



## Report of Cabinet Member for Education and Learning

Cabinet – 18 April 2024

### Future Plans for Special Schools in Swansea

<b>Purpose:</b>	To report that no objections were received during the Statutory Notice period and to seek approval on the proposal to amalgamate Ysgol Pen-y-Bryn and Ysgol Crug Glas into one special school in September 2025 and relocate to a new purpose-built school whilst increasing capacity from April 2028.
<b>Policy Framework:</b>	Corporate priorities: <ul style="list-style-type: none"><li>• Improving education and skills</li></ul>
<b>Consultation:</b>	Access to Services, Finance, Legal.
<b>Recommendation(s):</b>	It is recommended that Cabinet:  1) Approves the proposal to amalgamate Ysgol Pen-y-Bryn and Ysgol Crug Glas into one special school in September 2025 on existing sites and relocate to a new purpose-built school whilst increasing capacity from April 2028.
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#### 1. Introduction

- 1.1 Swansea has two special schools (Ysgol Pen-y-Bryn and Ysgol Crug Glas) providing education for a maximum of 250 pupils, aged between 3 and 19 years. In recent years the swelling demand for special school places in Swansea led to an increase in planned places available at Ysgol Pen-y-Bryn in Spring 2021. However, special school places in Swansea are continuing to run at maximum capacity and a further increase in demand

for places is projected for the future. A longer term, sustainable solution is now required, and without this the local authority will have no other option than to place pupils into independent and out-of-county schools.

## **2. Consultation and Statutory Notice Period**

- 2.1 Cabinet agreed at a meeting held on 21 September 2023 that consultation should take place on a proposal to amalgamate Ysgol Pen-y-Bryn and Ysgol Crug Glas into one special school in September 2025 on existing sites and relocate to a new purpose-built school whilst increasing capacity from April 2028.
- 2.2 Consultation took place, as per the requirements of the School Organisation Code, between 9 October 2023 and 25 November 2023. The consultation paper can be found here:  
[School organisation - Future plans for Special Schools in Swansea - Swansea](#)
- 2.3 Following this consultation period, Cabinet considered the responses received at their meeting on 18 January 2024 and approved the publication of a Statutory Notice, inviting any formal objections to the proposal. The Statutory Notice period ran from 2 February 2024 to 5 March 2024. No objections were received.
- 2.4 In accordance with the School Organisation Code, Cabinet must now approve the proposal. Following approval, a decision letter must be published electronically on the Local Authority's website and sent to consultees outlining the reason for the decision, as follows:
- Enhances the quality and standards of education
  - Supports the predicted demand for places for those with complex needs
  - Provides cost-effective provision
  - Improves accessibility and positively contributes to the equality agenda for our most vulnerable pupils
  - Offers a positive impact on all other services provided in the area for pupils with disabilities and/or additional learning needs
  - There have been no objections and the proposal process has been conducted in accordance with the School Organisation Code

## **3. Integrated Assessment Implications**

- 3.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.

- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage.
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

- 3.1.1 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means 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'.
- 3.1.2 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 3.2 An IIA (Appendix A) has been reviewed and updated following the period of Statutory Notice. The impact of the scheme on the Children and Young People (0-18), Other Age Group and Disability will be positive in providing learners with complex and profound additional learning needs aged 3-19 with a designated space for their education whilst also ensuring that more learners can access this specialist provision within the boundaries of the city and county of Swansea.
- 3.3 A Community Impact Assessment has been undertaken and formed part of the consultation papers.
- 3.4 A Welsh-medium Impact Assessment has been completed and formed part of the consultation papers.
- 3.5 Swansea Council acts in accordance with the Well-being of Future Generations (Wales) Act in all that it does. Sustainable development has been a central organising principle since 2012 and each year the council aims to further embed and build on sustainable practice. An assessment against the Act was included in the consultation papers.
- 3.6 Due regard should be paid to the United Nations Convention on the Rights of the Child at all times when developing proposals, and particularly in relation to proposals which directly impact upon young people.

## **4. Financial Implications**

### Capital

- 4.1 No capital funding is being sought for the amalgamation.
- 4.2 The new school build is to be financed through the Welsh Government's Sustainable Communities for Learning Programme. The investment will be funded (75% Welsh Government, 25% Local Authority) subject to business case approval by Welsh Government. If accepted, the overall projected capital cost will be £43,600,000 which has been accounted for in the capital programme.
- 4.3 The current school buildings' future use would be reviewed in line with the Local Authority's Asset Management Plan.

### Revenue

- 4.4 Schools are funded from an overall delegated budget – The Individual Schools Budget (ISB). There is a funding formula that allocates a budget share to each individual school from the ISB. The amalgamation will lead to a slight reduction in budget share initially (£43k based on FY2023-2024 values) and this will be released into the overall delegated budget for redistribution to other schools.
- 4.5 Amalgamations of schools can lead to some initial increased costs, for example, if there are any employees that are not successful in securing a post in the new amalgamated school, then redundancy costs would be incurred, and these would be charged to central Education budgets.
- 4.6 There can be some transitional and implementation costs with school organisation proposals. These would be met from central Education budgets or the ISB.
- 4.7 The annual revenue costs for the 100 additional planned places at the new special school is £2,083,548 per annum once fully established (based on FY2023-2024 planned place funding). This should be considered in the context that a single pupil placed into the independent sector is costing the local authority more than £100,000 per annum. If all additional places are filled considerable savings can be made on out of county provision.
- 4.8 There could be some additional associated transport costs for the learners to attend the newly established special school, as per the Home to School Transport Policy; however, these will be lower costs than providing out of county placements in other specialist provision, as well as potential for reduced associated Social Services costs.

## 5. Legal Implications

- 5.1 The reorganisation of school provision involving the establishment and discontinuance of community schools requires consultation and the publication of statutory notices in accordance with s44 of the School Standards and Organisation (Wales) Act 2013 (“the Act”) and the Welsh Government’s School Organisation Code 2018. Legally an amalgamation is the discontinuing of the two existing schools and establishing a new school.
- 5.2 The Code includes statutory guidance to which the Local Authority must have 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.
- 5.3 Additional considerations are applicable when Additional Learning Needs (ALN) provision is being considered:

### Standards of provision

In addition to the usual considerations in relation to standards of provision, relevant bodies should consider:

- Whether proposals will improve standards of accommodation for pupils with ALN, including building accessibility;
- How proposals will address any health, safety and welfare issues;
- How proposals, where appropriate, will support increased inclusion;
- The impact of proposals on other ALN provision within the immediate and wider local authority area including out of county where appropriate;
- Need for places and the impact on accessibility of schools;
- Whether there is a need for a particular type of ALN provision in the area;
- Where there is a surplus ALN provision in the area;
- Whether ALN provision would be more effective or efficient if regional provision were made; and
- The impact of proposals on the transportation of learners with ALN.

### Other factors

Relevant bodies should consider:

- How changes to ALN provision in schools are likely to impact on all other services provided in an area for pupils with disabilities and/or ALN.

- 5.4 Before publishing any proposals the local authority (Proposer/s) is under a duty, by virtue of s48 of the Act, to consult on such proposals. The Code states that:

- a. At the start of the consultation period Proposers must provide the consultees listed in the Code with a detailed consultation document following the requirements listed in the Code and give them at least 42 days in which to respond, with at least 20 of these being school days.
- b. Consultation comments must be collated and summarised by Proposers. This summary together with the responses to the comments must be published in a consultation report within three months of the end of the consultation period.
- c. A decision must be made by Proposers whether to proceed with changes within 6 months of the end of the consultation period.
- d. If a decision is made to proceed, a Statutory Notice is published providing a 28-day notice period for objections. The notice must be published on a school day and with 15 school days (not including the day of publication) in the notice period.
- e. If objections are received, an objection report must be published providing a summary of the objections with responses to them before the end of 7 days beginning with the day of the Proposer's determination of the proposals.
- f. The Proposer must determine under s53 whether the proposals are to be implemented. Proposals must receive final determination within 16 weeks of the end of the objection period. Local determination is a requirement of the School Organisation Code, and The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013 allow for this local determination. The Welsh Ministers and Governing Bodies are to be notified of the decision within 7 days of the decision.
- g. If the Proposer determines to implement proposals, they should be implemented in accordance with the date given in the Statutory Notice, or any subsequent modified date.

5.5 Failure to comply with the statutory consultation requirements in the Act and Code will leave the Authority open to Judicial Review and the decision could be quashed by the Courts.

Case law has established that the consultation process should:

- be undertaken when proposals are still at a formative stage;
- include sufficient reasons and information for particular proposals to enable intelligent consideration and response;
- provide adequate time for consideration and response; and
- ensure that the product of consultation is conscientiously taken into account when the ultimate decision is taken.

**Background papers:**

[Report to Cabinet 21 September 2023](#)

[Report to Cabinet 18 January 2024](#)

[school-organisation-code-second-edition.pdf \(gov.wales\)](#)

**Appendices:**

Appendix A - IIA