

For an urgent item the wording to be used is:

**Matter which the Chairman has decided is urgent by need of updating Members on the status of the Ysgol Llyn Derw development programme following its contractors, ISG, entering into Administration**

Meeting of:	<b>Learning and Culture Scrutiny Committee</b>
Date of Meeting:	<b>Monday, 07 October 2024</b>
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Progress update on Ysgol Llyn Derw
Purpose of Report:	To advise members of the impact of ISG’s cessation of UK operations on the Ysgol Llyn Derw build programme
Report Owner:	Councillor Rhiannon Birch, Cabinet Member for Education, Arts and the Welsh Language
Responsible Officer:	Elizabeth Jones, Director of Learning and Skills
Elected Member and Officer Consultation:	Trevor Baker Head of Strategy, Community Learning and Resources Lisa Lewis, Operational Manager, Strategy & Resources
Policy Framework:	This is a matter for noting by Scrutiny Committee
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• On 20 September 2024, ISG Ltd entered into administration.</li> <li>• Following this announcement, all of ISG’s UK operations ceased to trade with immediate effect, and no further work would be undertaken on existing UK contracts, including for construction, fit out and engineering services.</li> <li>• ISG were appointed to deliver the build programme for Ysgol Llyn Derw, a satellite site for Ysgol Y Deri, at Cosmeston, as part of the Council’s Sustainable Communities for Learning programme.</li> <li>• The Council’s Sustainable Communities for Learning team took immediate action to minimise any disruption to the programme, and a plan is currently being executed with precision.</li> </ul>	

## **Recommendations**

1. Members note the action being taken in response to the notification of ISG Ltd. entering into administration in relation to Ysgol Llyn Derw.

## **Reasons for Recommendations**

1. Members are aware of the action being taken by the local authority to mitigate disruption to the development of Ysgol Llyn Derw.

### **1. Background**

- 1.1 On 2 November 2020, Cabinet authorised the Director of Learning and Skills to undertake a consultation on the proposal to increase the capacity of Ysgol Y Deri by 150 places to meet future demand for special education.
- 1.2 In April 2021, the consultation was approved by Cabinet.
- 1.3 On 11th April 2022 cabinet authorised the Stage 1 appointment of ISG Construction Ltd to undertake works for pre-construction design and procurement services for the proposed new build works for Ysgol Y Deri on land at Lower Cosmeston Farm, with the requirement of a further report for the Stage 2 appointment when full costs were determined.
- 1.4 ISG was appointed through the SEWSCAP3 framework, which involved a rigorous financial due diligence process to assess and validate the eligibility of contractors. As part of this framework, ISG successfully passed all required financial checks, meeting the necessary criteria for inclusion.
- 1.5 In October 2022, a full planning application was submitted and approved, subject to the outcome of a holding notice from Welsh Government, delaying progress.
- 1.6 On 14th June, 2023 the Welsh Government advised that no further action was going to be taken and the programme could proceed. In June 2023 final delivery costs were agreed with ISG Ltd deliver the programme of works.
- 1.7 On 8 April 2024, works began onsite.
- 1.8 On August 22 2024 ISG Ltd were appointed as part of the stage 2 tender process.
- 1.9 On 20 September 2024, ISG and its subsidiaries entered into administration, ceasing all activity onsite.
- 1.10 The recent development of ISG going into administration was unforeseen and could not have been predicted at the time of their appointment, with all due diligence checks having been satisfactory.
- 1.11 The current state of the site is as follows:
  - Steel frame 85% completed.
  - Installation of perimeter scaffolding and metal decking to first floor
  - Completion of ground floor and first floor slab pours

- Topsoil screened and installed to grass pitch
- Drainage completed to S278 works within site boundary
- Retaining wall completion

## **2. Key Issues for Consideration**

- 2.1** The following outlines a timeline of events and actions taken by the Council:
- 2.2** On the 28<sup>th</sup> August the Council were informed by SEWSCAP (Collaborative Framework in Wales for Construction Projects) that ISG were suspended from the Framework due to their lack of submission to adhere to the Financial Agreement Criteria required for the Framework, as back in Spring 2024 ISG were replacing their current financial investor with another. At this time, ISG were given a 20 working day period to submit the required documentation.
- 2.3** The implications of this suspension were impactful on the tender submission for the redevelopment of St Richard Gwyn High School, where ISG did submit a tender but the Council advised due to the suspension from the Framework they were unsuccessful in their bid for the project.
- 2.4** During the first two weeks of the suspension for ISG, the Council liaised closely with SEWSCAP to determine the implications on the delivery of Ysgol Llyn Derw, where the Council were advised the suspension was only impactful on new contracts to be sourced through the Framework. Live projects were business as usual.
- 2.5** On Monday 16<sup>th</sup> September, the Council became aware that ISG's challenges may not only be in relation to the Framework, but in general the organisation was not in a good position. At this point the Council took the decision to plan for the worst-case scenario, as it was felt there was a possibility of ISG going into Administration.
- 2.6** During the week of the 16<sup>th</sup> September a plan was therefore prepared, where the tender documentations were reviewed to determine who was the second placed tenderer for the Ysgol Llwyn Derw project. Contact was made with the contractor to determine if they would be willing to negotiate with the Council to complete the development.
- 2.7** Thursday 19<sup>th</sup> September (during the working day) the plan had been compiled in readiness for the worst-case scenario, which included:
- Legal Services being consulted on the issue and possible solutions
  - Negotiations for a replacement contractor being possible, and approved via Ardal (procurement services) and their legal team, on the choice on how the replacement contractor would be selected
  - How to secure the site, with retaining the existing security company and also include a guard to support the CCTV in place
  - Insurance implications and arrangements in relation to the site
- 2.8** That afternoon, the Council were advised that sub-contractors were downing tools and leaving site due to lack of payments made by ISG. The Council were informed

that ISG personnel would be on site Friday but there would be very limited works taking place on site.

- 2.9** At 7pm Thursday evening it became clear that ISG were in Administration, via social media. Action was undertaken immediately to implement the plan that was finalised earlier that day.
- 2.10** By early morning on Friday 20<sup>th</sup> September most equipment was retrieved from site. By 11am the security company had secured the site and only those that were authorised by the Council could access the site. Friday afternoon the Administrators sent 2 security guards of their own to secure the assets on site.
- 2.11** On the afternoon of Friday 20<sup>th</sup> September, formal notification was received from ISG confirming the company had gone into Administration and all sites were closed.
- 2.12** During the week commencing 23<sup>rd</sup> September 2024, a meeting was held on the Ysgol Llyn Derw site with the replacement contractor to view the state of the build to date. From this visit it was agreed that a full list of requirements to assess the site and allow the replacement contractor to provide an accurate cost plan for completion of the project would be presented within the next two weeks.
- 2.13** Under the termination of the Contract ISG are entitled to their retention monies being held whilst we the Client are entitled to offset that against any additional monies forecasted to be required complete the works. On 27<sup>th</sup> September 2024 the Council issued ISG with a “Pay Less Notice” in line with the relevant clauses set out within the contract.
- 2.14** The current SEWSCAP 3 Framework ends on the 31<sup>st</sup> October 2024, with a new SEWSCAP 4 Framework replacing it from the 1<sup>st</sup> November 2024. The team are working at pace to agree contract terms with the replacement contractor before the 31<sup>st</sup> October 2024, otherwise further delays will be incurred as the project will have to be reassessed under the new SEWSCAP 4 Framework and may have to be retendered – estimated delays if this occurred are approximately 4 months.
- 2.15** The Council remains committed to delivering the scheme as quickly as possible, given the significant pressures the Council faces with the delivery of education provision for our most vulnerable learners.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The Well-being of Future Generations Act 2015 (“the 2015 Act”) requires the Council to think about the long-term impact of their decisions, to work better with people, communities and each other and to prevent persistent problems such as poverty, health inequalities and climate change.
- 3.2** The Council has committed as part of the Corporate Plan 2020-2025 to achieving a vision of ‘Working Together for a Brighter Future’. This plan is reflective of the Welsh Government’s Well-being of Future Generations Act and is comprised of four Well-being objectives to deliver this vision:

- Objective 1 - To work with and for our communities
  - Objective 2 - To support learning, employment and sustainable economic growth
  - Objective 3 - To support people at home and in their community
  - Objective 4 - To respect, enhance and enjoy our environment
- 3.3** To make sure we are all working towards the same purpose, the 2015 Act puts in place seven well-being goals on the Council. The 2015 Act makes it clear the listed public bodies must work to achieve all of the goals, not just one or two, these being:
- A prosperous Wales
  - A resilient Wales
  - A healthier Wales
  - A more equal Wales
  - A Wales of cohesive communities
  - A Wales of vibrant culture and Welsh Language
  - A globally responsible Wales
- 3.4** The 21st Century Schools Programme contributes to achieving the wellbeing goals by:
- Improving sustainability of school buildings through the creation of BREEAM Excellent accommodation.
  - Ensure an efficient supply and demand of school places across the Vale of Glamorgan through effective forecasting of future demand.
  - Providing additional school places to meet increased demand as a result of recent and proposed housing developments.
  - Providing facilities available for community use.
- 3.5** The 2015 Act imposes a duty on all public bodies in Wales to carry out “sustainable development”, defined as being, "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 9 well-being goals." The action that a public body takes in carrying out sustainable development includes setting and publishing well-being objectives and taking all reasonable steps in exercising its functions to meet those objectives.
- 3.6** The 2015 Act sets out five ways of working needed for the Council to achieve the seven well-being goals, these being:
- The importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs.
  - Considering how the Council’s objectives impact upon each of the wellbeing goals listed above.
  - The importance of involving people with an interest in achieving the well-being goals and ensuring that those people reflect the diversity of the area which the Council services.

- Acting in collaboration with other persons and organisations that could help the Council meet its wellbeing objectives.
- Acting to prevent problems occurring or getting worse.

### **3.7** The 21st Century Schools Programme meets the five ways of working by:

- Responding to the need to ensure that there is a well-managed balance of supply and demand of school places as a result of recent and planned housing developments. It is recognised that the changing demographics in the Vale of Glamorgan will significantly affect the demand for our services. Short term and long term need and the assessment of demographic increases is an important aspect of the Council's strategic planning responsibilities.
- Developing schools that will have an environment reflective of the national mission for education in Wales and future curriculum.
- Working towards ensuring that all pupils within the Vale have every opportunity to attain the best possible outcomes. This ambition is achieved by ensuring that schools remain sustainable, reflects the needs of local communities and are equipped with the best possible learning environments.
- Contributing towards a healthier Wales by supporting sustainable transport strategies and providing additional sport facilities.
- Contributing towards a prosperous Wales by committing to working with Welsh Government on the 21st Century Schools Programme. The 21st Century Schools and Education Programme in the Vale of Glamorgan will drive greater social value while delivering on the Welsh Governments community benefits through its investment in education infrastructure and employment. Specifically, it will increase contributions to education, training and skills across the Vale and the region and provide opportunities for local tradespeople and to use local resources, wherever possible.
- Delivering rigorous consultation with open communication channels and numerous opportunities for stakeholders to engage throughout the process.
- Ensuring that schools are of the right size, in the right places and serving the educational needs of their local communities as part of the school organisation process.

## **4. Climate Change and Nature Implications**

**4.1** There are no climate change or nature implications associated with this report

## **5. Resources and Legal Considerations**

### **Financial**

**5.1** Welsh Government have stated that any additional funding sought in relation to increased project costs would be subject to a variation request, and any approved variations to funding would be based on the relevant intervention rate for any given project.

## **Employment**

- 5.2** The Council does not employ or is responsible for any staff working for ISG Ltd or any of its subcontractors. It is worth noting however that a significant portion of labour and materials are sourced locally within Wales and the Vale of Glamorgan and will therefore have an impact on the local economy.

## **Legal (Including Equalities)**

- 5.3** The Council is taking ongoing legal advice in respect of the new contractual arrangements being put in place in respect of compliance with the provisions of the Public Contracts Regulations 2015

## **6. Background Papers**

- 6.1** None