciary obligations.

### **Amalgamation of Y Bont Faen and Cowbridge Comprehensive School**

- 2.23** As it is proposed that the additional English medium capacity would be met by transferring staff and pupils from Y Bont Faen Primary School to a new school building constructed on the Cowbridge Comprehensive School site, it is proposed that a new 3 - 19 all through school is established.
- 2.24** This would be achieved by implementing regulated alterations to change the age range of Cowbridge Comprehensive School from 11-19 to 3-19, and increasing the capacity from 1586 to 2006 (equivalent to 420 primary school places) with an additional 96 part-time nursery places and discontinuing Y Bont Faen Primary School
- 2.25** All staff and pupils from Y Bont Faen Primary School would transfer to Cowbridge Comprehensive School for September 2022. The headteacher of Cowbridge Comprehensive School would become the headteacher of the all through school. The governing body of Y Bont Faen Primary School would be discontinued, and the governing body of Cowbridge Comprehensive School would be responsible for the running of the all through school.
- 2.26** The composition of the governing body would be reviewed in line with the school's Instrument of Government following any amalgamation. The Governor Support Unit would liaise with the governing body of the school to discuss



options and encourage the school to welcome applications for any vacancies from current governors of Y Bont Faen Primary.

**2.27** 3 - 19 all through schools have a number of benefits, including:

- A consistent vision and shared values across education phases.
- Shared professional learning community.
- Consistent engagement with parents across the primary and secondary phase.
- Expertise across the full age range.
- Professional development opportunities for staff within a through school environment.
- Increased focus on the key transitions particularly between Key Stage 2 and the secondary phase ensuring that gains in learning are built upon year by year with the minimum of disruption as the child moves through the learning structure(s).
- One single accountability and inspection regime, including a single Challenge Advisor from the Consortium.
- A single budget across the school, simplifying financial management.
- Removal of duplication of data returns and pupil census data.
- Streamlined primary to secondary admissions process with existing pupils automatically transferring to the secondary phase without submitting a new application.

**2.28** During 2019-20, Estyn will be undertaking a review of the leadership, provision and performance of all through schools, given their increased popularity. The review will be focussing on the benefits and challenges of this model. The findings of this review would be considered throughout the implementation of this model.

**2.29** The Council first established an all through school in September 2015 with the amalgamation of Ysgol Gyfun Bro Morgannwg and Ysgol Gymraeg Nant Talwg to establish the 3 - 19 Ysgol Gymraeg Bro Morgannwg.

### **Statutory Process**

**2.30** Welsh Government issued a revised School Organisation Code in 2018 ("the Code") that came into effect 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.

**2.31** 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.

**2.32** 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, governing bodies, staff of the school and the community as set out in the Code.

- 2.33** A consultation report must be published including a summary of comments received and the Council's response to these comments, at least two weeks prior to the publication of any statutory notice.
- 2.34** The Council 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 Council decides that the proposal is to be progressed, 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).
- 2.35** If objections are received, an objection report must be published with a summary of the objections and the Council's response before the end of 7 days beginning with the day of its determination. Under the legislation as the proposal does not relate to 6th form education the Local Authority can determine the proposal if objections are received.
- 2.36** Appendix A sets out the anticipated timescale for this process if approved by Cabinet.

#### **Ward Member Consultation**

- 2.37** Local ward members have been consulted. A joint response has been submitted by Cllr Geoff Cox on behalf of all ward members:
- *Ward members are pleased that the report acknowledges the poor condition of Y Bont Faen Primary School.*
  - *Ward members welcome the proposal to build a new school on the Cowbridge Comprehensive school site and increasing its capacity to accommodate 420 primary places and 96 part-time nursery places.*
  - *However, Ward members object to the proposal to amalgamate Y Bont Faen Primary with Cowbridge Comprehensive School and associated with this the change of management and disbanding the governing body. We believe that the Council should instead look to extending the current good level of co-operation between the two schools.*
  - *Y Bont Faen is a successful primary school which has a good reputation with parents of pupils and the wider community.*

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The Well-being of Future Generations Act 2015 ("the 2015 Act") requires the Council to think about the long-term impact of their decisions, to work better with people, communities and each other and to prevent persistent problems such as poverty, health inequalities and climate change.

**3.2** To make sure we are all working towards the same purpose, the 2015 Act puts in place seven well-being goals on the Council. The 2015 Act makes it clear the listed public bodies must work to achieve all of the goals, not just one or two, these being:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and Welsh Language
- A globally responsible Wales

**3.3** The 21st Century Schools Programme contributes to achieving the wellbeing goals by:

- Improving sustainability of school buildings through the creation of BREEAM Excellent accommodation.
- Ensure an efficient supply and demand of school places across the Vale of Glamorgan through effective forecasting of future demand.
- Providing additional school places to meet increased demand as a result of recent and proposed housing developments.
- Providing facilities available for community use.

**3.4** The 2015 Act imposes a duty on all public bodies in Wales to carry out “sustainable development”, defined as being, "The process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals." The action that a public body takes in carrying out sustainable development includes setting and publishing well-being objectives, and taking all reasonable steps in exercising its functions to meet those objectives.

**3.5** The 2015 Act sets out five ways of working needed for the Council to achieve the seven well-being goals, these being:

- The importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs.
- Considering how the Council’s objectives impact upon each of the wellbeing goals listed above.
- The importance of involving people with an interest in achieving the well-being goals and ensuring that those people reflect the diversity of the area which the Council services.
- Acting in collaboration with other persons and organisations that could help the Council meet its wellbeing objectives.

- Acting to prevent problems occurring or getting worse.
- 3.6** The Council has committed as part of the Corporate Plan 2016-20 to achieving a vision of ‘Strong Communities with a Bright Future’. This plan is reflective of the Welsh Government’s Well-being of Future Generations Act and is comprised of a number of Well-being objectives to deliver this vision.
- 3.7** Well-being Outcome 3, ‘An Aspirational and Culturally Vibrant Vale’ is specifically linked to education with a number of objectives contributing to the 21st Century Schools programme. We have prioritised the need to raise standards of achievement as one of our well-being objectives. We are proud of the Vale of Glamorgan and our place in Wales and that the use of the Welsh language is growing in the Vale. We respect and value diversity within our communities and recognise the importance of promoting equality of opportunity. We also appreciate our unique heritage and culture and the importance for people of all ages to enjoy a range of activities and to have the opportunities to be creative. We have therefore identified valuing culture and diversity as one of our eight well-being objectives.
- 3.8** Details of the relevant objectives are listed below:

**Well-being Outcome 3: An Aspirational and Culturally Vibrant Vale**

- All Vale of Glamorgan citizens have opportunities to achieve their full potential.

**Objective 5: Raising overall standards of achievement**

- Improve standards of achievement for pupils through sharing excellence between schools and the targeting of resources.
- Secure improved outcomes for groups of learners at risk of underachievement, such as those entitled to free school meals.
- Increase the learning opportunities for disadvantaged individuals and vulnerable families.
- Reduce the number of young people not in education, employment or training.
- Improve outcomes for post 16 learners through greater cooperation between schools, training providers and businesses.
- Develop a new school modernisation programme in readiness for the next 21st century schools funding due to commence in 2019/20.

**3.9** The 21st Century Schools Programme meets the five ways of working by:

- Responding to the need to ensure that there is a well-managed balance of supply and demand of school places as a result of recent and planned housing developments. It is recognised that the changing demographics in the Vale of Glamorgan will significantly affect the demand for our services. Short term and long term need and the assessment of demographic increases is an important aspect of the Council's strategic planning responsibilities.
- Developing schools that will have an environment reflective of the national mission for education in Wales and future curriculum.

- Working towards ensuring that all pupils within the Vale have every opportunity to attain the best possible outcomes. This ambition is achieved by ensuring that schools remain sustainable, reflects the needs of local communities and are equipped with the best possible learning environments.
- Contributing towards a healthier Wales by supporting sustainable transport strategies and providing additional sport facilities.
- Contributing towards a prosperous Wales by committing to working with Welsh Government on the 21st Century Schools Programme. The 21st Century Schools and Education Programme in the Vale of Glamorgan will drive greater social value while delivering on the Welsh Governments community benefits through its investment in education infrastructure and employment. Specifically, it will increase contributions to education, training and skills across the Vale and the region and provide opportunities for local tradespeople and to use local resources, wherever possible.
- Delivering rigorous consultation with open communication channels and numerous opportunities for stakeholders to engage throughout the process.
- Ensuring that schools are of the right size, in the right places and serving the educational needs of their local communities as part of the school organisation process.

#### **4. Resources and Legal Considerations**

##### **Financial**

- 4.1** £7,417,000 has been allocated to the Primary Provision in Cowbridge project. This would deliver a new 420 place school building on the Cowbridge Comprehensive School site to accommodate the primary phase.
- 4.2** The project would be fully funded by the Council utilising funding that was previously allocated to the 21st Century Schools programme prior to the Welsh Government intervention rate change. Prudential borrowing would be utilised as part of this funding and a revenue budget would need to be identified to fund these costs.
- 4.3** The all through school would receive a single budget allocated using the Council's Schools Funding Formula. The estimated revenue cost of operating the school would be £6.5M (excluding post 16 pupils which are funded by a Welsh Government Grant). The combined revenue budgets delegated for Y Bont Faen Primary School and Cowbridge Comprehensive School for 2019/20 totals £6.03M. The additional revenue cost will be met from within the delegated schools budget via the funding formula. The majority of a school's delegated budget is driven by pupils on roll rather than capacity, therefore, the school's budget would gradually increase in line with the growth of pupils on roll.
- 4.4** Additional funding would be sought either later in Band B or as part of Band C of the 21st Century Schools Programme to deliver the new school building for Ysgol Iolo Morganwg on the Darren Farm site. This would be subject to a separate consultation exercise.

## **Employment**

- 4.5** The staff and pupils of Y Bont Faen Primary School would transfer to Cowbridge Comprehensive School for September 2022.
- 4.6** The governing body of Cowbridge Comprehensive School would be responsible for developing a staffing structure for the new school and a number of roles, such as the Headteacher of the primary phase, may be re-designated. Any proposed changes to staffing would be subject to full consultation with staff and the relevant trade unions where necessary.
- 4.7** The purpose of the proposal is not to reduce the number of staff. In fact, the proposal would lead to an increase in employment opportunities at the school as additional pupil numbers would lead to growth in future staffing levels. The governing body of Cowbridge Comprehensive School would need to consider an increase in the staffing structure for the additional pupil numbers from September 2022.

## **Legal (Including Equalities)**

- 4.8** 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.
- 4.9** 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.
- 4.10** 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.
- 4.11** Powers for Councils to develop school organisation proposals are governed by the School Standards and Organisation (Wales) Act 2013 and the School

Organisation Code 2018. The Council is to comply with the relevant provisions in connection with the proposal.

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

**4.12** 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 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:  
<https://beta.gov.wales/sites/default/files/publications/2018-03/school-organisation-code.pdf>

**4.13** 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”:

- 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 is also a regulated alteration (see paragraph 10 of Schedule 2 to the Act)
- The alteration by a year or more of the lowest age of pupils for whom education is normally provided at the school (see paragraph 5 of Schedule 2 of the Act).

**4.14** Under section 42(1)(a) of the 2013 Act, a local authority has the power to make proposals to make a regulated alteration to a community school.

**4.15** Under Section 43(1)(a) of the 2013 Act, a local authority has the power to discontinue a maintained community school.

**4.16** Section 48(2) of the 2013 Act provides that before publishing such proposals, a proposer (in this case, the Council) 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.

**4.17** 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.

**4.18** If a local authority decides to proceed with a proposal to make regulated alterations 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).

**4.19** 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 Council must then publish a summary of all objections made to the proposal and its response to those objections before the end of 7 days beginning with the day of the Council's determination.

**4.20** The local authority proposer must then determine whether the proposals should be implemented. Where a local authority's proposals have received objections, and require determination, those objections will be carefully considered before a final determination is made. A further report to Cabinet will be prepared before any such determination is made. This determination must take place before the end of 16 weeks beginning with the end of the objection period.

## **(2) The Code**

**4.21** The Code contains the following elements:

- It imposes requirements in accordance with which relevant bodies (including all local authorities in Wales) 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 Council 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.

**4.22** 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

**4.23** Section 1.4 of the School Organisation Code 2018 outlines that Councils should consider the extent to which the proposal would support the targets in the approved Welsh in Education Strategic Plan (WESP).

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

**4.24** 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.

**4.25** The statutory guidance, for organisations subject to the Act, sets out the expectations for how the duties should be met:

<http://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>

**4.26** The Act itself is available to view online:

<http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

**4.27** Current practice on the use of surplus school accommodation, Information document No 158/2014.

### **(4) Equalities Act 2010**

**4.28** 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.

- 4.29** A full Equality Impact Assessment will be developed as part of the consultation exercise and will be included within the consultation report.

## **5. Background Papers**

- 5.1** 15 July 2019, 21st Century Schools Programme - Band B Update and Current Position. (Cabinet minute C39)

Proposed timetable for the proposal to amalgamate Y Bont Faen Primary School and Cowbridge Comprehensive School from September 2022.

Prepare, approve and print consultation documents.	November 2019
Consultation period.	18 November 2019 to 20 December 2019
Consultation report presented to Cabinet. (If approved – proceed to statutory notice)	February 2020
Statutory notice period.	March 2020
Report to Cabinet the outcome of the statutory notice. Where objections are received an objection report is also presented to Cabinet.	May 2020
Cabinet decision notification to consultees.	May 2020
Implementation of proposal.	September 2022

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