



Report of the Cabinet Member for Education Improvement, Learning & Skills

Cabinet – 20 September 2018

Increased Planned Places at Ysgol Penybryn Special School

Purpose:	To report to members on the result of consultation and to seek approval for the publication of a statutory notice on the proposal to increase the planned places at Ysgol Penybryn Special School from April 2019.
Policy Framework:	Corporate priorities: <ul style="list-style-type: none">• Improving pupil attainment• Safeguarding vulnerable people
Consultation:	Access to Services, Finance, Legal.
Recommendation(s):	It is recommended that: <ol style="list-style-type: none">1) Approval is given to publish a statutory notice to increase the planned places at Ysgol Penybryn Special School from April 2019.2) The additional delegated revenue funding to support the establishment of these increased planned places within Penybryn Special School and associated potential additional transport costs are both accommodated within existing and future education overall revenue budgets.3) Cabinet consider any objections received during the statutory notice period and determine the outcome of the proposal at their meeting on 20 December
Report Author:	Kelly Small
Finance Officer:	Chris Davies
Legal Officer:	Stephanie Williams
Access to Services Officer:	Rhian Millar

1. Introduction

- 1.1 Special schools are funded on planned places. Ysgol Penybryn Special School is set up to cater for 130 pupils in total. There are 93 places (E band) for secondary aged pupils who have moderate to severe learning difficulties. The school also provides for pupils (both primary and secondary aged) with severe autism. There are 37 (G band) places for these pupils. School organisation regulations require a statutory proposal to take place if a special

school increases their planned places by more than 10% (or 20 places, whichever is the lesser) from a count date of 19 January 2013. Ysgol Penybryn Special School had 118 planned places on the count date and therefore require a statutory proposal to increase planned places over 130 (the current number of places).

- 1.2 Increasing planned places at Ysgol Penybryn Special School would alleviate pressure on the moderate autistic spectrum disorder Specialist Teaching Facilities (ASD STFs). The pupils with the more severe needs (i.e. high ASD symptomatology) would transfer to Ysgol Penybryn Special School, allowing the authority to place pupils with moderate ASD into the appropriate STFs. It would also alleviate pressure on secondary mainstream schools and STFs who are struggling to cope with the demands of managing pupils with more severe learning difficulties.
- 1.3 Cabinet agreed at a meeting held on 17 May 2018 that consultation should take place on increasing the number of planned places at Ysgol Penybryn Special School from April 2019. The consultation paper can be found at Appendix A.
- 1.4 **NB.** The figures for pupils and places in ASD STFs in the proposal that went for consultation (Appendix A) have changed since the proposal was written. All primary ASD STFs, including the newly opened Dunvant and Portmead Primary STFs, are full. Birchgrove Comprehensive ASD STF now only has three places left since opening in January 2018 and Dylan Thomas Comprehensive ASD STF is full.
- 1.5 Following this consultation period, Cabinet are now required to consider the responses received during the consultation period and decide if the proposal should move to the next stage – the publishing of statutory notices inviting any formal objections to the proposal.

2. Consultation Responses

- 2.1 All consultation responses have been made available for Cabinet to view. 179 responses were received with 160 of those responding being in support of the proposal, including 94 responses from learners. 9 of the responses did not express a view for or against the proposal and 10 responses were against the proposal.
- 2.2 The main objections to the proposal were around having more learners on site and the potential for increased class sizes, particularly with a larger cohort of the learners having ASD, and how this would affect learners with more severe and complex needs; however the school has recently been extended and the additional pupils would generate funding for new classes to be established and the school welcomes the new planned places for ASD learners. One objector also commented on the traffic infrastructure around the school; however the Traffic Management Assessment that has been produced shows that the additional taxis for learners would be minimal and could comfortably be accommodated on the school site, and this would continue to be reviewed as learners are admitted if the proposal is implemented.

- 2.3 Estyn were also required to comment on the proposal, as per the School Organisation Code, and no concerns were raised. A summary of the issues raised and the local authority response is attached in the consultation report at Appendix B.
- 2.4 Consultation meetings were held with parents, staff and governors who were supportive of the proposal. Notes of these meetings have been made available to Cabinet members.

3. Financial Implications

Capital

- 3.1 No capital funding is being sought as the school have used their own delegated funding to create additional classroom and ancillary spaces.

Revenue

- 3.2 The annual revenue costs for 20 additional planned places at Penybryn Special School i.e. 12 Band G places plus 8 Band E places, is £343,630 per annum once fully established (based on FY2017-2018 planned place funding, additional pupil numbers and adopting the revenue costs for the increase in floor area). This should be considered in the context that a single pupil placed into Ty Danycoed (independent sector), is costing the local authority in excess of £100,000 per annum.
- 3.3 The revenue funding would be delegated to Penybryn Special School each year. The school would then manage the staff and pupils accordingly.
- 3.4 There could be associated transport costs for the learners to attend the school, as per the Home to School Transport Policy; however it is anticipated that there will be reduced costs for out of county placements in other specialist provision, as well as potential for a reduction in associated Social Services costs.

4. Legal Implications

- 4.1 Increasing special school planned places above the current level at Penybryn Special School constitutes a Regulated Alteration which requires consultation and the publication of statutory notices in accordance with s44 and Schedule 2, Part 4, Paragraph 19 of the School Standards and Organisation (Wales) Act 2013 ("the Act") and the Welsh Government's School Organisation Code (Circular 006/2013) (the Code).
- 4.2 The Code provides statutory guidance a local authority must follow when seeking to making Regulated Alterations to education provision within a local authority area. The Code provides that:

Local authorities must ensure there are sufficient schools providing primary and secondary education for their area. Schools are regarded as sufficient if they are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. In order to fulfil these duties, local authorities must ensure that they plan thoroughly and engage fully with relevant

partners, including the appropriate religious bodies for schools serving their area which have a designated religious character.’

- 4.3 Additional considerations are applicable when SEN 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 SEN, including building accessibility;
- How proposals will address any health, safety and welfare issues;
- How proposals, where appropriate, will support increased inclusion; and
- The impact of proposals on other SEN 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
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In addition to the considerations listed in 1.4, relevant bodies should consider:

- Whether there is a need for a particular type of SEN provision within the area;
- Whether there is a surplus SEN provision within the area;
- Whether SEN provision would be more effective or efficient if regional provision were made; and
- The impact of proposals on the transportation of learners with SEN.

Other factors

Relevant bodies should consider:

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

- 4.4 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. Where proposals involve specialist resource bases attached to mainstream schools the following information must be included in the consultation document:
 - the impact on SEN provision;
 - how proposals will contribute more generally to enhancing the quality of education and support for children with SEN.
 - c. 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.
 - d. A decision must be made by Proposers whether to proceed with changes within 6 months of the end of the consultation period.

- e. 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.
- f. 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 Proposers determination of the proposals.
- g. 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.
- h. 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.

4.5 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.

5. Equality and engagement implications

5.1 An Equality Impact Assessment Screening Form (Appendix C) has been revised following the consultation and scrutiny at Corporate Briefing and, at this stage, a full Equality Impact Assessment report is not required. This will continue to be reviewed following the conclusion of the Statutory Notice period, should Cabinet agree to move to this stage.

5.2 A Community Impact Assessment has been undertaken and has been available on the Council website <https://www.swansea.gov.uk/penybrynproposal>

Background papers:

- Welsh Government School Organisation Code (Circular 006/2013)
- Report to Cabinet 21 June 2018

Appendices:

Appendix 1	Consultation Paper
Appendix 2	Consultation Report
Appendix 3	EIA Screening