

Proposed closure of Abram Bryn Gates Primary School: NSS response

Submitted by email to: consultation@wigan.gov.uk

1. This submission is made by the National Secular Society (NSS). The NSS is a not-for-profit non-governmental organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We campaign for a secular, inclusive education system free from religious privilege, discrimination or control.

Background

2. All stakeholders appreciate the difficult choice facing Wigan Council. Plans to reduce surpluses school places, particularly where these involves closure or amalgamation, are often complex and emotive. However, [systemic bias against](#) non-faith (community ethos) schools can make such decisions particularly concerning, given the potential to further reduce choice for families who do not want a faith-based education.
3. On the surface both *Abram Bryn Gates* and *Holy Family* primary schools are similarly situated:
 - Community opinion is deeply divided, the [Council's analysis](#) recognised that there is “no preferred option by stakeholders” and, responses to the original consultation were nearly equal, with 45% of respondents supporting the closure of *Holy Family* and 47% closure of *Abram Bryn Gates* primary schools.
 - Both schools have a similar budgetary and undersubscription history, and the Council’s modelling indicates that “if one of the schools was closed and the pupils dispersed to the other, the remaining school would be at capacity and would be sustainable due to the resulting increased funding”.
 - Both schools have been on a similar journey of improving Ofsted results, having been previously judged as requiring improvement. *Abram Bryn Gates* is rated good in four out of five categories, meaning the grade difference between the schools is minimal.
4. As these schools are similarly situated the Council must give serious weight to the “additional considerations” including “that one is a community school and the other a voluntary aided” ([Feb 2022 report](#)). As we detail below, the Council’s responsibilities under relevant legislation and statutory guidance persuasively argue for keeping *Abram Bryn Gates* open and retaining secular provision.
5. The report to cabinet ([Feb 2022](#)) and statutory notice ([Mar 2022](#)) published by the Council either do not give adequate consideration to such requirements, or appear to suggest that they are only relevant to protecting faith school provision. The proposal to close *Abram Bryn Gates* is ill-considered and should not proceed.

Current and proposed balance of denominational provision

6. Under “Balance of denominational provision” the statutory notice states simply that “Abram Bryn Gates Primary School is a community school and does not have a religious character.” There is no adequate analysis of the impact on the balance of provision resulting from the loss of this community school.
7. Wigan is already one of the worst areas in England for access to non-faith schools, a situation the proposed closure of *Abram Bryn Gate* would only exacerbate. [Analysis](#) conducted as part of our ‘Choice Delusion’ research shows that in September 2021, [81% of postcodes](#) in Wigan experienced “high” or “extreme” restrictions on the choice of a non-faith primary school. This affects 90% of postcodes in the Abram ward – a figure that would approach 100% if *Abram Bryn Gate* were to close, as five of its nearest six schools are faith-based.
8. The situation is so bad that, despite a net surplus of school places across Wigan, 182 pupils were assigned faith schools against families’ preference in September 2021.
9. Our analysis ([Appendix A](#)) of pupil capacity figures provided by the local authority ([page 8](#)) and diocese ([page 2](#)) shows that:

In *Holy Family* were to close:

- Local Catholic schools would have capacity for 55% of transferring pupils
- Local CofE schools would have capacity for 76% of transferring pupils
- Local community schools would have capacity for 85% of transferring pupils
- Meaning that 15% of pupils would have no choice but a faith school.

If *Abram Bryn Gates* were to close:

- Local Catholic schools would have capacity for 91% of transferring pupils
- Local CofE schools would have capacity for 79% of transferring pupils
- Local community schools would have capacity for 31% of transferring pupils
- Meaning that 69% of pupils would have no choice but a faith school.

Local authority’s duty to ensure adequate school provision

10. [Section 14 of the Education Act 1996](#) provides that the local authorities shall ensure that sufficient schools for providing sufficient school places are available in their area. The Council must also take decisions in light of the Department for Education’s [statutory guidance](#) on the opening of closing of maintained schools.
 - Section 14(2) provides that “schools available for an area shall not be regarded as sufficient for the purposes of subsection (1) unless they are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education.” (Our emphasis).
 - Section 14(3A) provides that the Council “shall exercise their functions under this section with a view to — (a)securing diversity in the provision of schools, and (b) increasing opportunities for parental choice.”

- Statutory guidance provides that on the opening or closing of maintained schools provides that: “*Where one school has a religious character and the other does not, or has a different religious character, both proposers and decisions-makers should consider what would best meet the needs of the local community. Decision makers should consider what impact the proposal will have on the balance of denomination provision in the area, the quality of the provision available (particularly when proposing a merger) and parental demand in the area for the different types of provision.*” (Our emphasis).

11. Taken together, these provisions strongly argue against closing *Abram Bryn Gates* and the resulting diminishing of secular provision.
12. In addition, when discharging their Section 14 obligation the local authority must interpret it in accordance with, and in any event act compatibly with, Convention rights (Article 8, Article 9, and Article 2 of Protocol 1, see below).

Impact on the rights of *Abram Bryn Gates* families

13. Hundreds of local parents have contacted our campaign against closing *Abram Bryn Gates* and reducing the community ethos provision in Abram. ([Appendix B](#))
14. In the report to cabinet ([Mar 2022](#)) the Council acknowledge that “Parents of children at *Abram Bryn Gates Primary* have specifically chosen a nonfaith school for their child. There is no desire for their children to be taught in a faith-based school. There are no other community non-faith based schools available within the area or within a reasonable distance of where children live that have places available.”
15. However the Council continues to treat parents’ opting for a community school as not worthy of protection or adequate consideration. We note the following language as indicative:

*“We will be able to make a reasonable offer of a school place to children attending *Abram Bryn Gates*; however, we do not have capacity in the Catholic sector to provide a Catholic school place for all children at *Holy Family Catholic Primary*. ”*
16. The Council asserts that offered school places (69% of which would have to be in faith schools) to displaced *Abram Bryn Gates* families would be “reasonable”, with no analysis of the suitability of such options. On the other hand, the Council presumes a non-existent duty to “provide a Catholic school place for all”, with no analysis of whether this is needed.
17. Further examples include:

“Some consultees raised concerns at not being able to access the same category of school. It is likely that some children will be offered places at faith schools. Schools have a duty to accept pupils of all faiths, and non. There is a commitment from faith schools in the area to do this. Parents can opt their children out of collective worship in any school.”
18. It is indeed “likely that some children will be offered places at faith schools” given Council figures (see above) demonstrating that 69% will likely have no other choice. While faith schools “have a duty to accept pupils of all faiths, and non (sic)” if undersubscribed, schools organised around an exclusive religious ethos can never be inclusive for all families, including those that do not share the faith. As discussed below, this is qualitatively different to the impact of an inclusive community school ethos on families that may prefer a faith school.

19. The statement that “Parents can opt their children out of collective worship in any school” appears to dismiss or minimize the imposition of a religious ethos that voluntary aided schools aim to suffuse all areas of school life. This is not just about collective worship, where there are regularly barriers to withdrawal. As a voluntary aided faith school, *Holy Family* has wide leeway to discriminate against pupils and teachers, who do not share the faith, in selection and curriculum.
20. The proposal to close *Abram Bryn Gates* would significantly undermine families and children’s rights under Article 9, and Article 2 of Protocol 1 of the Human Rights Act, increasing discrimination based on religion or belief.
21. Article 2, Protocol 1 of the Human Rights Act provides that: “the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.” This right is limited, and the case law is clear that this does not require the state to support specific types of schools organised around a religious identity or faith formation. However, it is clearly arguable that a lack of access to a religiously neutral school infringes on this right, whereas a community ethos school respects the rights of all equally.
22. Article 8 is also here engaged because of the impact on the family of accessing a local school as opposed to having to potentially travel (at their expense) to a more distant school.
23. These are all qualified rights, and the Council may attempt to argue that they are outweighed by other factors. However, the failure to demonstrate any such analysis or consideration, reflects a cavalier attitude to these important human rights issues.

Conclusion

24. It remains clear that the closure of *Holy Family*, and continuation of *Abram Bryn Gates*, provides the only option that adequately balances the Council’s need to reduce surplus places, with their legal obligations, the human rights of all parties, and desirability of minimizing disruption or the need for temporary accommodation at other sites.

Note: “NSS response Appendix A: Save Abram Bryn Gates – petition supporters” accompanies this consultation response.