

Cabinet Scrutiny Committee

**(Multi-Location Meeting - Council Chamber, Port Talbot and
Microsoft Teams)**

Members Present:

30 November 2022

Chairperson: Councillor P.Rogers

Vice Chairperson: Councillor C.James

Councillors: T.Bowen, C.Clement-Williams, C.Galsworthy,
J.Henton, R.G.Jones, C.Lewis, S.Paddison,
C.Phillips, R.Phillips, S.Pursey, S.H.Reynolds
and A.J.Richards

**Officers In
Attendance:** K.Jones, A.Thomas, A.Jarrett, N.Pearce,
C.Griffiths, H.Jones, N.Blackmore, R.Bowen,
S.Davies, A.Hinder, D.Holder-Phillips,
J.Merrifield, M.Shaw, P.Walker, G.White,
K.Windsor-Brown, J.Woodman-Ralph and
A.Thomas

Cabinet Invitees: Councillors W.F.Griffiths, J.Hale, S.Harris,
S.K.Hunt, J.Hurley, N.Jenkins, S.Jones,
S.A.Knoyle, A.Llewelyn and D.M.Peters

1. **Chairs Announcements**

The Chairperson welcomed everyone to the meeting.

2. **Declarations of Interests**

The Head of Legal and Democratic Services provided the Committee with the following information and advice in regards to interests and predetermination, which related in particular to the School Strategic Improvement Plan report which was included on the Cabinet agenda:

- The proposal included in the circulated report was a new and fresh decision that Members will need to make; the fact that Members may have voted in a particular way at a previous meeting, will not amount to pre-determination provided

Members retain a genuinely open mind in respect of this new meeting.

- When arriving at decisions relating to any of the Councils business, Members must do so with an open mind and consider all the information before them objectively, having due regard to the advice of Officers. During the decision-making process, Members must act fairly and in the public interest. Members were required to make their decisions on the basis of the facts in front of them, and not to have made their mind up in advance of the meeting.
- If Members consider that they have come to a settled view or decision in respect of this matter, and were unable or unwilling to take into account any other representations or advice, or a member of the public may feel that in taking into account all matters there was a risk, Members would in all likelihood have predetermined the matter. Accordingly if Members feel they have predetermined their position, they should not be taking part in any vote. Pre-determination could not only invalidate the decision, it could lead to proceedings being brought against the Council and it may also amount to a breach of the Members Code of Conduct. This would be the opportunity for Members to declare that
- Members were entitled to hold a preliminary view about a particular matter in advance of a meeting (otherwise known as pre-disposition) as long as Members keep a genuinely open mind and were prepared to consider the merits of all the arguments and points made about the matter under consideration before reaching their decision.
- It should be noted that the determination here was one for Members to decide.
- For the sake of clarity, manifesto commitments and policy statements which were consistent with a preparedness to consider and weigh relevant factors when reaching the final decision, were examples of legitimate predisposition, not predetermination. In addition, previously expressed views on matters which arise for decision in the ordinary run of events were routine provided, Members were able to approach this particular decision with an open mind.

The following Members made declarations of interest at the start of the meeting:

Cllr A.Llewelyn

Agenda Item 6 on the Cabinet

Agenda - Strategic School Improvement Programme - Proposal to Establish and English-Medium 3 - 11 School to Replace Alltwen, Godre'rgraig and Llangiwg Primary Schools as he is a school governor at Ysgol Gymraeg Ystalyfera – Bro Dur but has dispensation to speak and vote.

Cllr J.Henton

Agenda Item 6 on the Cabinet Agenda - Strategic School Improvement Programme - Proposal to Establish and English-Medium 3 - 11 School to Replace Alltwen, Godre'rgraig and Llangiwg Primary Schools as he is a school governor at Ysgol Gynradd Gymraeg Tregesles but has dispensation to speak and vote.

3. **Pre-decision Scrutiny**

The Committee chose to scrutinise the following item on the Cabinet agenda:

Strategic School Improvement Programme - Proposal to Establish an English-Medium 3 - 11 School to Replace Alltwen, Godre'rgraig and Llangiwg Primary Schools

The circulated report provided detail regarding the proposal for a new consultation around the proposal for school reorganisation in the Swansea Valley; the proposal was to establish an English-medium 3-11 school with a specialist learning support centre, in new build premises to accommodate pupils from the current catchment areas of Alltwen Primary, Godre'rgraig Primary and Llangiwg Primary Schools.

It was explained that the Cabinet of the previous administration approved the former decision in relation to this matter; however, the decision had since been challenged and a judicial review took place which saw the decision be overturned. Members were informed that the new administration had committed to reviewing the decision taken in respect of the Swansea Valley School reorganisation proposal,

which required the Council to start a new consultation for the proposal.

If Members approved the recommendation detailed in the circulated report, Officers stated that they will be highly encouraging members of the interested communities to take part in the consultation in order to provide their views.

A discussion took place in regards to the involvement of the Education, Skills and Wellbeing Scrutiny Committee in this process, and the function of Joint Scrutiny Committees. The Chief Executive indicated that it was for Scrutiny Members to decide how scrutiny carries out its functions; there was a meeting scheduled with Scrutiny Chairs to remind them of their provisions within the Constitution, which include calling Joint Scrutiny Committee meetings in order for other Elected Members to attend specific Committees. It was noted that it would be useful to have a more in depth discussion with the Members of the Education, Skills and Wellbeing Scrutiny Committee in regards to this matter, if they felt it was important that they be present when future reports, relating to this proposal, were brought back to Cabinet Scrutiny Committee.

Members queried if public meetings would form part of the consultation process; it was mentioned that the previous administration weren't able to hold face-to-face public meetings during the initial consultation of this proposal due to the Covid-19 pandemic. Officers explained that they would be following the consultation requirements as necessary, and confirmed that there will be elements of the consultation undertaken face-to-face with the public.

Officers were asked to explain the consequences of any potential changes to the main proposal, if the consultation period was to go ahead and the feedback provided good reason to change that proposal. It was also asked that if a new business case was to be produced for any alternatives that may seem feasible, how long would the process of drawing up the business case take and when would there be another opportunity to submit that business case to Welsh Government for funding. It was noted if Cabinet decided not to progress with the proposal that was being consulted on, at that point it would be assumed that there would be a preferred option to peruse in terms of investment; the £22.5million that was currently available to Neath Port Talbot for the current proposal, would no longer be available. It was confirmed that the Council would need to submit a

new business case to Welsh Government that related to Band C schooling; this new process could be started immediately after the current proposals process had been concluded entirely. Officers highlighted that it would take months to write up the new business model as it was a detailed and complex process; once submitted to Welsh Government, they would take a few months to consider the proposal, however there would be no guarantee that they would support it. Mention was also made to the fact that the pupils of Godre'rgraig Primary School would be required to stay in temporary accommodation for a longer period of time.

Officers confirmed that any capital investment through the Sustainable Communities for Learning Programme (formerly known as the 21st Century Schools Programme) would require a robust business case. It was mentioned that the process for submitting business cases, through the HM Treasury 5 Case Business Model, was a strict format and had tests within it that were required to be met.

The Committee discussed the reasons as to why the proposal would need to be consulted on again. The Deputy Leader confirmed that the new administration had committed to review this matter based on the views and responses to the previous consultation, and based on the legal case which had taken place against the decision previously made; if the consultation phase was to be approved, all responses, outcomes and feedback from the new consultation will be considered accordingly, along with advice from Council Officers.

The judicial review gave the Council the right to appeal the decision that was made by the Court; Members queried who made the decision to not go ahead with the appeal process. The Head of Legal and Democratic Services clarified that the decision was lost on a ground one basis, that a Welsh Language Assessment hadn't been included within the consultation document. It was stated that when dealing with judicial reviews, there was a very tight timescale to lodge an appeal; the Council made the determination whether to lodge the appeal via its Urgency Action process.

The circulated report detailed information regarding the schools organisation code; within this were two different outlines of consultation specifications, one of 42 days and another of 28 days. Members asked if Officers could provide further information on these specifications. It was explained that the 42 days refers to the process of the public consultation phase, which had to last a minimum of 42

days (the recommendation within the circulated report was seeking to embark on this phase). If Cabinet were minded to approve the recommendation, it was noted that the consultation will then take place; following this, a report will be brought back to Committee detailing the feedback of the consultation and Officers response to that feedback. It was highlighted that if the proposal was to progress, Officers would then ask for permission to move onto the next phase which was known as the period for statutory objection; this period had to last 28 days exactly. It was mentioned that if the public wanted their objections to the consultation to be recorded, they would need to comment on this phase in order for their comments to be processed (even if they had previously provided their feedback during the public consultation phase).

The Committee expressed concerns in regards consulting on the previous proposals, before there had been a wider review or evidenced assessment of other alternatives. Members were informed that the code required Officers to consider various options for a business case; once this has been completed, they must then decide on which proposal would be put forward for consultation. It was highlighted that the circulated report contained 14 other options which had been considered, however chosen not to pursue as the preferred option; the consultation phase was focused on exploring all of the options around the delivery of education in the Swansea Valley, therefore the public were encouraged to highlight their views, provide other ideas and/or express their preferred option. Officers confirmed that part of the consultation report, that was required to be brought back to Committee, would identify any comments, ideas and/or issues; this could potentially lead to a change to the proposal. It was mentioned that the consultation phase was a formative stage, and no decision on the proposal would be made during this stage.

Members queried why Rhydyfro Primary School was removed from the original plan; the school had been previously named in the documentation. The Director of Education, Leisure and Lifelong Learning explained the process of submitting an outline business case to Welsh Government; if they approved the outline business case, Officers were then able to commence the detailed work in regards to the proposals. It was noted that when initially working on the proposals for the Swansea Valley Schools, it started as a proposal for a 3-16 school including Cwmtawe; following some initial consultation, prior to the last process, Officers dropped the proposal for the 3-16 school and retained a primary status only. One of the

factors that lead to this was highlighted to be the potential size of the school; Officers were required to take a professional view as to what was an optimum size for a school in a certain area, and including the pupils of Rhydyfro Primary School would develop too big a school.

It was asked if there were any restrictions around the start date of the consultation period; the Committee were mindful of the need to gather meaningful data from the consultation, which could be difficult to achieve if carried out over the Christmas period. Officers concerns with delaying the consultation start date, was noted to be that it would have an impact on the implementation date for the school, should the proposal be approved at the end of the process; there was a very tight timescale due to planning processes, more specifically some of the surveys that were required to be undertaken at certain times of the year, and delaying the consultation for a month could have the impact of delaying the school for a whole year.

A further discussion took place in regards to the judicial review, and whether the Welsh Language provision was taken into account at the time of the initial consultation. The Head of Legal and Democratic Services explained that one of the grounds for challenge was that a Welsh Language Impact Assessment document had not been included within the consultation document that was issued in October 2020; there was a provision in the school organisation code which stated that where schools could be affected by a proposal, a Welsh Language Impact Assessment would need to be included as part of the documentation. It was added that when the decision was taken previously, a Welsh Language Impact Assessment was included as part of the decision making process, and was considered along with the main report; however, the judicial review looked at whether that should have been included in the consultation document when it was issued to the public.

The following amendment was proposed and seconded as follows:

That the recommendation be amended to change the consultation period start date from 5th December 2022 to the new start date of 9th January 2023, with the 42 days consultation period following that date.

Following scrutiny, the Committee was supportive of the amended recommendations to be considered by Cabinet.

4. **Urgent Items**

Because of the need to deal now with the matter contained in Minute No. 5 below, the Chairman agreed that they could be raised as urgent items pursuant to Statutory Instrument 2001 No. 2290 (as amended).

Reason for Urgency:

Due to the time element.

5. **Pontardawe Swimming Pool -Emergency Works**

Members were provided with a report which sought approval for the allocation of funds for emergency works to be carried out at Pontardawe Swimming Pool.

The circulated report highlighted that contractors ARUP were commissioned to carry out a building review of Pontardawe Swimming Pool. Officers were asked if they could provide detail in regards to the costings of the condition survey that was carried out by ARUP. The Director of Education, Leisure and Lifelong Learning explained that they didn't have the information at hand, however would be able to provide the costings to the Committee outside of the meeting.

A discussion took place in regards to the nature of the works that were proposed to be carried out to the swimming pool. It was noted that the works listed within the circulated report were very much temporary in nature and was a short term option in order to keep the facility open; the remedial work carried out will be sufficient for a maximum of a two year period, and after this time there will only be two choices to determine between. The first choice mentioned was substantial refurbishment work, the cost of which was likely to be more than the value of the asset; and the second choice would be to replace the swimming pool.

It was queried whether Officers were seeking funding for a new swimming pool. It was explained that Officers weren't aware of any grant that would fund a replacement swimming pool at this time; Sport Wales capital fund limit was noted to be around £50k, which wouldn't cover the full costs of funding a new swimming pool. Officers agreed to make some enquiries into this query, and would inform Members if there was any new funding streams available.

Members asked for reassurances that the swimming pool would re-open as soon as possible for public use. It was highlighted that the

remedial work was required to be undertaken in order to re-open the swimming pool and maintain the facility. Officers had received assurances from the contractor that it would take 3 weeks to carry out the remedial work; however, this didn't include the time needed for the planning and design work, and the Christmas period would also come in between the pool re-opening. It was mentioned that the proposed date for re-opening was the end of January 2023.

Concerns were raised in regards to the extent of deterioration of the structure, and that there were recommendations still outstanding from the 2014 report on Pontardawe Swimming Pool. The Chief Executive explained that the Council had a large infrastructure and insufficient funds to be able to maintain all of those structures to the preferred standard; this had generally been the position for a number of years. It was noted that most often when the Council received grant funding, it was directed towards new infrastructure; there wasn't enough investment funding available to invest in the existing structures, therefore there was deterioration in a lot of those structures. In terms of the specifics of Pontardawe Swimming Pool, Officers confirmed they would investigate as to why there was a gap between the inspections. A suggestion was made for the Environment, Regeneration and Streetscene Services Scrutiny to add this matter to their Forward Work Programme, as this was an issue across a lot of the Councils existing infrastructure; it would be beneficial for the Members of this Committee to gain a better insight into the current issues and potentially make some recommendations.

It was noted that there were a number of active groups that use Pontardawe Swimming Pool, such as the Celtic Dolphins, who were committed to qualifying and moving forward with their chosen sport. Members asked if there had been any consideration given for arrangements to assist these groups during the time that the swimming pool will be closed. Officers stated that they had emailed the Chief Executive of Celtic Leisure on this matter, who had confirmed that they were looking into accommodating the swimming club in an early morning session at Neath Leisure Centre, by sectioning off 2 or 3 of the swimming lanes from the public. It was mentioned that the swimming pool would have been closing in December due to the Christmas period, however Celtic Leisure were actively looking into how they could accommodate the service users further; Members would be informed accordingly, if any further information was received on this matter.

Officers highlighted the positive feedback they had received in regards to the response from the staff Pontardawe Swimming Pool; the Manager and Duty Team had handled this matter very positively and professionally.

Following scrutiny, the Committee was supportive of the proposal to be considered by the Cabinet.

6. **Forward Work Programme 2022/23**

The Forward Work Programme was noted.

CHAIRPERSON