

**Brighton and Hove City Council**

**For general release**

**Meeting:** Children, Families and Schools sub-Committee

**Date:** Monday 18 October 2004

**Report of:** Director of Children, Families and Schools

**Subject:** Montessori School: publication of statutory notices

**Wards affected:** All

**1. Purpose of the report**

- 1.1 To inform Members of the publication of the statutory notice to establish a voluntary aided school run on Montessori principles, in Brighton and Hove and to set out the options for response. The publication opens a statutory consultation period of six weeks and any response by the committee must be lodged with the School Organisation Committee, for comment by the promoters, by 11<sup>th</sup> November 2004.
- 1.2 In the guidance to promoters of new schools, it states 'Whether the Local Education Authority supports the proposals is an important factor for the School Organisation Committee and, if the proposals are referred to him, the Adjudicator, in the consideration of the proposals. But the absence of such support does not prevent the promoters from publishing their proposals, which will be considered on their merits by the decision makers, taking account of all the facts and circumstances of the case.'

**2. Recommendation**

- 2.1 That the Sub Committee responds to the publication of the proposal by authorising the Director to send this report as the LEA's comments, to the School Organisation Committee.

**3. Background**

- 3.1 Members of CFS Sub-Committee have previously debated the desire of the Montessori School to enter the maintained system as a voluntary aided school. The government has introduced a capital funding stream, from which the promoters can benefit, which is for the encouragement of diversity in the maintained system.

- 3.2 The promoters were successful in a bid for capital funding in the last bidding round and have been developing their proposal since they were informed of their success in February 2004.
- 3.3 The difficulties for the Local Authority in the detail of the proposal were rehearsed at a meeting of this committee on September 6<sup>th</sup> 2004. At that meeting, further discussion between the promoters and officers of the council about the proposed admission arrangements was suggested. No discussions have taken place and the proposed admission arrangements are described in the statutory notice. (Attached as Appendix A)
- 3.4 The impact on the council's budget and the delegated budget to all schools was described in the previous report. A more detailed analysis is now provided (below) on the basis of the proposed admission arrangements.
- 3.5 There was fundamental disagreement between the promoters and council officers on the likely impact on the pupil numbers of other schools in the area, if the Montessori School were to be built in proposed location, Redhill Crescent, Westdene. This disagreement can not be resolved on the basis of evidence. The impact will become apparent if the proposed school opens in that location.
- 3.6 In March 2003 and again in September 2004, the Committee expressed support for diversity in principle, believing that there could be benefits, provided that there would be no detriment to other schools or pupils and their families.

#### **4. Information – admissions criteria**

- 4.1 The notice states:  
'..Brighton and Hove Montessori School Foundation intends to establish a new Voluntary Aided Primary School for 180 boys and girls mainly between the ages of 3 and 11 from 4 September 2006.....The admissions numbers will be as follows: 30 age 3, 30 age 4 and 30 age 5.....The number of pupils to be admitted to the school from age 5, from 4 September 2006 and subsequent years, will be 30, having come from the nursery.'
- 4.2 This proposal does not constitute an acceptable set of admissions criteria. No child can have a Montessori background at three so the proposal contains no admission criteria for the nursery. If it were to be oversubscribed, there is no indication of how entrants would be selected. In the Code of Practice on School Admissions, it states 'Published admission arrangements should therefore make it clear to parents that there are separate admission arrangements for the nursery and reception class and that attendance in the nursery class does not guarantee admission to the school for primary education.' (para 3.18) For admissions to reception, there should be other stated admissions criteria, in rank order, since there would need to be a mechanism for distinguishing between applicants who had no Montessori experience but for whom there were places available up to the Pupil Admission Number (PAN).

- 4.3 Furthermore, the stated admissions process for Reception and Year 1 assumes that there will be 30 children who will progress through the year groups. The funding formula for nursery places funds a half time place so the school would need to admit 60 children to attract the funding equivalent of 30 full time children and then select among them for a place in the Reception and year 1 classes. The selection criteria would need to be transparent and fair and published to all parents.
- 4.4 Alternatively, the school may plan to admit 30 children to the nursery, draw on the formula funding for half the cost unit and charge parents for the other half. This would entail admissions criteria for the nursery that included the ability and willingness to pay which would be illegal in a maintained school.
- 4.5 Admissions criteria must contain a clear order of priority and the oversubscription criteria must be clearly defined and objectively assessable. These arrangements do not meet that test.
- 4.6 Members were concerned at the equal opportunities issues implicit in the intention to admit in to Reception and Year 1 only from the nursery. Since the intended catchment area is the whole city, parents of three year olds would have to arrange transport for their very young children to gain access to the primary school. While the notice contains the statement that 'The current School Travel Plan will be revised [to allow for a city-wide catchment area]. The plan has an emphasis on car sharing and it is also planned to develop some form of group transport for children to and from the school.' This can not be financed from the school budget share and is likely to involve a parental contribution. This would exclude a large number of parents and their children, especially from the more deprived parts of the city.
- 4.7 The plan to admit from the nursery also excludes those who move in to the city with children of primary age who have not attended this or any Montessori nursery. Many of the late arrivals in the city come from disadvantaged population groups. It would particularly affect looked after children. Where a school is named in a statement of special educational needs, the governing body of a maintained school has a duty to admit the child to the school. The governing body, as admissions authority, should determine the oversubscription criteria and apply them as fairly to children with special educational needs but no statement, or to children with a disability, as to other applicants.
- 4.8 The excluding nature of the described admissions arrangements related to the nursery is contrary to the equality of opportunity promoted by the council. The arrangements described in the statutory notice do not constitute clear and comprehensible admissions criteria, including oversubscription criteria and therefore, do not allow consultees properly to consider the proposal to establish a new school in conjunction with the proposed admission arrangements, in line with the recommendations of the Code of Practice on School Admissions.(para A 83)

4.9 The admissions arrangements described are incompatible with the stated proposal to create a 'primary school for boys and girls mainly between the ages of 3 and 11.' If 30 pupils admitted to the nursery, Reception and Year 1 move through the school to year 6 (age 11) the size of the school will be 240. It is not possible to determine whether there is an assumption about drop out as children grow older. But if numbers fell in junior age classes, for example, those places would automatically be available to other children seeking a school place. Any year group, which has been admitted to a set admission number (as stated in the notice for year 1) and has vacancies, must accept any child waiting for a place. Priority could be given, under properly written admissions criteria, to a child waiting for a place who had previous Montessori experience but if no such child were on a waiting list, other children could take up the place. Assuming that parents wished to choose this school rather than another with places, the school could not refuse a place. The planning assumption should be that each class will have 30 pupils, therefore the planned capacity of the school is too low.

4.10 An admissions authority can refuse a place to a child where the admission would be prejudicial to the efficient management of the school. This is narrowly interpreted to relate to a child whose needs are so great that they could not be met without prejudicing the education of other children in the school.

## **5. Information – budget**

5.1 If the school opened in September 2006, there would be no addition to the Revenue Support Grant for the additional pupil numbers in the system until the financial year 2008/09. The cost would be borne from the existing education budget – from all other schools.

5.2 If Brighton and Hove were still a 'floor authority' in 2008/09, there would be an additional allocation for the Montessori School numbers in the EFSS, but there would be no additional cash in the overall grant. If passporting type requirements are embodied in the proposed protected schools budget share, the money may have to come from other service departments' budgets.

5.3 Additional funding assumes that the pupils will come from the independent sector, not be a redistribution of maintained sector pupils. If they are drawn from the maintained sector, costs will rise because the authority will be maintaining an additional school for the same total number of pupils.

5.4 If the school opens in September 2006 with 90 pupils aged 3 to 5, as described in the notice, the full year budget share provided by the local formula is estimated (at current prices) as £280,000. If the school opened with no pupils, its formula budget share is estimated at £167,000.

5.5 If planning assumptions do include a fall off in numbers in the junior phase, then the budget will be adversely affected and the school would not be viable under government funding arrangements.

5.6 The promoters have asked the LEA to sign their statement of resources to defray expenses, which would fall to be borne by them under paragraph 3 of schedule 3 to

the School Standards and Framework Act 1998. This refers to the 10% of the capital costs to buy the site and build the new school, which the promoters must provide and the ongoing 10% contribution to capital outlay, which the governors of a voluntary aided school must provide.

- 5.7 The statement says 'The promoters of the school are in the process of establishing a registered charitable trust that will become the accountable body for the school. A funding strategy for the Trust is currently being completed that will be used to attract grants and donations from Charitable Trusts, Corporate Bodies and Individuals, both within this country and abroad. These monies will be used to cover the required contribution to the initial capital work and subsequent maintenance/repair costs. In addition, approaches are being made to financial institutions for a loan(s) to underwrite the initial costs until funding can be attracted. It is felt that this combination of loan, grants and donations is not only achievable but can be realised rapidly. Especially as this is the first time a Montessori school has attracted state-aided status in England.' It is stated that the governors are not in receipt of any endowment or income, which can be applied to the school.
- 5.8 The LEA comment is that, in the absence of any confirmed funding or financial backing, the intention to rely on grants and donations is a very high risk strategy, especially since the funding will be needed for ongoing commitments as well as initial capital outlay. No track record is provided to justify the confidence expressed in this strategy.
- 5.9 The intention to underwrite costs through commercial borrowing is even more risky since there would be a substantial risk premium and potential lenders would seek some form of security. It is not clear whether this would be the school building. The interest would need to be funded either by top slicing all grants and donations until the loan was fully repaid and/or from the operational costs of the school. This would directly affect curriculum provision.
- 5.10 This proposal is a major concern to the Local Education Authority.

## **6. Consultation**

- 6.1 It is the responsibility of the promoters to consult with all those affected by their proposal. The publication of the statutory notice is the opportunity for the Local Education Authority to respond, quite separately from the process of determination undertaken by the School Organisation Committee, where the council group will have one vote.

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<b>Report of</b>	<b>Director of Children, Families and Schools</b>
<b>Subject</b>	<b>Montessori School: publication of statutory notices</b>
<b>Wards affected</b>	<b>All</b>

### **Financial implications**

The Montessori School currently has 45 pupils, which would be transferred from the independent to the maintained sector under this proposal.

Any net increase in pupil numbers would cause the Schools FSS (SFSS) to rise and therefore our schools passport would rise accordingly increasing the spending commitment on the council. However, no additional general grant funding would come to the council, unless there was an adjustment to our grant floor. Thus other services in the council would have to be cut, or the council tax would rise to meet the increase in the passport. This assumes that the school would transfer on 1 April 2005, if it is not until 1 April 2006 then the overall financial impact on the council will be different as SFSS funding will transfer to ring-fenced specific grant.

The key issue is timing particularly as there is a significant timing delay in new data feeding into the grant distribution system. Pupil numbers used in the 2004/05 formula were based on pupil counts in January 2003. Therefore there is no possibility of Montessori affecting the 2005/06 passporting calculation as that is based on pupil counts in January 2004.

If Montessori is not transferred until September 2006 then the first financial impact year is 2006/07. This is the first year of ring-fenced specific grant funding for schools, and as yet we don't know exactly what arrangements will be in place. Assuming they are similar to the current grant system then there will be no additional specific grant funding for the LEA for any transferring pupils until 2008/09 (based on the January 2007 pupil count).

Thus other schools will effectively fund Montessori for 2006/07 (part year) and 2007/08 i.e. for the 45 pupils it currently has and any new pupils it attracts. This would lead to an increase in Formula Spending Share of approximately £3k per pupil i.e. £135k. Indicative modelling suggests that the school would get a budget share of approximately £400k. This would mean that approximately £265k of the indicative budget for the Montessori school, would come from elsewhere in the Schools Budget, unless the additional pupils came from elsewhere in the Independent sector.

*Finance Officer consulted: ..Andy Moore Date ..04/10/04*

**Legal implications**

1. The report indicates that the Council, as local education authority, has a duty to secure the supply of school places in an efficient manner and Members need to have regard to that duty in reaching any decisions on the proposal.
2. Having decided to proceed after a period of consultation, the proposers have published a formal notice of their intention to provide a new school on their chosen site. After a set period, if there are any unwithdrawn objections, the proposers must forward their proposal to the School Organisation Committee (SOC) for decision.
3. The SOC is an independent Committee comprising various groups interested in education. Each group has one vote. Substantive decisions of the SOC have to be unanimous, although abstentions are disregarded.
4. If the SOC is unable to reach a unanimous decision on the proposal, it is referred for decision to an Adjudicator appointed by the Secretary of State.

*Lawyer consulted: John Heys Date .....06/10/2004*

**Corporate/Citywide implications**

There will be an impact on the Corporate budget if this proposal is approved.

**Risk assessment**

While increasing diversity in the school system this proposal would create further surplus primary places making the system less efficient. It will also take resources from existing schools.

**Sustainability implications**

The site proposed for the construction of the school is currently open space for leisure use.

**Equalities implications**

The proposal would provide access without fee to parents who want an education for their child founded on Montessori principles. On the admissions arrangements described, there would be discrimination against poorer parents, those moving into the city after their child reaches the age of 5 and those who do not wish their child to attend school until the are rising 5. This will reduce equality of opportunity.

**Implications for the prevention of crime and disorder**

There are no specific implications.

**Background papers [Part 1 reports only]**

CFS Sub Committee 06 September 2004. Montessori School: application to become a Voluntary Aided School.

**Contact Officer**

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