

REPORT CABINET

14 February 2017

Cabinet Member: Councillor Gareth Thomas

Subject: Future of Education Provision in the Berwyn Catchment Area

Contact Officer: Iwan T Jones – Corporate Director

Recommendation

The recommendation is to consult with the governing bodies of the schools of Y Berwyn catchment-area, on the option to abandon the proposal to establish a Voluntary Controlled 3-19 Learning Campus (VC, Church in Wales) in the town of Bala, in accordance with section 55 (5) of the 2013 Schools Standards and Organisation Act. The intention being to return to the Cabinet to report on the outcome of the consultation and make recommendations on the way forward.

1. INTRODUCTION

- 1.1 The purpose of this report is to seek the Council Cabinet's permission to re-visit the proposal to establish a 3-19 Learning Campus, Voluntary Controlled (VC, Church in Wales) in the town of Bala following recent discussions between officers of Gwynedd Council and the Diocese of St Asaph, the Berwyn catchment Governors and Local Members.
- 1.2 A report was submitted to the Cabinet on 13 December 2016 to seek permission to "consult with the governing bodies of the schools of Y Berwyn catchment-area, on the option to abandon the proposal to establish a Voluntary Controlled 3-19 Learning Campus". At the meeting, the Cabinet resolved to defer the decision to allow time to consider the legal advice regarding the Diocese's latest statement, and for officers to hold local discussions on the matter with the catchment-area's Governors.
- 1.3 The matter is being returned to the Cabinet to reconsider the situation within the context of the latest developments.

2. BACKGROUND

- 2.1 A report was submitted to the Cabinet on 13 December 2016 recommending:

"...to consult with the governing bodies of the schools of Y Berwyn catchment-area, on the option to abandon the proposal to establish a Voluntary Controlled 3-19 Learning Campus (VC, Church in Wales) in the town of Bala, in accordance with section 55 (5) of the 2013 Schools Standards and Organisation Act. The intention being to return to the Cabinet in January 2017 to report on the outcome of the consultation and make recommendations on the way forward."
- 2.2 The report was submitted in response to correspondence, dated 9 September 2016, received from the solicitors of the Diocese of St Asaph regarding the Y Berwyn project. In brief, the letter stated that the Diocese could not support the proposal in its current form as they do not accept that it is neither appropriate nor legally possible for the Council or any other Local Authority, to act as a promoter for a proposal to establish a voluntary controlled school with a religious character. The Church in Wales strongly opposed the concept and the provision in the School Standards and Organisation Wales Act 2013 and argued that it is not appropriate nor legally possible for the Council, nor any other Local Authority, to act as a promoter of a proposal to establish a voluntary controlled school with a religious character. The Diocese of St Asaph also noted the need to incorporate the Ysgol Beuno Sant site within plans for the new Campus despite it not having been part of the statutory consultation.

- 2.3 Correspondence was sent to the Diocese on 15 November 2016, noting the Council's intention to discuss the matter at a Cabinet meeting in December. In a meeting that took place on 12 December 2016, representatives of the Diocese of St Asaph confirmed to Gwynedd Council officers that the Church would, in this case, accept that it is appropriate for the new school to be promoted by the Council. However, the Church in Wales continues to strongly oppose the concept, and argues that it is not appropriate nor legally possible for the Council, or any other local authority to act as a proposer of a proposal for a voluntary school with a religious character, but that it is willing to forgo this principle in the context of Bala. This change of stance has substantially contributed towards fostering a lack of confidence in the Church amongst a number of the area's Governors and local members.
- 2.4 Four options were proposed by the Church for dealing with the Ysgol Beuno Sant site. On 12 December 2016, the Council received correspondence from the Diocese confirming what had been discussed in the above mentioned meeting, (Attachment 1), namely:
- i. Include the site within the new Campus' plans (This would not be possible without revising the statutory notice.)
 - ii. Transfer the site to the property of the Council*
 - iii. Sell the site and invest any proceeds of sale in the Campus. *
 - iv. Sell the site, which would mean that the proceeds of sale would be subject to a reverter
- *With option ii. and iii. should the school cease to be a church school, the Council would be expected to return the capital contribution or the land back to the Diocese.*
- 2.5 The stance adopted by the Church in dealing with Ysgol Beuno Sant has caused considerable unease amongst Governors and Local Members and has led certain individuals to note that the Church is mainly motivated by safeguarding the interests of Church resources. The Church does not accept this view, however the stance has increased the tension and lack of trust in the Church amongst some local residents.
- 2.6 In light of these discussions and developments, in its meeting on 13 December 2016, the Cabinet resolved:
- "To defer the consideration of recommendations in the report to consider the latest correspondence received from the Church in Wales as well as the legal opinion received.
Allow time for officers to hold further local discussions."*

3. UPDATE

- 3.1 In accordance with the Cabinet's decision in December, a meeting was held with Headteachers, Chairs of Governors and Local Members at Y Bala, as well as a St Asaph Diocese representative on 18 January 2017 to provide an up-date on the situation and an explanation of the Cabinet's decision taken in December.
- 3.2 Following that, on January 24, 2017, correspondence was received from the chair of governors at Ysgol Y Berwyn (Attachment 2) noting that the "recent intervention from the Church underlines the original fears that a school with a Church status will not address the educational requirements of Penllyn, Edeirnion and areas of Uwchaled." In the same correspondence, Ysgol y Berwyn Governors asked that Gwynedd Council hold a new consultation to review the status of the proposed school noting a lack of "trust in the Church" as the main reasons for this. The correspondence ended with the following statement:
- "Unless another consultation is held, it will be very difficult for us as signatories to this letter, to support a shadow body of the new school, depriving that body of our experience and commitment to education in the area."*
- 3.3 At its meeting on February 2 2017, the governing body of Ysgol Bro Tegid discussed and considered their current stance regarding current position regarding the scheme in Y Bala following the governors of Ysgol y Berwyn's recent correspondence. Consequently, the Council received a letter signed by members of the governing body, noting concerns and "local uncertainty regarding the school's future" following the recent intervention in the process from the Church (**Attachment 3**). As did the governors of Ysgol y Berwyn, the governors of Ysgol Bro Tegid have also asked the Council:

“...to hold a new consultation, to review the status of the new school with the desire to have a community school that is not formally connected to any specific religious body.”

- 3.4 In addition, since early January 2017, the Council has received 22 items of correspondence on the status of the proposed school at Y Bala. Except for 1 correspondence, all correspondence opposes the designation of a Church status. Some emphasise their right as parents to opt to send their children to schools outside the catchment-area to receive non-denominational education.
- 3.5 Local campaigners also launched a petition in January. The petition states:

“Following the recent dispute between Gwynedd Council and the Diocese of Llanelwy concerning certain legal aspects of the arrangement to establish a life-long-learning Anglican faith school in Bala, this petition calls on the Council to end its partnership with the Church and to re-launch the project, granting ‘community’, non-denominational status to the new school”

The on-line petition has now received 364 signatures.

- 3.6 The authority has also been informed that a paper petition has been signed by many local residents, and it is intended to be presented during the Cabinet meeting on the 14th of February.
- 3.7 On the 25th January, the Church in Wales issued a press release confirming its commitment to the proposed plan at Y Bala – **attachment 4** contains a copy of the statement.

4. CONSIDERATIONS

- 4.1 Section 55 (2) of the 2013 Act requires the Council, as the proposer, to implement the proposal in the form in which it was approved or decided upon, unless it determined in accordance with section 55 (5) that:
- “if it is satisfied—
- (a) that implementation of the proposals would be unreasonably difficult, or
 - (b) that circumstances have so altered since the proposals were approved under section 50 or 51 or determined under section 53, that implementation of the proposals would be inappropriate.”

Such a determination, in accordance with section 55 (8), would equate to deciding not to implement the proposal at all, and therefore it would not be possible to close Y Bala schools or open the new Campus, without a full statutory consultation being re-commenced and new proposals published following such a consultation.

- 4.2 Although the Diocese’s stance has shifted and they have now stated their full support for the scheme, the correspondence received from their solicitors in September 2016 has increased local concerns on the status of the new school and has led to a lack of confidence in the partnership between the Diocese and the Governing Bodies of Ysgol y Berwyn. This is clearly seen in the recent decision taken by the majority of governors at Ysgol Y Berwyn to declare a lack of support for the plan through their refusal to support any governing body established if it serves a church school.
- 4.3 When a decision is taken to establish a new maintained school, the Authority is required to establish a shadow or interim governing body before the schools are incorporated, as well as a permanent governing body to operate from the date of the school’s establishment. The New Maintained School Regulations (Wales) 2005 provides guidance in relation to the experience required from an individual requires before they can be appointed as governors or as interim governors. The regulations stipulate:

“19 (1) Any person responsible for the appointment of a person as a temporary governor must have regard to the desirability of that person being suitably experienced.

(2) A person is suitably experienced for the purposes of paragraph (1)—

(a) if he or she has served as a governor or a temporary governor of a maintained school; and

(b) in a case where registered pupils at a school which has been, or is to be, discontinued are expected to transfer to a new school to which the appointment relates, if he or she has served as a governor or a temporary governor of the school which has been, or is to be discontinued.”

- 4.4 The regulations note that it is desirable that any individual who is appointed as a governor has had experience of having served as a governor of the school facing closure. Taking this into account, the declaration of a lack of support by current governors at Ysgol Y Berwyn causes a significant risk to the Authority’s capacity to appoint individuals who meet this criteria/threshold.
- 4.5 Consequently, it could be argued that the lack of support from current Governors at Ysgol Y Berwyn is a development that alters the circumstances to such an extent that it would be unreasonably difficult to implement the proposal.
- 4.6 It is also worth noting that the governors of Ysgol Y Berwyn, despite having expressed opposition to the Church status in September 2015, have shown a willingness to collaborate with the Church and Council through proposing a compromise that the Council hold a review of the provision 2 years from the date on which the school is opened. It is evident from the Governors most recent correspondence that there is no longer a willingness to co-operate with the Church. This development is deemed as a significant change in the circumstances since the proposal was approved.
- 4.7 All governors have a duty to ensure a strong relationship between the school and the community that it serves. Without the support of the area’s existing governors, it would not be possible to ensure delegates from amongst the existing secondary school governors on the shadow body. Without representatives from the secondary, it is envisaged, that in practice, the lack of local representatives on the governing body would lead to increasing objections and lack of ownership of the board of governors. As a body that is responsible for all the school’s achievement, a lack of support and local ownership of the board of governors is deemed a substantial risk to the school’s success.
- 4.8 As regards the situation of including Ysgol Beuno Sant in the campus, it should be noted that the Diocese has now suggested 4 options for the site. Here is a summary of the four options:
- i. Include the site within the new Campus’ plans
 - ii. Transfer the site to the property of the Council
 - iii. Sell the site and invest any proceeds of sale in the Campus.
 - iv. Sell the site, which would mean that the proceeds of sale would be subject to a reverter
- 4.9 Option i. would not be possible without revising and re-issuing the notice. Neither would options ii. nor iii. be appropriate for the Council, as no use has been identified for the existing Ysgol Beuno Sant site within the new Campus. In addition, with option ii. and iii. if the school ceased to be a church school, the Council would have to return any financial contribution or the land to the Diocese.
- 4.10 There would be an unacceptable financial risk for the Council in receiving a financial contribution with a condition attached which required reimbursement if the school ceased to be a church school.
- 4.11 Any change to the current proposal would involve a review of the proposal that has been confirmed and a process following Section 55 (5). However, before deciding on how to proceed, the 2013 Schools Organisation Code stipulates the requirement to consult with school governing bodies who are impacted by the intention.
- 4.12 Should the Cabinet resolve to consult further with the governing bodies, subject to the outcome of that consultation, the Council may conclude that implementing the proposal would be unreasonably difficult or inappropriate. If that conclusion is reached, the proposal would be abandoned and a new statutory process would have to be re-commenced to re-organise the provision in Y Berwyn catchment-area.

5. OTHER CONSIDERATIONS

5.1 The factors and other risks that the Cabinet need to be aware of are as follows:

- i. Welsh Government Capital Funding: The current scheme invests £10.27m in the Bala area, with £5.3m of this amount being a grant from the Welsh Government. The Welsh Government grant has been approved following the submission of a full business case to the Government. The statutory processes and the application process for the capital grant were scheduled so that they would be completed and approved well in advance of the commencement date of the construction work. Although we do not anticipate any impact on our ability to complete the construction project which is now under way, the next report will have to evaluate and address any possible impact any change in direction may have within the context of the terms and conditions of the grant.
- ii. Continued choice of church provision in South Meirionnydd: The need to determine the school's legal status was a matter that received detailed consideration during the consultation period, the objection period, and in the Cabinet Report dated 15 September 2015. One of the reasons and factors for consulting on a Voluntary Controlled status (VC, Church in Wales) for the proposed Campus was the joint provision that currently exist in the catchment area, that is, there is already Voluntary Aided provision (VA) at Ysgol Beuno Sant, as well as the strategic decision to ensure a continued choice of provision within a wider area in the South of the County. These factors will remain considerations as the Council considers the way forward.

6. NEXT STEPS

6.1 If the Cabinet decides to approve the recommendation presented in this report, it is envisaged that:

- i. A consultation with the governing bodies of the schools in the Berwyn catchment-area, on the option to abandon the proposal to establish a Voluntary Controlled 3-19 Learning Campus (VC, Church in Wales) in the town of Bala, will be held between **1 and 15 March 2017**
- ii. A further report will be presented to Cabinet to report on the outcome of the consultation and to decide whether or not to abandon the proposal. Subject to the decision, the report will also seek approval to hold a statutory consultation on the chosen model (alternative).

7. RECOMMENDATION

The recommendation is to consult with the Governing Bodies of the schools of Y Berwyn catchment-area, on the option to abandon the proposal to establish a Voluntary Controlled 3-19 Learning Campus (VC, Church in Wales) in the town of Bala, in accordance with section 55 (5) of the 2013 Schools Standards and Organisation Act. The intention being to return to the Cabinet to report on the outcome of the consultation and make recommendations on the way forward.

Views of the local members

Any observations by the Local Members will be presented at the meeting.

OPINION OF THE STATUORY OFFICERS

The Chief Executive:

"It is evident that this is a complex matter and one that is a subject of strong feelings locally.

Having said that, in a sense, the focus of the Council is simple, that is to realise the improvement to the learning conditions of the children in the catchment-area and secure the resources to implement it."

The Monitoring Officer:

“The School Standards and Organisation (Wales) Act 2013 with the School Organisation Code 2013 provide a framework for establishing and organising the provision of community and voluntary schools. Section 55 sets out a duty to implement a proposal which has been confirmed but also the circumstances where a decision not to implement may be taken. These thresholds are set out in the report as well as the circumstances which have led to the recommendation. The Code also imposes an expectation that consultation with governing bodies will have taken place before moving to a decision. The Cabinet, in considering the matter and coming to a final decision will need to weigh up the situation in this context. I will provide any further guidance at the meeting”

The Head of the Finance Department:

“The current situation regarding the school that is to be established in Y Berwyn should be resolved without delay, by following the appropriate procedures. We should aim to minimise the financial risk, by claiming and using the capital grant on time, avoiding any slippage in the capital project’s schedule.”