



CABINET – 10TH DECEMBER 2014

SUBJECT: CWMCARN HIGH SCHOOL

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

1. PURPOSE OF REPORT

- 1.1 To update Members on the key issues arising from the work carried out at Cwmcarn High School (CHS) including the progress of the works, the HSE position, the final costs and action to mitigate against a similar situation arising in the future.

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 pupil's educational needs. In order to do so the Council has a duty to maintain all Schools.

3. BACKGROUND

- 3.1 As Members will be aware from previous reports to Council, the Cwmcarn High School site was closed on 12th October, 2012 to protect the health and well-being of pupils. The Council agreed on 23rd October, 2012 to fund the costs of transport to educate the pupils at the former Coleg Gwent site in Ebbw Vale, this was in the sum of £1.42million.
- 3.2 Following this, the Council agreed to fund asbestos removal and reinstatement works. The costs of this was £1,048million, based on the proposal put forward by asbestos consultants on behalf of the Governing Body of Cwmcarn High School, detailed in the attached report to Council on 17th April, 2013, referenced as a back ground paper to this Report.
- 3.3 The funding was agreed on the basis of a grant arrangement with the School. After the Council decision on 17th April, 2013, there followed a period of negotiation around the grant arrangement. On 17th June, 2013, the School agreed that the Council could undertake the works on their behalf instead of through a grant arrangement.
- 3.4 Works commenced on the site on 24th June, 2013 and a programme was put in place to ensure that the works were completed by 26th August, 2013. This allowed time for the School to be re-equipped ready for re-occupation on 2nd September, 2013. Initially works were progressing well at the site and in line with the programme.
- 3.5 Tragically, on 19th July, 2013 there was a fatality on site. The site was a crime scene for a week from that date and both the Police and HSE began investigations into the incident. The Corporate Health and Safety department still considered that the contractor could safely continue with the asbestos removal works and on 31st July, 2013, the Interim Chief Executive took the decision that the contractor could continue with the works.

- 3.6 As had been identified, further electrical works were required before the school could be reoccupied and the original asbestos works were delayed due to the investigation at the site, meant pupils could not return to site in September, 2013 as originally planned. On 23rd August, 2013, Cabinet agreed the continuation of funding to house the school on the Ebbw Vale site.

4. THE REPORT

4.1 Progress of the works

- 4.1.1 After the Cabinet decision in August, 2013, the pupils remained at the Ebbw Vale site until December, 2013. The pupils were then able to return to the Cwmcarn High School site in January, 2014.
- 4.1.2 The electrical works at the School began on 8th October, 2013 and finished on 19th November, 2013. The final costs of rectifying the electrical works were £132k. The cost was allocated in accordance with that previously agreed with all schools i.e. 75% by the Council and 25% by the school resulting in £99k and £33k respectively.
- 4.1.3 The Contractor completed the asbestos work on 17th October, 2013. The total cost of the asbestos related works amounted to £855k.
- 4.1.4 The asbestos removal project was based on the specification provided by the schools asbestos consultants after they had completed a detailed asbestos management survey of the school site. However, further asbestos was discovered during the planned removal works which had not been identified by their consultants survey. This work was able to be factored into the project, although this added to timescale and cost. A variation to contract was provided as the additional cost and time were not deemed significant.
- 4.1.5 As stated in the original Report to Council 17th April, 2013 any backlog of statutory maintenance works required was the responsibility of the school. The school is now in a position to carry out those works as the asbestos removal has been completed.
- 4.1.6 Following completion of the asbestos removal and remediation works, sample air testing was undertaken in numerous locations of the premises. All samples taken were tested at an independent UKAS accredited Laboratory. All samples returned levels below 0.0005 f/cm³. This was the required level the Council wanted to attain prior to reoccupation of Cwmcarn School.
- 4.1.7 On completion of the asbestos removal project, the Council commissioned an up to date asbestos management survey of the school building to record all asbestos remaining on the site. The Council's Asbestos Team Manager visited the school on the 23rd January, 2014 with the completed survey to give the site management team a clear understanding of where asbestos remains in the building. He advised how this should be managed going forward, including advising all staff of the asbestos management arrangements.
- 4.1.8 The school have commissioned the support of an asbestos consultant to draft an Asbestos Management Plan for the school in line with the requirements of the Control of Asbestos Regulations 2012.

4.2 Health and Safety Executive Assessment of Asbestos Risk

- 4.2.1 On the 19th July, 2013, the HSE published a Report (a copy will be found on the HSE website (www.hse.gov.uk/fot/cwmcarn-school-report.pdf) entitled 'Assessment of Potential Asbestos Risk at Cwmcarn High School'. The report detailed the opinion of the HSE's Principal Inspector in Occupational Hygiene on the risk posed to occupants of the school from the asbestos debris which was present within the roof voids and the risk from asbestos fibres and debris, within warm heater cabinets. The report concluded that the occupied areas of the

school were essentially uncontaminated and there was no evidence of elevated airborne fibre levels. The report also concluded that asbestos fibres present within the ceiling void and heater cabinets did not present a risk to occupants.

- 4.2.2 Members are aware from the previous Reports to Council that the views of the HSE expressed in their report were not supported by two firms of asbestos consultants and an eminent independent expert in the field of asbestos who was engaged by the Council to review the evidence prior to Council agreeing funds to undertake asbestos removal works at the school site. Their opinion was unanimous in recommending extensive removal and remediation works in order for the site to be safe for reoccupation.
- 4.2.3 The Health and Safety Laboratories (HSL) on behalf of HSE, undertook air sampling on site when the school was closed. Only when disturbance was undertaken were asbestos fibres detected in classrooms. It is likely, therefore, that when the school was fully occupied, that asbestos fibre levels in the air could be higher due to disturbance from normal school activity/behaviour. This was highlighted by an asbestos consultant engaged by the Council prior to closure of the school.
- 4.2.4 Due to the potential for fibre release from the asbestos debris present and the inability to properly maintain the school building, officers recommended that Council support the removal and remediation of asbestos at the school.
- 4.2.5 The HSE has not changed its position since the report was released on 19th July, 2013. The Council's primary consideration throughout has been the safety of pupils and staff occupying the school building. In this respect, based on all the evidence available, the decision taken by Council on 17th April 2013, to fund the removal and remediation project put forward by the school's asbestos consultant is still considered by officers to be the correct decision to have made.

4.3 The final costs

- 4.3.1 At Council meetings held on 23rd October, 2012 and 17th April, 2013, it was agreed to fund in total £2.068m for works at CHS. This comprised £1.420m (23rd October, 2012) from which there was a £400k underspend on transport. This meant an actual funding resource of £1.020m was required. A further £1.048m was agreed at the meeting on 17th April, 2013.
- 4.3.2 Following the tragic fatality at the school site on 19th July, 2013, Cabinet were updated on 23rd August regarding the implications. This highlighted the necessity to continue at Ebbw Vale for a further 2 months i.e. to the end of the Autumn term, and detailed the level of additional costs incurred as a result of this.
- 4.3.3 This extension of time resulted in additional transport, security and premises costs, all of which are detailed in the table below. Figures include all remedial works and re-occupation costs with the exception of those costs pertaining to electrical works :-

Total costs of the closure of Cwmcarn High School site

| Detail of Spend | COSTS £K |
|------------------------|-------------|
| Asbestos | 855 |
| Transport | 656 |
| Excess Mileage | 100 |
| NNDR Utilities | 127 |
| Ebbw Vale lease | 98 |
| Security | 80 |
| Ebbw Vale Site Costs | 73 |
| Re-commissioning Costs | 72 |
| Removals | 49 |

| | |
|----------------------------|------|
| Leisure Centre/Sports Hire | 34 |
| Electrical Survey Report | 15 |
| | 2159 |
| Less budget | 2068 |
| Variance | 91 |

4.3.4 The total cost resulting from the closure of CHS amounted to £2159k. The funding agreed by Council was £2068k. The additional costs of £91k were primarily due to the additional 2 months stay at Ebbw Vale resulting from the necessity to undertake electrical works at the site. The additional costs have been funded from the Directorate of Education and Lifelong Learning budget.

4.3.5 The original funding allocation of £2.068m was predicated on a return date of 4th November. Due to the additional electrical works, the school could not be reopened until 6th January, 2014.

4.4 **Statutory Responsibilities**

4.4.1 The Council is required to maintain all the schools in the County Borough under the School Standards and Framework Act 1998. Although Cwmcarn High School is a Foundation School, it is still classed as a maintained school under the above legislation.

4.4.2 However, the Governing Body of each School is responsible for the school premises under the Control of School Premises (Wales) Regulations 2008, they are also the duty holder under the Control of Asbestos Regulations 2012.

4.4.3 There has always been a requirement in the Funding Formulae for Schools for the Council to require Governing Bodies to use part of their budget to maintain School premises, in particular for health and safety and statutory maintenance works. This is then supplemented by the Educational Capital budget where schools can bid for additional projects.

4.4.4 The Governing Body also has the legal responsibility for health and safety in relation to the Cwmcarn School site and for employees of the School Cwmcarn High School is a Foundation School. It should be noted that the School is the sole employer of all employees at the School and is, therefore, responsible for their health and safety. (In all other Schools, save for St. Helen's RC Primary School, the Council is the employer and has legal obligations.) Additionally, the Governing Body as Trustees of Cwmcarn High School have a lease in relation to the School site and they have responsibilities for the health and safety of anyone who enters the site. (Again in all other schools, save for St. Helen's RC Primary School, the Council owns the site and also has legal obligations).

4.4.5 In order to assist a Governing Body with their health and safety responsibilities, the Council offers a service through the Health and Safety Department. This involves inspections of buildings, equipment as well as audits of systems and procedures, along with advice, guidance and training for relevant staff. This service is offered to all schools and a premium service is offered to primary schools. However, the service offered to Cwmcarn High School and St Helen's RC Primary School, takes into account the legal responsibilities placed on the Governing Body of each of these schools to ensure that roles and responsibilities are clearly set out.

4.6 **Actions to mitigate against a similar situation arising in future**

4.6.1 In future should any school, within the County Borough decide not to take up a Health and Safety service level agreement with the Council as described in paragraph 4.4.5 above, arrangements will be put into place to undertake a two yearly site inspection and audit of systems and procedures at such schools. Findings will be formally reported to the Headteacher, Chair of Governors and the Director of Education with any recommendations for improvement, and progress duly monitored.

5. EQUALITIES IMPLICATIONS

- 5.1 All equalities implications have been given due consideration throughout the completion of the works and the compilation of this report.

6. FINANCIAL IMPLICATIONS

- 6.1 As stated above, the total costs arising from the works at the Cwmcarn High School site were £2.159m. This was funded through general balances as agreed by Council on 23rd October 2012 and 17th April 2013 in the sum of £2.068m and the additional £91k from the Education and Lifelong Learning Budget as approved by Cabinet on 23rd August 2013.
- 6.2 The costs for the electrical works amounted to £132k. These costs are to be funded, as with all other schools, on a 75/25 basis, £99k to be funded from the Education capital programme and £33k by the school.

7. PERSONNEL IMPLICATIONS

- 7.1 There are no personnel implications for the Council. The Governing Body employs all staff, including the Headteacher at Cwmcarn High School, as it is a Foundation School.

8. CONSULTATION

- 8.1 This Report is for information purposes. The draft Report was consulted upon with the consultees listed in the Report. Comments were received from the School Governors which express a contrary view on the legal responsibilities in relation to the School as set out in the Report and express concerns about the measures outlined at paragraph 4.5 of the Report.

9. RECOMMENDATIONS

- 9.1 Members are asked to note the content of the report with regard to the completion of the works, HSE position and the mitigation measures proposed to limit to the potential of a reoccurrence of a similar problem.

10. REASONS FOR RECOMMENDATIONS

- 10.1 To ensure arrangements are in place to support continuity in teaching and learning for all Schools in the County Borough.

11. STATUTORY POWERS

- 11.1 School Standards and Framework Act 1998
Local Government Act 1972.

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Consultees: Corporate Management Team Members
Education and Lifelong Learning Senior Management Team
Cllr Rhiannon Passmore, Cabinet Member for Education and Lifelong Learning
Jacqui Peplinski – Headteacher, Cwmcarn High Schools
Gary Thomas – Chair of Governors, Cwmcarn High School
Donna Jones – Health and Safety Manager
Gail Williams – Interim Head of Legal Services/Monitoring Officer

Angharad Price – Interim Deputy Monitoring Officer/Barrister, Legal & Democratic Services
Sue Richards, Principal Finance Officer Education
Jane Southcombe, Group Accountant Education
Richard Phillips, Asbestos Team Manager

Background Papers:

Report to Council: 23rd October 2012

Report to Council: 17th April 2013

Report to Special Cabinet: 24 August 2013