



## SPECIAL MEETING OF COUNCIL – 17TH APRIL 2013

**SUBJECT: CWMCARN HIGH SCHOOL**

**REPORT BY: ACTING CHIEF EXECUTIVE  
ACTING DEPUTY CHIEF EXECUTIVE/CORPORATE DIRECTOR –  
EDUCATION AND LIFELONG LEARNING**

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### 1. PURPOSE OF REPORT

- 1.1 To seek approval from Members to determine their preferred option to provide continuing education for Cwmcarn High School pupils for the next academic year.

### 2. LINKS TO STRATEGY

- 2.1 The Local Authority is required to discharge its duty of care to pupils and also ensure that arrangements are in place to meet pupils educational needs.

### 3. BACKGROUND

- 3.1 Cwmcarn High School is a Foundation School located in the Lower Sirhowy Valley. It is a 11-18 mixed comprehensive school with approximately 75% of pupils coming from local primary schools and the remainder from beyond the local area.
- 3.2 The Council was faced with a very difficult decision on Friday 12<sup>th</sup> October 2012 when it received detailed findings of a survey undertaken by asbestos specialists Santia Ltd into asbestos contamination on the school site.
- 3.3 In order to safeguard the health and wellbeing of pupils and staff at the site, it was agreed that afternoon to temporarily close the school with immediate effect. This decision was made with the knowledge and co-operation of the School's Head Teacher.
- 3.4 The Council firmly believes this was the right and proper thing to do in light of the information received that afternoon and the decision has since been backed by the Health and Safety Executive (HSE), Welsh Government and the Council's Insurers.
- 3.5 The Council has made every effort to keep the school community and wider public informed of developments since October.
- 3.6 Various communications have been issued including a number of letters posted to every parent, regular media releases, social media updates and website articles.
- 3.7 At its meeting on the 23<sup>rd</sup> October 2012 Council made funds available to temporarily accommodate pupils and staff at the former Ebbw Vale Campus in order to allow a comprehensive asbestos management survey and options appraisal to be undertaken on the Cwmcarn High School site.

#### **4. THE REPORT**

- 4.1 Through funding made available by the Council to the School Governing Body, the Governors of Cwmcarn High School commissioned Ensafe Asbestos Consultants Ltd to undertake the management survey. This has now been completed and the full management survey is available in the Members library for inspection. A copy of the options appraisal is attached as Appendix 1.
- 4.2 Following the decision to temporarily close the school, the HSE commissioned the Health and Safety Laboratory (HSL) to undertake air sampling at the school in November 2012. Following this HSE issued statements essentially based on the report by HSL. Their statement that the site was 'uncontaminated' casts doubt on the scientific evidence presented by Santia Ltd which led to the original decision to temporarily close the school site.
- 4.3 Given this, the Council took the unprecedented step of employing an independent expert to analyse the scientific data and results of both 'Santia' and the HSL. A summary of the experts' findings is provided as Appendix 2. There is little difference between the two analyses of air samples taken by both HSL and Santia but the conclusions of these analyses are profoundly different. Consequently the Council has sought clarification on their position from the HSE, as it is our belief that the scientific analysis, as well as the visual evidence of extensive asbestos debris at the site does not support their conclusions that the site is 'essentially uncontaminated'.
- 4.4 Given all of the above officers have concluded that a return to the Cwmcarn High School site cannot be safe for pupils or staff without the abatement and remediation work being carried out as identified in the said Ensafe Management Survey report of March 2013, attached at Appendix 1.
- 4.5 Whilst recognising the uncertainty that has been caused for parents, pupils, governors and staff of Cwmcarn High School, the Council refutes the accusations that the situation has been manufactured to ensure Cwmcarn High School is closed as part of the 21<sup>st</sup> Century School rationalisation programme. These accusations are totally without foundation and should therefore be disregarded by Members. There is a separate process underway, the outcome of which will be considered by Council in the coming months. The two issues are totally unrelated and must remain so.

#### **5. OPTIONS APPRAISAL**

- 5.1 It is important that in determining the way forward Members need to consider the range of options available. Accordingly, officers have determined the following options for consideration by Members.

##### **5.1.1 OPTION 1 – "Do nothing"**

Given that the temporary accommodation at Ebbw Vale will not be available to the Council after 31<sup>st</sup> July 2013 and as outlined in 4.4 the Cwmcarn site should not be re-occupied without the remediation and abatement work being undertaken.

Recommendation: This option should be discounted.

##### **5.1.2 OPTION 2 – Dispersal of Cwmcarn High School pupils to other sites whilst 21<sup>st</sup> Century Schools rationalisation evaluation is considered.**

- (a) This option would require additional accommodation at Risca Community Comprehensive (Years 7-9), utilisation of Pontllanfraith Comprehensive (Years 10 & 11) and Coleg Gwent (Years 12 & 13).

- (b) The estimated cost to this option is circa £300K and could be achieved by September 2013. This is the least cost option.
- (c) However, this is not the preferred option of the Governing Body. There would be a significant discontinuity of teaching and learning which could lead to an increase of pressure upon the pupils, parents, staff and Governors of both Cwmcarn High School and the other Schools accommodating them, for example in having to deal with the logistics of organising and delivering a curriculum across three sites.
- (d) It is the view of officers that the factors detailed in paragraph c above, in particular the impact on the well being of pupils, far outweigh the benefits to be gained financially by choosing this option.

Recommendation: Whilst this is not the preferred option of the school or officers, it may be considered further by Members.

5.1.3 **OPTION 3** – Provide accommodation to return learners to the Cwmcarn High School site whilst remediation work is being undertaken on part of the school site.

- (a) In discussion with the Headteacher of the school she indicated that this option would require the provision of temporary accommodation which would need to include 25 classrooms; 7 offices; pupil and staff toilets; canteen facilities and gymnasium.
- (b) Having sought quotes from the major suppliers indicative costs for a provision for a 52-week period would, depending upon the configuration, range from £700k to £1.6m.
- (c) This option would still require additional works to remediate asbestos in science and technical classrooms for safe occupation and would not include a fully fitted kitchen.
- (d) This option retains all pupils and staff on the site. However, it is a similar cost to option 4 below but would not improve the school site. There is also concern that this option could considerably disrupt the delivery of the curriculum and hence pupils' learning.
- (e) Officers consider that given the costs are similar to the Ensafe option (as set out in Option 4) and there is potential for disruption to pupils' learning that this option be discounted. Additionally, there is a real risk that this option would not be available for the start of term.

Recommendation: This option should be discounted.

5.1.4 **OPTION 4** - Remediate the site as proposed by the Ensafe Management Survey.

- (a) The details of this proposal are set out in Appendix 1 of this Report and is the preferred option of the School Governing Body.
- (b) In summary the asbestos removal costs £432k, reinstatement costs £318k, temporary port cabin hire £297k. At the conclusion of these works the site would be safe for pupils to return. The costs associated with these works are estimated at £1,048m. Ensafe Asbestos Consultants Ltd have advised that the work can be completed to ensure the school can be re-occupied in September 2013.
- (c) As the preferred option of the Governing Body it is clear that this retains all Cwmcarn High School learners and staff on site. It presents similar costs to option 3 but buildings would be remediated of damaged asbestos as well as the removal of extensive asbestos ceilings. This option would not achieve an upgrade of the external fabric of the building. The backlog of statutory maintenance works existing at the time of the temporary closure of the school would remain for which the School Governors will be responsible for commissioning. However the removal of asbestos contaminating the site will mean the buildings are in a safe condition to undertake the required maintenance.

Recommendation: This option is worthy of further consideration.

5.1.5 **OPTION 5** – Remediate the site as proposed by the Ensafe Management Survey plus all statutory maintenance works.

- (a) Provides a fully costed option which deals with both the asbestos issue and all of the ongoing backlog of maintenance issues. This would require spend of circa £3m and would take at least 12 months to complete.
- (b) Clearly this retains all Cwmcarn High School pupils on the school site and would improve the condition rating of the school.
- (c) However, this is the most costly option and the Council could not rely on 21<sup>st</sup> Century match funding to meet these requirements. Consequently, Members would need to determine the other capital commitments from their Capital Programme that they would wish to cut to fund this option. It should also be considered that approval of this option shortly before the commencement of a school rationalisation consultation process could be viewed as the Council predetermining the outcome of that process.
- (d) Given the potential costs and potential legal challenges this option should be discounted.

Recommendation: This option should be discounted.

## 6. CONCLUSIONS

6.1 In summary:-

**OPTION 1 - Do nothing**

- Recommendation - Discounted

**OPTION 2 - Dispersal**

- Recommendation – Whilst this is not the preferred option of the school or officers it may be considered further by Members.

**OPTION 3 - Temporary Accommodation/Limited Remediation Works**

- Recommendation- Discounted

**OPTION 4 - Remediate The Site As Proposed by Ensafe Management Survey**

- Recommendation - For Consideration

**OPTION 5 - Remediate The Site As Proposed By Ensafe Management Survey Plus Statutory Maintenance Works**

- Recommendation - Discounted

6.2 Consequently, Officers have concluded that there are only 2 options worthy of further, consideration by Members, namely Option 2 and Option 4.

6.3 It is clear that the Governing Body preference is for Option 4 for the reasons stated in the Report.

6.4 Officers have considered the legal implications of both options, 2 and 4 during a period when the Council is due to consult on its 21<sup>st</sup> Century Schools rationalisation programme. Should Members opt for the less expensive option, i.e. Option 2 "Dispersal", as this is not the preferred option of the School Governing Body then there is a distinct possibility of a legal challenge by way of a judicial review. This could have the effect of discontinuing indefinitely the consultation process on 21<sup>st</sup> Century Schools rationalisation programme and as such the Authority would not be able to address the recommendations made by Estyn in their Inspection Report of July 2012. This could have serious consequences for the Council.

- 6.5 Officers are of the view that given the expenditure required for Option 4, i.e. £1.048m is to deal with urgent asbestos remediation and removal then this is not inconsistent with the assistance given to other schools to remove asbestos. What is inconsistent is the volume of asbestos remediation required at this school which has not been required at other schools throughout the County Borough and the level of spend required to undertake such works.
- 6.6 Taking into account the legal and financial issues, and most importantly in the best interests of pupils, it is the view of officers that Option 4 is the preferred option.

## **7. EQUALITIES IMPLICATIONS**

- 7.1 The options appraisal process has given consideration to the equalities implications.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 At its meeting on 23<sup>rd</sup> October 2012, Council set aside a sum of £1.420m from its general fund balances to fund the temporary relocation of Cwmcarn High School to the former Ebbw Vale College Campus until the end of the 2012/13 academic year. It is projected that a sum of £400k will be saved against this cost, primarily due to less pupils being conveyed than originally envisaged, combined with lower than anticipated daily transport costs.
- 8.2 More recently Welsh Government have announced a windfall for Councils, some £778k for Caerphilly for on-going maintenance. However, in considering the issues in this report it is deemed that the asbestos works required, which are emergency in nature, would not be eligible and could be subject to legal challenge by other schools should this be used at Cwmcarn High School.
- 8.3 The Council has approached the Welsh Government and requested funding from their Emergency Financial Assistance fund; the Council has been advised that this expenditure is unlikely to qualify. The Council will however continue to pursue all avenues with Welsh Government for financial assistance.
- 8.4 In order to find the £1.048m required; £400k is available from previous underspend with the £648k being met either from a further call on general fund or a reprioritisation of the Capital Programme approved by Council on 23<sup>rd</sup> February 2013.
- 8.5 The current level of general fund balances as reported to Council on 23<sup>rd</sup> February 2013 is estimated to be £10.597m and it is recommended that the £648k required be funded from General Fund. (£1,048m less 0.400m referred to in paragraph 8.1 above).
- 8.6 In consideration of timescales, and urgency of this issue if Members are minded to support these proposals, then the Council will enter into a grant arrangement with the Governors of Cwmcarn High School where they will procure, commission and manage the works at the school. The School will also be responsible for any additional works or funds needed above the agreed amount and in accordance with the relevant legislation for insuring the School site.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 Will be dependent upon the chosen option; all staff, including the Headteacher at Cwmcarn High School are employed by the Governing Body as it is a Foundation School.

## **10. CONSULTATIONS**

- 10.1 Consultations have been ongoing with Cwmcarn High School Governing body and the leadership team and their views have been reflected in the report.

10.2 The trade unions have also indicated their support for a return to the school site and in keeping the school together.

## **11. RECOMMENDATIONS**

11.1 Members are recommended to support Option 4 (Remediation of the site as proposed by Ensafe Management Survey) at a cost of £1,048m with this funding being met from General Fund balances (net of previous underspend).

## **12. REASONS FOR RECOMMENDATIONS**

12.1 To ensure arrangements are in place to support continuity in teaching and learning for all Cwmcarn High School pupils, with effect from the 2013/14 academic year.

## **13. STATUTORY POWERS**

13.1 School Standards and Framework Act 1998 Local Government Act 1972.

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### Appendices:

Appendix 1 - Asbestos remediation options proposals - Ensafe Consultants

Appendix 2 - Summary of Finding - Robin Howie Associates

### Background Papers:

Report to Council: 23<sup>rd</sup> October 2012.