



## Report of Cabinet Member for Education and Learning

Cabinet – 18 January 2024

### Future Plans for Special Schools in Swansea

<b>Purpose:</b>	To report to members on the result of consultation and to seek approval for publication of a statutory notice 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: <ol style="list-style-type: none"><li>1) Approval is given to publish a statutory notice on 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.</li><li>2) Cabinet consider any objections received during the statutory notice period and determine the outcome of the proposal at their meeting on 18 April 2024.</li></ol>
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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.

1.2 As detailed in the Consultation Report (Appendix A), whilst developing a preferred solution, the Council considered a range of alternative options and there were varying reasons as to why these options were discounted as specified below:

Option 1	Status Quo	Discounted due to: <ul style="list-style-type: none"> <li>• Insufficient capacity for projected pupil numbers on roll.</li> <li>• Existing buildings are not (at least in part) fit for purpose</li> <li>• Split across three sites</li> <li>• Does not meet the needs of existing pupils</li> </ul>
Option 2	Amalgamate existing schools on current sites (with no future increase in planned places)	Discounted due to: <ul style="list-style-type: none"> <li>• Insufficient capacity for projected pupil numbers on roll</li> <li>• Existing buildings are not (at least in part) fit for purpose and are split across three sites</li> <li>• Will not bring benefits of all services on a single site and equality of provision</li> <li>• Does not meet the needs of existing pupils</li> <li>• Even with refurbishment the accommodation is unsuitable and insufficient</li> <li>• May require temporary accommodation</li> </ul>
Option 3	Amalgamate and extend Ysgol Crug Glas	Discounted due to: <ul style="list-style-type: none"> <li>• Insufficient capacity for projected pupil numbers on roll and inability to extend sufficiently on constrained site</li> <li>• The school(s) would still be on split sites</li> <li>• Would not provide a suitable building</li> <li>• Disruption to learners</li> <li>• May require temporary accommodation</li> </ul>

Option 4	Amalgamate and extend Ysgol Pen-y-Bryn	Discounted due to: <ul style="list-style-type: none"> <li>• Insufficient capacity for projected pupil numbers on roll and inability to extend sufficiently on site, due to lack of outdoor space and current building condition issues</li> <li>• The school would still be on split sites</li> <li>• Would not provide a suitable building</li> <li>• Disruption to learners</li> <li>• May require temporary accommodation</li> </ul>
Option 5	Amalgamate and build new school but without increase in planned places	Discounted due to insufficient capacity for projected pupil numbers on roll
Option 6	Increase provision within mainstream STF provision	Discounted due to: <ul style="list-style-type: none"> <li>• Insufficient capacity for projected pupil numbers on roll within timescale required</li> <li>• Presents possible issues around ensuring the appropriate quality of provision and consistency</li> <li>• Will not bring benefits of all services on a single site and equality of provision</li> <li>• Would require new/remodelled/refurbished accommodation at various sites</li> </ul>
Option 7	Work regionally to support growing demand	Discounted due to the distance for travel required and logistical challenges presented
Option 8	New special school build in addition to current provision	Discounted as it does not address suitability issues of current school buildings and will not bring identified benefits of a central provision

1.3 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.

1.4 Consultation took place between 9 October 2023 and 24 November 2023. Following this consultation period, Cabinet is required to consider the responses received by the end of the consultation period and decide if the proposal should

move to the next stage which is the publishing of statutory notices inviting any formal objections to the proposal.

## 2. Consultation Responses

2.1 Following discussions with both headteachers it was decided that school staff would guide pupils through the pupil consultation paper using appropriate techniques including pictures, familiar language and Structured Advocated Voice for Individuals (SAVI) strategy to inform pupils of the proposal and gather their views.

2.2 During the consultation period 66 responses were received from pupils at Ysgol Pen-y-Bryn. The summary of the pupil survey is as follows:

Support Proposal/Happy	<b>42</b>
Against Proposal/Unhappy	<b>0</b>
Don't know	<b>24</b>

2.3 Ysgol Crug Glas collated views of their pupils and provided a summary response to the local authority on behalf of their pupils.

2.4 The responses received from pupils that were supportive were broadly related to:

- Making new friends
- Being excited
- The school will be big, with more classrooms

Some of the pupils noted they:

- Didn't care
- Were unsure
- Will not be a pupil when the new build opens

One pupil noted that they wanted things to stay the same.

2.5 During the consultation period, 16 responses were received from the online survey. One letter, in support of the proposal, was received from the Governing Body at Ysgol Crug Glas. The Governing Body at Ysgol Pen-y-Bryn were also supportive of the proposal, and their Chair of Governors submitted a positive response to the online survey on behalf of the governing body. The summary of the survey feedback is as follows:

Support proposal/happy	12
Against proposal/unhappy	4
<i>Responses received from:</i>	
Pupil	0
Parent/carer	3
Member of staff	7
Governor	3
Community Member	3
Other	0

2.6 Overall, the feedback was very positive. The main supportive comments received were:

- Acknowledging the positive impact the new school and facilities will have on learners, staff and the community
- Acknowledging that the proposal will allow more pupils to remain in Swansea for their Education
- Noting the proposal will support Specialist Teaching Facilities (STFs) by reducing pressure on mainstream schools and allowing staff learning opportunities

2.7 The concerns raised from the online survey were:

- Traffic congestion around the proposed new build site and potential impact on residents and the environment
- The potential impact on staff, in particular the two current headteachers. This is due to the period of uncertainty and additional workload in relation to the new build.
- The amalgamation date of September 2025 may be too soon
- Concern over staff jobs and roles following potential restructure

2.8 Estyn were also required to comment on the proposal under the School Organisation Code. Copies of all correspondence received has been made available to Cabinet members. A summary of the issues raised, and the full Estyn response is attached in Appendix B.

2.9 Consultation meetings were held as follows:

<b>Meeting for:</b>	<b>Venue</b>	<b>Date</b>	<b>Time</b>	<b>Attendance</b>
Parents/Carers	Ysgol Pen-y-Bryn	07/11/23	1.30pm	4
Governors	Ysgol Pen-y-Bryn	07/11/23	2.30pm	5
Staff	Ysgol Pen-y-Bryn	07/11/23	3.30pm	52
Governors	Ysgol Crug Glas	08/11/23	2.30pm	5
Staff	Ysgol Crug Glas	08/11/23	3.30pm	36
Parents/Carers	Ysgol Crug Glas	08/11/23	4.30pm	4
Alternative Meeting for all interested parties	Virtual – Online Teams Meeting	13/11/23	11.00am	0
Alternative Meeting for all interested parties	Scout and Guide HQ, Swansea	15/11/23	1.00pm	2

2.10 As part of the consultation process, consultees were asked if they had any alternative options to the proposal, the following options were brought forward:

<b>Alternative option suggested by consultee:</b>	<b>Local Authority response:</b>
<p>I think as a Human Rights City we should be looking at UNCRPD, article 24 and general comment 4 for our guidance and moving our school system towards it. So how would our local primary schools look like in 10 years' time? Would buildings, curriculum etc. reflect the human right to Inclusive Education? Inclusive isn't word used for special. Inclusive is children going to their local school in regular classrooms regardless of their protected characteristic. Currently, we systematically segregate based on ability and wonder why we battle discrimination.</p>	<p>Swansea Council recently agreed an Inclusion Strategy that outlines fully our approach to achieving a truly inclusive education model in Swansea. We recognise that this starts with a strong, quality assured universal offer for all children with an absolute entitlement to education within their local communities wherever possible. There are a number of ways we can work towards achieving this and the new special school is a part of a comprehensive offer which includes our Supporting Sufficient Specialist Places transformational programme which aims to place specialisms within school communities.</p> <p>We also recognise that choice is critical. We know that for some families a more specialist provision/ setting is the preference, and we think it is important to allow for a breadth of choice in our current offer. The new special school, if agreed, will be part of a suite of provision to meet all needs and preferences within our population.</p> <p>It should also be noted that the proposals will help strengthen our current inreach/outreach offer which aims to upskill staff across our school communities to enable more children and young people to access a local education offer.</p>
<p>Two separate schools - they are very different children</p>	<p>The new school will be designed in consultation with pupils, staff, governors, parents, and carers considering the needs of all learners. Having one school brings the benefits of:</p> <ul style="list-style-type: none"> <li>• A range of complex needs will be effectively managed with the full range of expertise available on one site</li> <li>• Schools operate as one, sharing best practice and whole school ethos</li> </ul>

	<ul style="list-style-type: none"> <li>• Equal opportunities for multi-agency working, health provision inreach and outreach</li> <li>• Range of facilities available for all pupils</li> <li>• Avoid health and other staff losing valuable time travelling between schools</li> <li>• Complements the wider additional learning needs strategy to provide a sufficient and flexible statutory provision available to Children and Young People in Swansea.</li> <li>• Most effective use of resources</li> <li>Community use of areas (internal/external)</li> <li>• Reduced carbon emissions</li> </ul>
<p>There are two empty schools nearby - Tirdeunaw and Daniel James school. Why couldn't those be utilised.</p>	<p>In arriving at the preferred location for the new school a long list of site options was considered.</p> <p>The outcome of that exercise resulted in a preferred site being identified which:</p> <ul style="list-style-type: none"> <li>• is close to the existing Ysgol Pen-y-Bryn main site</li> <li>• would mean pupils currently at Ysgol Pen-y-Bryn have little disruption when they move to the new site</li> <li>• the average journey time for pupils across both schools will remain mostly the same</li> <li>• the site is near to some amenities without the need for a vehicle, and</li> <li>• many facilities are within a short car journey</li> <li>• it has close links to the M4</li> </ul> <p>The former Daniel James Community School and the YGG Tirdeunaw buildings would not be suitable for a new special school.</p> <p>The new school build will be designed to national design guidance contained in the Building Bulletin specifically for children with Special Educational Needs and Disability.</p>

<p>The timeline for amalgamation of both schools in advance of the new build is worth considering. The period in which the amalgamated school will operate on its existing sites will provide challenges. The specificity of site provision and the distance between them will render some of the proposed benefits of amalgamation in advance of the new build unachievable. Consideration should be given to reducing the period of time in which the school operates across three sites by delaying the closure of the existing schools and subsequent amalgamation until September 2026. That being said, I am confident that we will be able to overcome the challenges posed by working across the existing sites, that there will be some advantages to early amalgamation and that any and all challenges we may encounter will be a small price to pay to achieve the ambitious new school build.</p> <p>A slightly longer phase prior to amalgamation could be beneficial to both schools, as the experience and leadership of both current Headteachers is clearly working very well and could sustain through the early stages of design and tender, which will be very important as both schools staff, parents and pupils are consulted. This could mean that the focus is clearly and solely on the new build, not split between settling as a newly amalgamated school and contributing to a new build, which may lead to decisions and input not being as focused and meaningful as they could be, if that was the main focus of both schools at the time.</p>	<p>The timeline for this proposal has been carefully considered. Cabinet's determination of the proposals contained in this statutory consultation is not due until May 2024. The new build is proposed to be procured using a two-stage tender process. The first stage tender will be to secure a contractor to work with the council and all stakeholders to develop the design leading to the second stage tender and the construction phase. The second stage tender process cannot commence until Cabinet has made a determination and if that is to proceed as proposed. The project timeline is as contracted as possible and currently indicates that the stage one tender process will commence in May/summer 2024, following that determination. The design process is expected to be completed and the stage two submission delivered in the summer of 2026, with the construction phase commencing as soon after that as possible once the legal processes have been completed.</p> <p>If the amalgamation is not implemented until September 2026, then both schools and staff will be in an unnecessarily long unsettled period between the determination and implementation.</p>
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- 2.11 After carefully considering the points raised during the consultation period, and considering the viability of alternative options, the recommendation is to proceed to the publication of a statutory notice. A summary of all issues raised, and the officer response is attached in the consultation report at Appendix A. This should be read in conjunction with this report. Comments and options should be conscientiously considered in an open-minded approach, alongside the case put forward for publication of the proposal. In this respect there is an expectation



that Cabinet will have read and given due regard to the proposal as consulted upon and the comments received together with officer comments.

### **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 C) has been reviewed and updated following the consultation. 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 If this report is approved by Cabinet, publication of a statutory notice will take place.
- 3.7 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 (see Appendix D).
- 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. Further details are provided at Appendix D. 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 Proposers 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:**

Welsh Government School Organisation Code

### **Appendices:**

Appendix A	Consultation Report
Appendix B	Estyn response
Appendix C	IIA
Appendix D	Financial Implications