

THE VALE OF GLAMORGAN COUNCIL

LEARNING AND CULTURE SCRUTINY COMMITTEE: 10<sup>TH</sup> DECEMBER, 2020

REFERENCE FROM CABINET: 2<sup>ND</sup> NOVEMBER, 2020

**“C358 PROPOSAL TO INCREASE THE CAPACITY OF YSGOL Y DERI TO MEET FUTURE DEMAND FOR SPECIAL EDUCATION IN THE VALE OF GLAMORGAN (DL/ER) (SCRUTINY – LEARNING AND CULTURE) –**

The Deputy Leader presented the report, the purpose of which was to inform Members of the proposal to increase the capacity of Ysgol Y Deri to meet future demand for special education in the Vale of Glamorgan.

The report sought Cabinet approval to undertake a statutory consultation, as outlined in the School Organisation Code 2018, on a proposal to meet future demand for special education in the Vale of Glamorgan by:

- Increasing the capacity of Ysgol Y Deri to accommodate an additional 150 pupils; and
- Constructing a new school building on the preferred site located in Cosmeston, Penarth for September 2023 which would operate as an additional site under the management of Ysgol Y Deri.

The proposal would result in an additional 150 places at Ysgol Y Deri to meet increased demand for special education in the Vale of Glamorgan.

As part of the Council’s 21st Century Schools Programme, a new building would be constructed on a new school site in Cosmeston, Penarth to accommodate the increased capacity as part of a £11m investment.

The report also outlined the temporary measures which would be required to ensure Ysgol Y Deri was able to meet projected demand prior to the opening of the new school building, planned for September 2023.

The Deputy Leader referred to the recent BBC documentary about Ysgol Y Deri that showed the innovative and creative learning environments which were adaptable to change and met the needs of the Vale’s most vulnerable learners in the Vale.

The Cabinet Member for Social Care and Health added that the BBC documentary showed the dedication and commitment shown by the staff at Ysgol Y Deri, how engaged the learners were and how equally they were treated. Expanding the provision under the leadership of those staff at Ysgol Y Deri was an option to explore. The consultation would bring forward a discussion over the location of the site, but that the pupils being educated within the Vale of Glamorgan had to remain the number one priority.

The Leader agreed the provision had been extremely successful. Paragraph 2.31 of the report referred to there being 88 pupils who required placements at Ysgol Y Deri across the September 2021 and September 2022 intakes with only 44 pupils due to leave the school during that period. Creating further provision had to be close to Ysgol Y Deri for management purposes.

The Cabinet congratulated all those who work and support Ysgol Y Deri and its provision.

This was a matter for Executive decision.

Cabinet, having considered the report and all the issues and implications contained therein

#### RESOLVED –

(1) T H A T the Director of Learning and Skills be authorised to undertake a consultation on the proposal to meet future demand for special education in the Vale of Glamorgan by:

- Increasing the capacity of Ysgol Y Deri to accommodate an additional 150 pupils; and
- Constructing a new school building on the preferred site located in Cosmeston, Penarth for September 2023 which would operate as an additional site under the management of Ysgol Y Deri.

(2) T H A T the report be referred to the Learning and Culture Scrutiny Committee for consideration as part of the proposed consultation exercise.

(3) T H A T the identification of the preferred site to deliver the new school building, subject to a separate report to consider the acquisition of the site, be approved.

(4) T H A T implementation of the proposal would be subject to the approval of the relevant revenue and capital funding, which had been submitted as a cost pressure as well as a future capital bid be noted.

(5) T H A T temporary measures to meet projected demand prior to the completion of the new school building were being developed which would be subject to a capital bid be noted.

#### Reasons for decisions

(1) To authorise a statutory consultation in compliance with the requirements of the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code 2018 on the proposal to meet future demand for special education in the Vale of Glamorgan by:

- Increasing the capacity of Ysgol Y Deri to accommodate an additional 150 pupils; and
  - Constructing a new school building on the proposed school site located in Cosmeston, Penarth for September 2023 which would operate as an additional site under the management of Ysgol Y Deri.
- (2) To ensure that the Learning and Culture Scrutiny Committee is consulted on the proposal.
- (3) To ensure the Council is able to progress the purchase of the preferred site, including the application for outline planning permission to develop the site.
- (4) To note that the proposal would be dependent on the approval of the relevant revenue funding associated with an increase in the number of pupils requiring placements at Ysgol Y Deri and capital funding.
- (5) To note that additional temporary measures would be required to meet interim demand for special education prior to the new school building being completed for September 2023.”

Attached as Appendix – Report to Cabinet: 2<sup>nd</sup> November, 2020

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 02 November 2020</b>
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Proposal to increase the capacity of Ysgol Y Deri to meet future demand for special education in the Vale of Glamorgan
Purpose of Report:	To seek Cabinet approval to consult stakeholders on the proposal in accordance with the School Standards and Organisation (Wales) Act 2013.
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>Strategic Estates Manager  Operational Manager, Strategy &amp; Resources  21st Century Schools Programme Manager  Operational Manager, Accountancy  Head of Digital Strategy, Community Learning &amp; Resources  Head of Additional Learning Needs and Wellbeing  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.
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• This report seeks Cabinet approval to undertake a statutory consultation, as outlined in the School Organisation Code 2018, on a proposal to meet future demand for special education in the Vale of Glamorgan by: <ul style="list-style-type: none"> <li>➤ Increasing the capacity of Ysgol Y Deri to accommodate an additional 150 pupils; and</li> <li>➤ Constructing a new school building on the preferred site located in Cosmeston, Penarth for September 2023 which would operate as an additional site under the management of Ysgol Y Deri.</li> </ul> </li> </ul>	

- The proposal would result in an additional 150 places at Ysgol Y Deri to meet increased demand for special education in the Vale of Glamorgan.
- As part of the Council's 21<sup>st</sup> Century Schools Programme, a new building would be constructed on a new school site in Cosmeston, Penarth to accommodate the increased capacity as part of a £11m investment.
- This report also outlines the temporary measures which will be required to ensure Ysgol Y Deri is able to meet projected demand prior to the opening of the new school building, planned for September 2023.

## **Recommendations**

1. That Cabinet authorises the Director of Learning & Skills to undertake a consultation on the proposal to meet future demand for special education in the Vale of Glamorgan by:
  - Increasing the capacity of Ysgol Y Deri to accommodate an additional 150 pupils; and
  - Constructing a new school building on the preferred site located in Cosmeston, Penarth for September 2023 which would operate as an additional site under the management of Ysgol Y Deri.
2. That Cabinet refers this report to the Learning and Culture Scrutiny Committee for consideration as part of the proposed consultation exercise.
3. That Cabinet approves the identification of the preferred site to deliver the new school building, subject to a separate report to consider the acquisition of the site.
4. That Cabinet notes that implementation of the proposal would be subject to the approval of the relevant revenue and capital funding, which have been submitted as a cost pressure as well as a future capital bid.
5. That Cabinet notes that temporary measures to meet projected demand prior to the completion of the new school building are being developed which will be subject to a capital bid.

## **Reasons for Recommendations**

1. To seek Cabinet authority to carry out a statutory consultation in compliance with the requirements of the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code 2018 on the proposal to meet future demand for special education in the Vale of Glamorgan by:
  - Increasing the capacity of Ysgol Y Deri to accommodate an additional 150 pupils; and
  - Constructing a new school building on the proposed school site located in Cosmeston, Penarth for September 2023 which would operate as an additional site under the management of Ysgol Y Deri.
2. To ensure that the Learning and Culture Scrutiny Committee is consulted on the proposal.

3. To ensure the Council is able to progress the purchase of the preferred site, including the application for outline planning permission to develop the site.
4. To note that the proposal would be dependent on the approval of the relevant revenue funding associated with an increase in the number of pupils requiring placements at Ysgol Y Deri and capital funding.
5. To note that additional temporary measures will be required to meet interim demand for special education prior to the new school building being completed for September 2023.

## **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 (minute C39). As part of the revised programme, £11m has been allocated to expand Ysgol Y Deri.
- 1.7 On 9 July 2020, using the Emergency Powers procedure, the Council's Managing Director approved the Council's strategy to transform special

education in the Vale of Glamorgan to meet projected future demand and best meet the needs of our most vulnerable learners (EP COVID-19 101). The strategy identified three key areas:

- Establish a new Centre for Learning and Wellbeing, which will replace Y Daith, the Council's pupil referral unit;
  - Establish specialist resource bases in mainstream schools to ensure learners have access to mainstream education; and
  - Increase capacity of Ysgol Y Deri, the Council's special school, to meet projected demand for special education.
- 1.8** The strategy will be delivered in a phased approach with three separate consultation exercises. Two consultation exercises have been launched which focus on the establishment of a new Centre for Learning and Wellbeing and specialist resource bases at Gladstone Primary School and Whitmore High School.
- 1.9** This report seeks Cabinet approval to consult on the proposal to increase capacity of Ysgol Y Deri to meet projected demand for special education.

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

### **Demand for Special Education**

- 2.1** The numbers of children and young people requiring a placement at Ysgol Y Deri has continued to increase and at a faster pace than previously predicted. As a result, £11m has been allocated as part of the Council's 21st Century Schools Programme to increase the capacity of the school.
- 2.2** Ysgol Y Deri was originally constructed to accommodate 205 pupils but currently has 262 pupils on roll. The number of pupils leaving the school in the short to medium term is much lower than those entering which is causing the significant pressure on capacity.
- 2.3** In 2018-19 there were 18 school leavers and 39 entrants, in 2019-20 there were again 39 entrants against 25 leavers. At the end of the 2019-20 academic year there were only 10 leavers and a significant increase in entrants to 48. In order to accommodate the September 2020 intake, Ty Deri Residential Respite facility has been temporarily closed and communal areas have been converted into additional classroom space. This has enabled the Council to provide places for those requiring placements this year, however all available space has now been utilised and the school will be unable to expand any further.
- 2.4** In 2021-22 the number of leavers will be 18, it is impossible to provide a precise number of pupils that will require places in September 2021 as this will depend on a number of factors, however, current projections would indicate that a minimum of 44 pupils will require a place at the school. As a consequence, it is clear that a minimum of an additional 26 places will be required to create the capacity for the September 2021 intake. In 2022-23 there will be 26 leavers and current projections would indicate that the

number of pupils requiring a placement will again be in the mid-40s. This would mean that an additional 18 places will be required in September 2022. In total, approximately 44 additional places will be needed at Ysgol y Deri prior to the completion of the new building.

- 2.5** This trend is consistent with other Local Authorities and is likely to continue for the foreseeable future.
- 2.6** The Council is proposing a holistic approach to meet future demand through the provision of additional capacity at Ysgol Y Deri, as well as additional specialist resource bases in mainstream schools throughout the Vale to support learners who are able to access mainstream education with increased support. This approach would ensure the Council is able to manage demand to best meet the needs of individual learners.

### **Site Options**

- 2.7** Ysgol Y Deri currently forms part of Penarth Learning Community alongside St Cyres Comprehensive School. The establishment of Penarth Learning Community was the result of a £50m investment to construct state of the art education facilities.
- 2.8** It is not possible to increase the capacity of Ysgol Y Deri on the existing site due to limited external space available and the likely impact this would have on the local infrastructure around the site. The Penarth Learning Community site already accommodates around 1,400 learners.
- 2.9** The preferred approach is to construct a new school building on a separate site which would form part of Ysgol Y Deri. The additional school building would primarily accommodate primary aged pupils. However, the school would operate a needs-based approach to determine the split of pupils across the two sites. This would reduce the need to duplicate all facilities currently available at Ysgol Y Deri.
- 2.10** The Council considered a range of sites across the Vale of Glamorgan to accommodate the new school building. It was essential that the additional site was in close proximity to the existing Ysgol Y Deri in order to limit disruption to staff operating across both sites.
- 2.11** The Council has identified a preferred site which is located next to the proposed 'Land at Upper Cosmeston Farm, Lavernock' development which has been allocated as part of the Council's adopted Local Development Plan (LDP) 2011-26. This area provides sufficient space to construct the proposed new school building and is approximately 3 miles from the existing Ysgol Y Deri site. The proposed site plan is attached at Appendix A.
- 2.12** The preferred site is currently owned by Welsh Government and the Council has an agreement in principle to purchase the land, subject to planning permission being obtained. Alongside the consultation, the Council is looking to obtain outline planning permission in order to progress with the site purchase, which would be subject to a separate report for Cabinet consideration.



## Impact on Education Outcomes

- 2.13** Ysgol Y Deri was last inspected by Estyn in October 2016. The school's performance was judged to be 'good' and the school's prospects for improvement were also 'good'. The overall assessment is summarised in the table below.

Inspection area	Judgement
Standards	Good
Wellbeing	Good
Learning experiences	Good
Teaching	Good
Care, support and guidance	Good
Learning environment	Excellent
Leadership	Excellent
Improving quality	Good
Partnership working	Excellent
Resource management	Good

- 2.14** The proposal would ensure Ysgol Y Deri is able to continue providing high quality education whilst catering for a greater pupil population.
- 2.15** The proposed new building would provide excellent facilities that meet the needs of learners.

## Admissions Arrangements

- 2.16** As outlined above, the proposal would ensure Ysgol Y Deri is able to meet projected demand for Special education within the Vale of Glamorgan.
- 2.17** All admissions to Ysgol Y Deri are made via the Local Authority Panel in consultation with the Engagement Service and Ysgol Y Deri.

## Transport Implications

- 2.18** The Council has a statutory duty to provide free school transport for pupils of statutory school age who reside beyond walking distance to the nearest appropriate school. In accordance with 'The Learner Travel (Wales) Measure 2008'.
- 2.19** ALN pupils are eligible for free transport if they are assessed as having severe and/or complex difficulties and are attending a special school or specialist resource base as directed by the Complex Needs Team or a class in a mainstream school which is 2 miles or further (primary aged pupils) and 3 miles or further (secondary aged pupils) from the parental home address as measured by the shortest available walking route.
- 2.20** Consideration is given to free school transport for ALN pupils living within the 2 and 3-mile limits on an individual basis, complying with Section 9 of the Learner Travel (Wales) Measure 2008, ensuring fairness and compliance with relevant equality legislation to ensure no unlawful discrimination between learners. This decision will be made in consultation with all relevant parties. If a

pupil cannot walk to school (either with the support of an appropriate adult or independently depending on their age/ability) because of the nature of their additional learning needs or disability, the council will provide free home to school transport even if the distance is less than the statutory limit. The decision on this will be made by the Passenger Transport Team in conjunction with schools and the Complex Needs Team. If possible and in conjunction with the agreement of the learner, parent/carer, the school and ALN Service, escort provision may be provided, instead of transport, to enable the pupil to get to school independently. This promotes sustainable modes of travel and encourages independent living as well as health and well-being.

- 2.21** As part of the outline planning application, a transport assessment would be undertaken. This would fully assess the impact on the local infrastructure which would include a swept path analysis to ensure compliance with current legislation on accessibility for all emergency services. The transport assessment would be used as part of the design process to mitigate against any negative impacts identified.
- 2.22** The Council would consult with residents as part of the outline planning application, firstly through the pre-application consultation and then through the statutory consultation which forms part of the planning process.

### **Benefits of the Proposal**

- 2.23** The main benefits of this proposal are:
- Ensures the Council is able to meet projected demand for special education in the Vale of Glamorgan.
  - Ensures the Council is not reliant on costly out of county placements.
  - Provides innovative and creative learning environments which are adaptable to change and meet the needs of our most vulnerable learners.
  - Increases the level of community access and interaction through the use of the school's educational facilities whilst meeting the needs of the school.

### **Statutory Process**

- 2.24** Welsh Government's revised School Organisation Code 2018 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.
- 2.25** 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.
- 2.26** 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.

- 2.27** 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.
- 2.28** The Council must then decide whether or not to proceed with the proposal within 26 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).
- 2.29** 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.
- 2.30** Appendix B sets out the anticipated timescale for this process if approved by Cabinet.

### **Temporary Measures**

- 2.31** The new school building would be completed for September 2023. As outlined above, it is anticipated that there will be an additional 88 pupils who require placements at Ysgol Y Deri across the September 2021 and September 2022 intakes. Only 44 pupils are due to leave the school during this period, resulting in a net increase of 44 pupils. The school does not currently have additional capacity to accommodate those pupils.
- 2.32** The Council has considered a range of options to meet this projected demand prior to the opening of the new school building. The preferred option is to install temporary modular accommodation on the existing Ysgol Y Deri site to provide sufficient capacity to accommodate the 44 pupils. It is estimated that this would cost approximately £700k. A capital bid has been submitted to request that this additional funding is included within the 2021/22 capital programme, which would be subject to Council approval once the capital settlement for 2021/22 has been received.

## **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** The Council has committed as part of the Corporate Plan 2020-2025 to achieving a vision of 'Working Together for a Brighter Future'. This plan is reflective of the Welsh Government's Well-being of Future Generations Act and is comprised of four Well-being objectives to deliver this vision:
- Objective 1 - To work with and for our communities

- Objective 2 - To support learning, employment and sustainable economic growth
- Objective 3 - To support people at home and in their community
- Objective 4 - To respect, enhance and enjoy our environment

**3.3** 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

**3.4** 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.

**3.5** 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.

**3.6** 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.

**3.7** 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** Subject to the approval of this proposal, a significant capital investment would be made to construct a new school building to accommodate the additional 150 pupils. The Council would manage the process and the staff, parents and pupils of Ysgol Y Deri would be fully engaged in the development of the plans. The Council would also be responsible for managing the construction.

- 4.2** It is estimated that the total capital funding required to build a new school, including the land purchase and installation of utilities services and highways provision, would be £11million. The Council is expected to receive £8.25million in Welsh Government funding through the 21st Century Schools Programme, subject to the approval of a business case.
- 4.3** It is estimated that £700k will be required to install temporary modular accommodation to meet demand for special education prior to the completion of the new school building. This will be subject to a capital bid to be included as part of the 2021/22 capital programme, which would be subject to Council approval once the capital settlement for 2021/22 has been received.
- 4.4** A cost pressure has been submitted as part of the revenue budget process for the 2021/22 financial year as a revenue increase will be required to accommodate the additional pupils at Ysgol Y Deri. The revenue cost pressure submitted for 2021/22 is £729,000, with a further £521,000 requested in the 2022/23 financial year to meet the costs of the estimated growth in pupil numbers. This would be to accommodate a net increase of 26 pupils in 2021/22 and a further net increase of 18 pupils in 2022/23.

#### **Employment**

- 4.5** The governing body of Ysgol Y Deri would be responsible for developing a staffing structure to support the split site provision.
- 4.6** The proposal would lead to an increase in employment opportunities at the school as additional staff would need to be recruited as the number of pupils on roll increases.

#### **Legal (Including Equalities)**

- 4.7** 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.
- 4.8** 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.
- 4.9** 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.

- 4.10** 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**

- 4.11** 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://gov.wales/sites/default/files/publications/2018-10/school-organisation-code-second-edition.pdf>
- 4.12** Chapter 2 of Part 3 of the 2013 Act deals with school organisation proposals.
- 4.13** 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.
- 4.14** 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.
- 4.15** 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).
- 4.16** 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.
- 4.17** 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**

**4.18** 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.

**4.19** 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
- 4.20** 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**

- 4.21** 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.
- 4.22** 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>

- 4.23** The Act itself is available to view online:

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

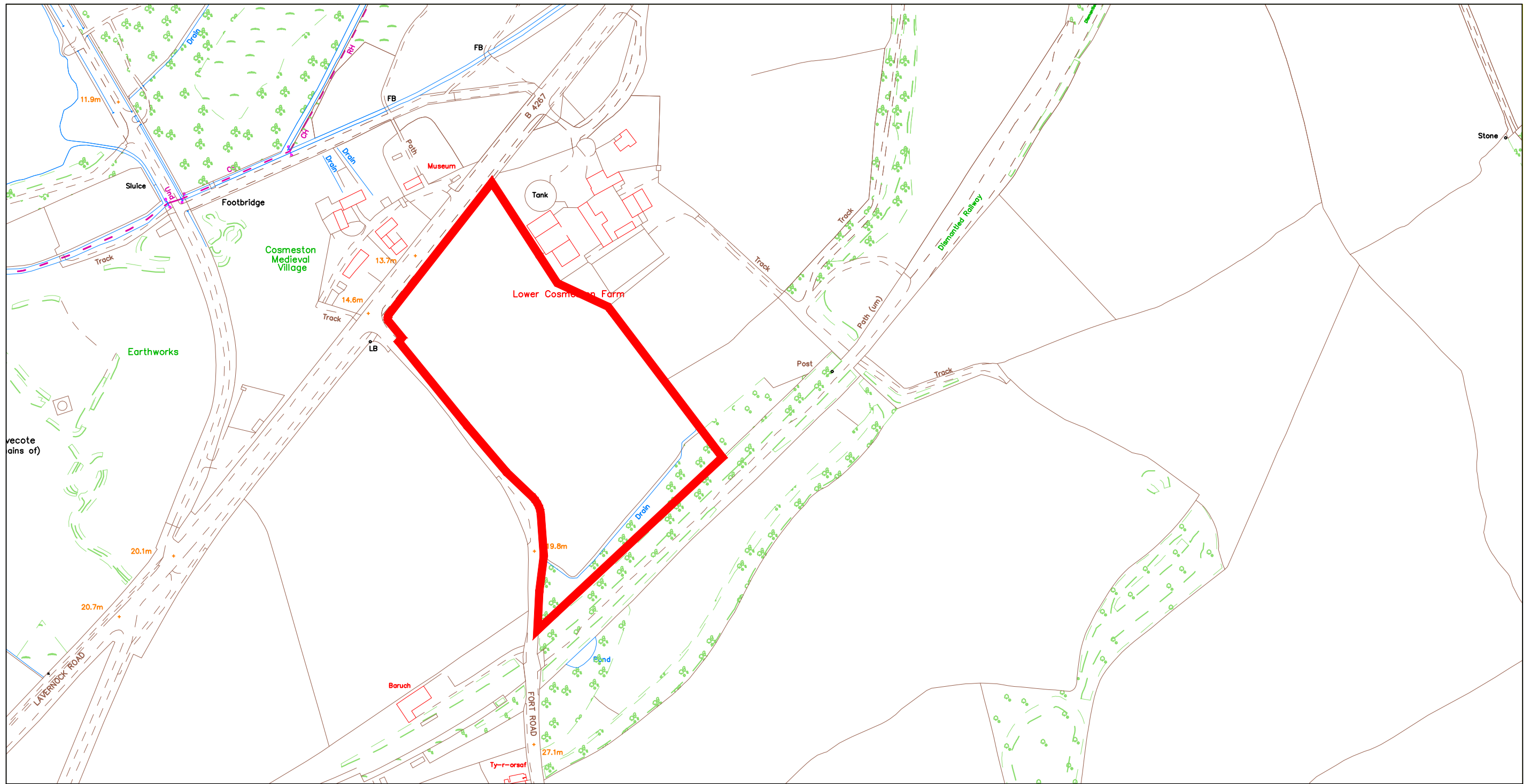
- 4.24** Current practice on the use of surplus school accommodation, Information document No 158/2014.

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

- 4.25** 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.
- 4.26** 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 None.



amendments (n.b. :- all amendments to be signed)  
newidiadau (d.s. :- rhaid llofnodi pob newid)

**A3**



**THE VALE OF GLAMORGAN**

**BRO MORGANNWG**

property name  
enw'r eiddo

Land at Cosmeston,  
Penarth

drawing  
dyluniad

Site Location Plan

checked  
gwiriwyd

drawn  
lluniwyd

scale  
graddfa 1:2500

date  
dyddiad Nov 19

job number  
rhif y gwaith

SDP

drawing number  
rhif y lluniad

AL(90)01

do not scale this drawing  
peidiwch â graddio'r lluniad hwn

path  
llwybr

amendments  
newidiadau




21st Century Schools Programme  
Civic Offices, Barry, Vale of Glamorgan, CF63 4RU  
Telephone (01446) 700111

Ysgolion yr 21ain Ganrif  
Swyddfeydd Dinesig, Y Barri, Bro Morgannwg, CF63 4RU  
Ffôn (01446) 700111



## Transforming Special Education in the Vale

### Proposed Consultation Timescales

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#### **Proposal to increase the capacity of Ysgol Y Deri to meet future demand for special education in the Vale of Glamorgan**

<b>Action</b>	<b>Timescale</b>
Approval to consult	Monday 2 November 2020
Consultation with stakeholders	Friday 6 November – Sunday 20 December 2020
Cabinet to consider consultation report	Monday 8 February 2021
Statutory notice (and objection period)	Monday 22 February - Monday 22 March 2021
Final determination	Monday 26 April 2021
Implementation	September 2023