

Brighton & Hove City Council

For general release

Meeting: Children, Families & Schools Sub-Committee
Policy and Resources Committee

Date: Monday 8 September 2003
Wednesday 17 September 2003

Report of: Director Children, Families and Schools

Subject: The future of secondary education for East Brighton residents

Wards affected: All

1. Purpose of the report

- 1.1. To set out for Members the options for the provision of secondary education for Brighton and Hove students and for those living in East Brighton in particular.
- 1.2. To seek Member approval for a consultation on the future of the East Brighton College of Media Arts.

2. Recommendations

- 2.1. That Members authorise the Director of Children, Families and Schools to consult on a proposal to close East Brighton College of Media Arts and provide for the secondary education of East Brighton students in the remaining nine secondary schools in the City.
- 2.2. That the results of the consultation be reported to the Children, Families and Schools Sub-Committee for the Sub-Committee to consider whether or not to publish formal closure proposals.

3. Background

- 3.1 East Brighton College of Media Arts, usually known as Comart, opened in September 1999 as a new school under the government's 'Fresh Start' scheme. Under its former name of Stanley Deason High School, the school

had been inspected and found to require Special Measures. It was rebranded as Marina High School. The Fresh Start scheme offered a new approach and injections of capital and revenue funding to bring about improvements. At the next inspection, the school was found again to be failing and placed under Special Measures. A new Principal brought the school out of Special Measures in February 2002.

3.2 Parental preference for secondary schools:

The key to success for Comart is public confidence in its performance and prospects, reflected in the number of parents choosing the school for their child at age 11. Although first choices rose for September 2003, each new year group at Year 7 is smaller than the year group leaving at Year 11. The school is on a steep downward slide in numbers. Each year, parents appeal against direction to Comart. 55% of parents in the East Brighton area choose another school for their child.

3.3 Lack of parental confidence in Comart leads parents who have not placed Comart on their preference list to appeal for places in other schools, against the allocation of a place at Comart. This has caused an increase in pressure and anxiety over appeals and difficulty for the City in achieving greater parental satisfaction over the allocation of secondary places.

3.4 In the allocation of school places, the law requires that parental preference be met wherever possible. This has recently been strengthened. New guidance to School Organisation Committees advises that they should approve the expansion of popular schools even where there are surplus places in the area. Formerly, the existence of surplus places within reasonable distance was an efficiency factor in rejecting applications for expansion in other schools. There is now specific financial support for the expansion of popular schools.

3.5 The best available demographic projections for Brighton and Hove show a decline in the number of pupils seeking places in secondary schools over the next seven years. There are peaks and troughs but the trend is downwards. On the present provision, of ten secondary schools, we would, by 2009/10 be offering 300 more places for eleven year olds than there are children in that cohort. Comart offers 190 places per cohort. Without a radical change in parental preference, the majority of these places would continue to be empty.

3.6 Funding:

The consequence of the continuing undersubscription of Comart has been a continuing subsidy. The DfES has provided a grant for Fresh Start and the Council has written off deficits. The writing off of deficits affects every school in Brighton and Hove since it comes from the total available funding to schools. A Comart student has 50% more spent on his or her education each year than the average secondary student in the City.

- 3.7 The scheme for the funding of schools is driven by a formula, mainly determined by central government. Terms and conditions and pay are nationally determined. The DfES will not continue to grant fund Comart after this year and the Authority has been asked to submit a budget plan which demonstrates that this is a viable school.

3.8 Performance

The school has performance targets, in attendance, exclusions, Key Stage test and examination performance. Attendance has improved this academic year but is still 10% below an acceptable level. There has been an improvement in provisional Key Stage 3 test results. The number of students achieving 5 A*-C GCSE passes has moved from 17% in 2002 to 13% in 2003. The target set by inspectors was 20% A*-C and the national floor target for a school is 25%. The overall floor target for each LEA is 38% of students achieving 5A*-C GCSE passes. The 2002 figures for Brighton and Hove and for England are:

	5A*-C
Brighton and Hove	45.6%
England	51.5%
	5A*-G
Brighton and Hove	87.4%
England	88.9%
Comart	68%

4. Further information- improvement strategies and continuing issues

- 4.1 The Education Authority has provided all possible support to the school to succeed. The school enjoyed significant expenditure to improve the learning environment and has had a major investment through the PFI scheme.

- 4.2 Recruitment of staff has been fully supported and the early retirement or redundancy of staff who were not able to take the school forward has been financed.
- 4.3 Local Authority staff have provided additional teaching and tutoring to improve test and examination results.
- 4.4 Advisory and consultant support has been provided. EB4U, the local regeneration body, has provided grants to fund additional psychologist time and education welfare officer time, to improve attendance, behaviour and motivation.
- 4.5 The school is now being supported by a collaborative scheme with Varndean School to ensure that students have access to the GNVQ in ICT which can not be provided at the school. This is separately grant funded.
- 4.6 A small secondary school will always have difficulty in providing curriculum breadth and specialist depth. Teachers at Comart have to teach beyond their specialisms, in a third or fourth subject and sometimes more.
- 4.7 Recruitment to the school is difficult. Budget difficulties are compounded by the need to make full use of recruitment and retention payments.
- 4.8 Children Families & Schools Sub-Committee approved a strategy for secondary education in the City. Success in implementing this relies on each secondary school being viable and able to provide a full curriculum, including the developing 14-19 curriculum, or their part of it.

5. Community issues

- 5.1 There is a strong view, held locally that every community should have a secondary school. This community consists principally of the Whitehawk and Manor Farm residents with whom EB4U, the East Brighton New Deal for Communities is working. Of residents with a BN2 5-- postcode, not all are wholehearted supporters of the local school, as evidenced by their expressed preference for other City schools.
- 5.2 The school did serve and is designed to serve, a much wider community. It is this wider community which has firmly rejected Comart and its recent predecessors on the site. Unless the parents living in an area bounded by Victoria Gardens to the west and Ovingdean to the east make Comart a positive choice for their child, the school will never have a sufficient or a fully comprehensive intake.

- 5.3 A local group, involving governors, staff and residents, has proposed that a small secondary school be maintained on the site. The group believes that the regeneration of the community will be impossible without a local school.
- 5.4 The New Deal for the Community body, EB4U, has education targets. There is no national research evidence available to show that targets could not be met for local students if they were educated outside the geographical area.
- 5.5 Part of the objective of NDC schemes nationally, is to reduce social exclusion. There is no evidence that living and being educated within the same geographical community promotes social inclusion and it is possible that Comart has developed such a localised culture that it intensifies the social exclusion of its students.
- 5.6 Students who, by parental choice, are attending other schools in the city are enjoying a wider experience and an education in schools which, by measured outcomes, provide a better quality education.
- 5.7 The school draws its teaching staff from across the City and the sub-region. It employs some support staff from the immediate vicinity. It is not a significant provider of education and training to the local adult community.

6. The 'small school' option

- 6.1 When officers informed the governors of Comart of the decision to review the future of the school, they undertook to explore the feasibility and viability of a small secondary school. A staff and governor working group, set up to make the case, has submitted a paper arguing for the maintenance of a small secondary school on the site, with the balance of accommodation being used for other compatible purposes. The group rightly argues that it has not the expertise to provide a fully costed plan for a secondary school (appendix 1) and officers have modelled a 400 pupil secondary school to assist and inform this debate. Officers have also undertaken research to identify comparable examples from elsewhere in the country.
- 6.2 Pupil numbers of 400 were chosen because, on first choices and allocations for 2003, before any question about the future of the school was raised, this would be a reasonable projection for the roll for September 2004.
- 6.3 This roll would generate a formula budget (at 2003/04 values) of £1,533,000. The budget model, to provide all that is required by the national curriculum,

shows a deficit of £343,000 in one year. The illustration assumes that teachers could be appointed at the mid point of the range and within the indicated scale for the size of the school; this does not reflect the current reality and the real annual deficit would be closer to £400,000. (Appendix 2)

6.4 The examples of small schools cited by the staff/governor group have been analysed and details are given at the end of appendix 1. Two schools are in rural locations and the Authorities maintain them at high cost rather than expand distant schools and transport pupils. Two schools are newly opened and will fill to rolls of 950 and 1,000. One school has low but rising numbers and will serve a large greenfield housing site nearby. One school has poor performance and falling rolls and another has performance below that of Comart and the curriculum does not comply with statutory requirements.

6.5 Officers have identified one successful small school, in Wigan. The roll is 468 and the GCSE performance at 5 A*-C is 27%. The staff all work at higher contact ratios (i.e. teach a higher proportion of lessons each week) than Comart staff and staff generally, absence cover is provided by senior staff in groups supervised en masse and two of the staff are not on the school's establishment but are bought in from other schools.

6.6 These examples do not support the contention that there could be a viable secondary school of 400 pupils on this site. A full curriculum, taught by teachers with sufficient specialist knowledge, meeting a comprehensive range of needs, could not be provided within the formula revenue budget.

6.7 Other costs of the small school option:

The proposal to use the balance of accommodation for other purposes has a cost. Remodelling the building to form a secure and properly equipped school in a self contained area would have significant capital cost. Any remodelling to make the remaining accommodation suitable for another user or users, would also have a capital cost.

6.8 Other users would need to pay an economic rent per square metre or be specifically subsidised by the Council or another organisation. This would apply to the 'extended school' or 'full service school' model and to any proposed community use.

7. The 3-16 option

- 7.1 It has been suggested, during informal consultation, that education from 3-16 on a single site would be desirable and would make efficient use of the accommodation at Comart.
- 7.2 Whitehawk Primary School had 394 pupils on roll in January 2003 and 38 nursery pupils. The school is located in the heart of the residential area. This is very important for primary age pupils who, in the early years, are taken to and collected from school. Older primary children may walk to school unaccompanied. Comart is located at the edge of the residential area on the far side of a busy road. Its location makes it unsuitable as a primary school site.
- 7.3 The scale and design of primary and secondary schools differ. Comart is designed for secondary age pupils with secondary type facilities. Complete separation of primary and secondary age pupils would be difficult to achieve and any remodelling would have a high capital cost. The outcome would still be less than satisfactory.
- 7.4 There are known to be parental concerns about pupil safety at Comart. Managing children from 3-16 years on one site could increase those concerns and present insuperable management challenges.
- 7.5 Officers do not believe that such a move would enhance educational opportunity for primary age pupils.

8. The closure option

- 8.1 If the school were to close, there would be financial implications for the Council, beyond the issue of the subsequent use of the building.
- 8.2 Pupils would need to be accommodated at other schools. As no decision has been made about the future of the school, parents will still be able to choose Comart for their child in 2004. However, calculations show that pupils entering **Year 7** in 2004-05 could be accommodated through the normal admissions process, without making further formal changes to admission numbers in the City's other secondary schools. Each pupil would carry his or her normal pupil resource unit in to the revenue budget of the school to which s/he was admitted. The Council may need to reconsider the pupil home to school transport policy as it might be necessary to introduce a more generous policy for pupils whose nearest secondary school has been closed. There would be a deadweight cost to this change since it would possibly apply to pupils whose parents would have chosen to fund their travel to another school of preference.

- 8.3 Pupils already at the school, in **Years 8,9,10** would need to be dispersed to other schools. Their travel may need to be funded since they would be 'directed' to a school not of their original choice and the expenditure would be unforeseen and of the Authority's making. **Dispersal** would require a temporary increase in numbers in selected year groups, which may create excess costs for those schools receiving the pupils. These costs would be temporary as the 'bulge' in numbers passed through.
- 8.4 If pupils transferred to a school with a different and distinctive uniform, assistance may be required with clothing.
- 8.5 Staff could be redeployed to other schools. There may be costs in salary protection and if redeployment can not be achieved, costs in redundancy provision.
- 8.6 There would be costs in maintaining a curriculum in a shrinking school beyond those currently supported especially if dispersal started in 2004. The financial risks associated with closure are set out in appendix 3.

9. Financial Implications

9.1 Financial Background

Since the establishment of Comart as a Fresh Start school, both the LEA and the Government have given significant revenue resources to the College.

- Funding per pupil through the formula has risen at twice the rate of the other secondary schools in the city and the amount per pupil received by Comart in 2003/4 is 25% more than the average for the other secondary schools without sixth forms.
- As a fresh start school Comart has received additional grant from the Government amounting to £1million over the last 4 years.
- The LEA also contributed £80,000 towards fresh start set up costs and additional financial support mainly through Standards Fund grants of £264,000.
- Despite this additional funding Comart has consistently operated a deficit budget which the LEA has covered by not clawing back funding for lower than expected pupil numbers £97,000 and funding overspends of £361,000. Significant levels of investment have also been made at Comart. Capital expenditure of approximately £3million has been invested in new and upgraded facilities since Fresh Start including an estimated £2.35million through the PFI.

9.2 Financial risk evaluation of the options

A summary of the financial risks associated with this report is set out in Appendix 3

At the time of writing it has not been possible to quantify these risks in terms of absolute cost but it is clear that the potential for significant costs would flow from the re-negotiation of the PFI contract, as follows:

- The total value of the contract is circa £105 million over the next 25 years. The complete termination of the contract (although unlikely) would result in a substantial claim being made to the council by the PFI contractor in terms of compensation.
- the removal of one part of the project will still result in a significant payment by the council to the PFI contractor.

Discussions with the PFI contractor are at the initial stage but will intensify as the future of the college becomes clearer. This will provide the opportunity to quantify the financial risks outlined in Appendix 3.

Resources have not been identified to fund any significant cost resulting from this report. The council is therefore faced with the following options:

- To identify the site as surplus to generate a capital receipt – without prejudicing the ultimate decision in relation to Comart, options for alternative uses are being explored but it is unlikely that any receipt will be sufficient to meet the potential cost associated with full closure.
- To reallocate capital resources from the capital programme;
- To negotiate with the PFI contractor for costs to be spread over the remaining contract period, thereby increasing the annual cost to the council of the three remaining sites.

Under the present funding formula it has been estimated that a small school would operate at a deficit of between £300-400k per annum. The council would need to agree to earmark resources to fund this deficit (possible by redirecting resources away from other schools). There is, of course, no guarantee that a small school would be any more viable than the present college. Failure to meet education targets and to attract sufficient pupils would be likely to result in closure at a later date, thereby incurring the significant costs of re-negotiation of the PFI contract referred to above.

10. Balancing the options

10.1 The argument against retaining a small secondary school:

Officers do not believe that the school will attract significantly higher numbers of pupils in the future, on the evidence of the last five years and given the anticipated decline in secondary numbers across the City.

10.2 A continuing subsidy necessary to provide a full curriculum entitlement would require the agreement of all other schools in the City since they lose part of their potential budgets each year.

10.3 The cost model illustrated is very efficient. The school does not currently run this efficiently because of recruitment difficulties. The recurring subsidy would probably be higher and the situation would worsen if numbers fell further. On current admission levels, the school roll in September 2005 could be 365. The overheads for the school would not reduce significantly and teaching staff would be the variable cost. If their numbers were reduced further, curriculum provision would be yet poorer.

10.4 While there have been some improvements in attendance and performance, the school does not reach required national standards. It is probable that it would be deemed failing on reinspection and made subject to Special Measures. The Secretary of State expects LEAs to take appropriate steps in such situations but may use his reserve powers to close the school.

10.5 Pupils attending other schools in the City are receiving a higher quality education and wider social experience.

10.6 If the maintenance of a secondary school in the area is deemed essential to regeneration, quantified outcomes would need to be demonstrated and contributions to investment secured. No evidence has been provided to demonstrate this case.

10.7 The argument for retaining a small school:

The immediate local community believes that there should be a local secondary school and that parents would use it because they would have confidence in a new management.

10.8 All pupils would be required to travel to a more distant school; those already attending poorly would find further reason to absent themselves.

10.9 If a subsidised small school could provide a high quality education, the discounted future costs of the subsidy may be equivalent to the immediate costs of closure, especially in respect of the building.

10.10 Conclusions

All educational projections are based on recent experience in East Brighton, national experience and professional judgement about the prospects for dramatic change. The risk of the school being subject to Special Measures again is high.

The educational recommendation is for closure of Comart and the education of East Brighton pupils in the remaining nine schools in the City. The financial risks to the Council have been outlined. If a decision to retain a school were made and it was later closed by the Secretary of State on the grounds of quality and viability, the Council would be faced with large financial consequences without a contingency plan. It would also damage the Council's reputation in the community and nationally.

11. Consultation

- 11.1 Members will not be making any immediate decision to close Comart if the recommendations of this report are accepted. Any such proposal will need to be progressed in accordance with statutory procedures which are outlined in the Legal Implications paragraph in the attached Committee Report Appendix. It can be seen from this that a final decision on closure would be made either by the School Organisation Committee (SOC), which is an independent body, or by an Adjudicator.
- 11.2 The next stage if Members approve the recommendations will be to follow a process of consultation. The DfES guidance on this is summarised at appendix 4.
- 11.3 Preliminary information sessions have already taken place in the immediate local community.
- 11.4 An outline implementation plan is attached at appendix 5.
- 11.5 The proposed date of closure would be August 2005. The earliest date on which a decision could be made would be at the end of February 2004.

Meeting/Date	Children, Families and Schools Sub-Committee 8/9/03 Policy & Resources Committee 17/9/03
Report of	Director of Children, Families and Schools
Subject	The Future of secondary education for East Brighton residents

Wards affected	All
-----------------------	------------

Financial implications

The financial implications are set out in the body of the report.

Finance Officer consulted: Mark Ireland Date 12 August 2003

Legal implications

1. In outline, the procedure for dealing with major proposals affecting a school involves

- (a) deciding whether to put forward proposals for consultation,
- (b) consultation,
- (c) deciding whether to publish formal proposals,
- (d) publishing the formal proposals,
- (e) assuming objections are received, deciding whether to refer the proposals to the School Organisation Committee (SOC) for decision,
- (f) assuming the proposals are referred to SOC, awaiting a decision of SOC & implementing the decision,
- (g) if SOC is unable to reach a decision, reference to an independent Adjudicator for decision,
- (h) awaiting a decision of the Adjudicator & implementing the decision.

2. Currently, the Council is at stage (a) above.

3. The aim of the current legislation is that decisions are made locally, but major, contested proposals are decided by SOC rather than the local education authority. Unless there are no objections to major proposals, which is rarely the case, the Council does not make the actual decision. At each stage, the Council only decides whether or not to move the proposals to the next stage. It remains possible for the Council to withdraw the proposals at any time until a decision has been made by SOC.

4. SOC is a Committee independent of the Council. Its membership includes representatives appointed by a number of groups interested in education, including the Council as Local Education Authority, Church school representatives, the Learning & Skills Council & governor representatives. For major proposals, each group has one vote. Proposals are agreed if SOC is unanimous (disregarding abstentions).

5. SOC is not an appeal panel, so Members of the Council who are also members of SOC are not thereby prevented from deliberating on the proposals before they are considered by SOC, or from agreeing, if they consider it appropriate, that the proposals proceed to the next stage. They do have a duty to SOC, throughout the procedure and up to the final decision, "to maintain a mind open, to reconsider previously expressed views, remaining unfettered by them, and to the issues argument and evidence."

6. In progressing any proposals, as well as observing the requirements of the legislation, the Council must have regard to guidance issued by the Secretary of State. The report has been drafted having regard to the legislation and guidance.

7. As well as the education implications and financial implications, dealt with elsewhere in the report, Members will also need to have regard to the human rights implications. The most relevant is Article 2 of the first protocol to the European Convention. The main provision of this states that no person shall be denied the right to education. There is also a requirement to respect the right of parents to ensure that their children's education shall be in conformity with their own religious & philosophical convictions, but only so far as is compatible with the provision of efficient instruction & training and the avoidance of unreasonable expenditure.

Lawyer consulted: John Heys Date 04 August 2003

<p>Corporate/Citywide implications A change from ten to nine mainstream secondary schools would affect the education of students citywide. All parents of school age children will have an opportunity to comment on the proposal. A possible change of use of the present COMART site will affect all City Council activities.</p>	<p>Risk assessment A full risk assessment has been carried out. The risks to educational quality are judged to be greater if the school is not closed. The financial risks of closure are significant and are set out in the body of the report.</p>
<p>Sustainability implications It has not been judged possible to continue to maintain this school on the grounds of quality and financial viability. Closure will cause greater numbers of pupils to travel to school. This increases daily journey numbers and will affect environmental sustainability.</p>	<p>Equalities implications Provision of education in a robust and successful secondary school will secure greater equality of opportunity for East Brighton students.</p>
<p>Implications for the prevention of crime and disorder Strategies to ensure regular punctual attendance at school will be reinforced. East Brighton students will be educated in schools which have higher attendance levels than prevail at COMART. School attendance is key to the prevention of day offending.</p>	

Background papers

CFS Sub-Committee 9th June 2003

Contact Officer

Elizabeth Wylie, Assistant Director, Strategic Planning and Services to Schools

Tel: 01273 293433

