

# Brighton & Hove City Council

## Children, Families & Schools Committee

## Agenda Item XX

**Subject:** Proposed School Closures 2024

**Date of meeting:** 6 November 2023

**Report of:** Executive Director Families, Children & Learning

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**Ward(s) affected:** All

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that the Council did not wish to publish the report before affected schools had had the opportunity to inform their staff and wider school communities about the proposals. This will happen on the first Monday after the half term break (30 October 2023) following which the report will be published without delay.

### For general release

#### 1. Purpose of the report and policy context

- 1.1 This report details the proposed closure of two primary schools, St Bartholomew's C of E Primary School and St Peter's Community Primary School to take effect on 31 August 2024. This report needs to be read in conjunction with the report on School Admission Arrangements 2025-26 which is also before this committee meeting for consideration.
- 1.2 In response to the fall in pupil numbers the Council is proposing the closure of 2 schools and the reduction in Published Admission Number of 9 schools. A total reduction of 300 places. When closure of a school is proposed the Council must first carry out a consultation. The Committee is asked to approve a consultation to consider closure of these two schools, which will run alongside a consultation on other proposed changes in admission arrangements across the city, to take effect from September 2025. Following the consultation, the Committee will receive a further report in January 2024 to consider the outcome of that consultation and to decide whether to progress the proposals further.

#### 2. Recommendations

- 2.1 That Committee agree to consult on the closure of St Bartholomew's C of E Primary School to take effect on 31 August 2024.
- 2.2 That Committee agree to consult on the closure of St Peter's Community Primary School to take effect on 31 August 2024.

### 3. Context and background information

#### Overview – Pupil Numbers and finances

- 3.1 In the Census 2021 it was revealed that Brighton & Hove’s population profile had fewer children & young people aged 0 to 19 (20.5%) compared to the South East (23.1%) and England (23.1%). There was a 22% drop in children aged 0-4 living in the city in the 2021 census compared to the 2011 census.
- 3.2 The Council's own projection of pupil numbers starting Reception in the coming years forecasts that there will be 651 excess places in 2025 and 662 excess places in 2026. Therefore, the city will have over 25% surplus capacity.
- 3.3 The Council divides the city into 8 planning areas and detailed forecasts for each planning area are provided in Appendix 1. It is expected that forecasts will be updated by December 2023 with more recent data from the NHS that will allow forecast pupil numbers until September 2027. This will be available to the Committee prior to the determination of any admission arrangements for September 2025 and prior to decisions being made on school closures.
- 3.4 The Council has received data from the Department for Education that indicates that the number of children in 2027 could be as low as 1991 and usually it can be expected that only 90% of that figure will require a school place, this would be 1792 children.
- 3.5 As detailed in the School Admission Arrangements 2025-26 committee report, the accuracy of these forecasts from September 2018 until September 2023 have been between 96% and 99% accurate in the time-period from 2015-2023. Whilst this is not a definitive indicator of future accuracy it supports the methodology used and provides a high level of assurance about the process.
- 3.6 Should the proposals in this committee paper and the accompanying committee paper, School Admission Arrangements 2025-26, be implemented as proposed the number of school places in Reception would be 2310. The revised table shows the estimated number of surplus places when taking account of a maximum of 10% surplus capacity, which has been considered by the DfE as a sound, surplus requirement.

	Places	Pupils (est)	Max spaces needed in schools, incl 10%	Surplus places
Sept 2025	2310	1959	2155	155
Sept 2026	2310	1948	2143	167

- 3.7 In the May 2023 school census, St Bartholomew’s C of E Primary School and St Peter’s Community Primary School had the following number of pupils attending. Both schools have the capacity to admit 210 pupils each.

School	Yr R	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Total
St Bartholomew's C of E Primary School	16	23	26	18	15	19	22	139
St Peter's Community Primary School	17	11	15	17	11	17	21	132

St Peter's Community Primary School has also recorded a total of 20 children in its nursery provision. The most recent school census took place in early October 2023, the information from that census informs a school's budget allocation for the financial year 2024/25 and will be published before the Children, Families & Schools committee consider the responses to the consultation in January 2024, should approval be given to go out to consultation on these proposals at this committee.

- 3.8 In the May 2023 census, the two schools had the lowest total number of pupils of any of the city's primary schools. The only school with a lower pupil population was Hertford Infant School (97 pupils) but this school only has three age groups compared to 7 in a primary school.
- 3.9 For the financial year 2023-24, both schools have set a deficit budget. The Council can facilitate schools to set a deficit budget by using the surplus balances of other schools to offset this position. Should the amount of school deficits exceed the amount of surplus balances there will be a need for the Council to underwrite these deficits from its own General Fund.
- 3.10 In 2023/24 the total amount of school balances forecast is £4.5m and the total amount of school deficits forecast is £4.4m. However, based on previous trends, it is expected that the school balance figure will be adjusted upwards by the end of the financial year as schools have historically set cautious budget plans that have ended up being more positive at the end of the financial year, compared to what had been forecast.
- 3.11 The use of a license deficit permits schools to plan their budget to balance or move into surplus within a 3-5 year period. The current economic conditions faced by schools, including the funding levels set by central government are making it more difficult for schools to maintain a positive budget position.
- 3.12 St Bartholomew's C of E Primary School budget forecast for 2023/24 is a deficit of £205k. St Peter's Community Primary School budget forecast for 2023/24 is a deficit of £203k. Based on budget plans submitted in summer term 2023, neither school is able to forecast reaching a balanced budget position in the longer term.
- 3.13 Should a Local Authority maintained school have a deficit at the point at which the school closes this will be a charge to the Council's General Fund.

The total deficit of both schools by the end of the academic year 2023/24 is estimated to be £400k and the Council is making provision for this expenditure as part of its financial modelling, at a time of significant pressure on the Council's budget. There will also potentially be additional costs relating to redundancies that would result in a further cost to the council's general fund.

- 3.14 It is proposed that both schools close on 31 August 2024. Should the Council delay making any decision to close either school it can be anticipated that the uncertainty generated may further increase the financial pressures on both schools because pupil numbers may fall, staff may leave and only be replaced by temporary staff (who could cost more) and additional leadership capacity may be required to support the school.
- 3.15 Whilst the Council is proposing the closure of both schools, this is not to be considered as a reflection of the quality of education delivered or the leadership of those schools. The Council does not underestimate the impact that this proposal will have on the families, staff and communities at the publication of these proposals. Efforts will be made alongside the leadership of both schools to ensure those that are affected can be supported through the proposed consultation process.
- 3.16 Brighton & Hove City Council's Plan 2023 to 2027 outlines a commitment to support the provision of high quality and inclusive education from early years through to adult learning and to do this in part by delivering specific strategies for children and young people at risk of educational disadvantage. The Council must also seek to deliver an efficient education system. This requires action to be taken to reduce the number of unfilled places so that schools are operating from a more secure platform from which to deliver on multi-year programmes for the pupils attending their schools now and in the future such as a full and vibrant curriculum and to be able to provide the right support to be available to pupils and families.

### **Proposals – St Bartholomew's C of E Primary School**

- 3.17 As detailed in paragraph 3.3, for forecasting future pupil numbers the Council divides the city into 8 planning areas. The school is in the Central City planning area. Nominally the postcode BN1 4 is assigned to the school, but it is recognised that the school will admit pupils from outside that area. The planning area is expected to have over 170 surplus places in 2025 and 2026 and this can be expected to rise in 2027. The school admits the lowest number of pupils of schools in the planning area despite there being more than 30 pupils living in the postcode area in proximity to the school.
- 3.18 In the May 2023 census, it was identified that the school has 48.9% of pupils eligible for Free School Meals. It had 12 pupils (8.6%) with Education, Health and Care plans and 23.7% of all pupils receiving SEN support.
- 3.19 In the January 2023 census, 39.3% of the school population had English as an additional language and 55.6% of pupils where the parent/carer/self-identified ethnic group is other than White British, Refused or Not Known.

- 3.20 There are 8 schools within 1.0 mile of the school, if the proposal to close the school was carried out it is estimated that there will remain at least 10 surplus places in each year group in schools near the school. The Council therefore considers it will be possible to re-allocate pupils to alternative school places within a reasonable distance of St Bartholomew's should the school close.
- 3.21 It is recognised that parent/carers may choose to send their child to another Church of England school in the city.
- 3.22 The Council does not underestimate the potential impact of this proposed change on the pupils at the school, whose circumstances may already make them vulnerable. As the school serves some of the most disadvantaged communities in the city, professional support, from the support services such as Brighton & Hove Inclusion Support Service (BHISS) and Ethnic Minority Achievement Service (EMAS), will be put in place to facilitate the movement of those students to local schools and minimise the impact of change upon them.
- 3.23 Should the school close, the staff will be at risk of being made redundant and the Council remains in dialogue with school leaders about how to minimise the risk of redundancy for trained and effective staff so that they are not lost to the city's school workforce should the proposals to close be agreed.
- 3.24 As a Church school, the responsibility for the building remains with the Diocese of Chichester. The Diocese holds the view that any of its educational buildings that are not in use are kept in the service of education as often as possible and dialogue with the Council will continue.

### **Proposals – St Peter's Community Primary School**

- 3.25 As detailed in paragraph 3.3, for forecasting future pupil numbers the Council divides the city into 8 planning areas. The school is in the Portslade planning area. Nominally the postcode BN41 1 is assigned to the school and two others, but it is recognised that the school will admit pupils from outside that area including from West Sussex. The planning area is expected to have approximately 100 surplus places in 2025 and 2026 and this can be expected to rise in 2027. The school admits the lowest number of pupils of schools in the planning area.
- 3.26 In the May 2023 census, it was identified that the school has 38.5% of pupils eligible for Free School Meals. It had 8 pupils (5.6%) with Education, Health and Care plans and 18.3% of all pupils receiving SEN support.
- 3.27 In the January 2023 census, 24.4% of the school population had English as an additional language and 31.3% of pupils where the parent/carer/self-identified ethnic group is other than White British, Refused or Not Known.

- 3.28 There are 4 schools within 1.0 mile of the school, if the proposal to close the school was carried out it is estimated that there will remain surplus places in the school's vicinity in all school years except Year 2 and Year 6 (in academic year 2024/25) if all pupils who attend St Peter's Community Primary School seek a place in another Brighton & Hove school. It is known that some pupils live in West Sussex and it is reasonable to assume that some of those pupils will seek places in schools outside of Brighton & Hove.
- 3.29 The school has a nursery with 20 children attending. Should the school close, the nursery will also close. Families will be supported by the Council to look for alternative provision. Should these proposals be agreed children attending the nursery, who may be expecting to apply for a place and attend the school in September 2024, will need to seek alternative places to start school.
- 3.30 As previously stated, the Council does not underestimate the potential impact of this proposed change on the pupils at the school, whose circumstances may already make them vulnerable. We recognise the school serves some disadvantaged families and therefore professional support, from the support services such as BHISS and EMAS, will be put in place to facilitate the movement of those students to local schools and minimise the impact of change upon them.
- 3.31 Should the school close, the staff will be at risk of being made redundant and the Council remains in dialogue with school leaders about how to minimise the risk of redundancy for trained and effective staff so that they are not lost to the city's school workforce should the proposals to close be agreed.
- 3.32 Discussions are taking place as to the future educational use of the site, should the closure proposals go ahead. The council rents part of the primary school site. This was an arrangement put in place when the school was expanded from an infant school in 2013. Therefore, should the school close, the Council will need to consider what actions it takes in relation to the rental arrangements in future years.
- 3.33 The council would require the prior consent of the Secretary of State for education to dispose of any school land if it was deemed surplus to requirements. However as stated above, there are ongoing discussions about future educational use of these sites.
- 3.34 The process for disposing of or changing the use of a building previously used as a school is set out in the non-statutory guidance ['Involving the Secretary of State in land transactions non-statutory guidance on how and when to involve the Secretary of State in transactions involving land held for the purpose of a school'](#) published in September 2021.

- 3.35 The Secretary of State may:
- approve the application with or without conditions; or
  - refuse consent; or
  - may separately consider whether to make a scheme under paragraph 1 of Part 1 of Schedule 1 to the Academies Act 2010 to transfer land that is held by a local authority and has been used wholly or mainly for the purposes of a school within the last eight years but is (or is about to be) no longer so used. Any use of the power would allow the authority to make representations.
- 3.36 This process can take some considerable time to complete and until the outcome is known the council will be in the position of having to maintain an empty building. The guidance suggests that no changes should be made until such time as the Secretary of State has made their decision. It is not unusual for this process to take up to 2 years from the point of making the application to the decision being made.

### **Statutory Process**

- 3.37 In order to achieve any reorganisation of provision, including closure, the Council must comply with the School Organisation legislation, the Education and Inspections Act 2006 (EIA), and statutory guidance published by the Department for Education. Both the legislation and guidance set out the steps which the Council must take when making any decisions on proposals to reorganise school provision. The DfE published [Opening and closing maintained schools Statutory guidance for proposers and decision makers in January 2023](#).
- 3.38 The statutory process for closing a school involves five stages:
- (i) Consultation
  - (ii) Publication of statutory notices
  - (iii) Four week representation period
  - (iv) Decision on the proposal
  - (v) Implementation
- 3.39 If a Local Authority proposes to close a school, then it must carry out a period of statutory consultation.
- 3.40 How the consultation is carried out is not prescribed in the legislation, it is for the Local Authority to determine its nature and length. However, good practice dictates that it should last for a minimum of six weeks and if possible should avoid school holidays in order that the maximum number of people can respond.
- 3.41 As St Peter's Community Primary School is a community school it is for the Local Authority to put forward any proposals for closure. St Bartholomew's C of E Primary School is a voluntary aided school and so either the Local Authority or the Governing Board of the school can put forward a proposal. The decision maker for both schools will be the Local Authority and the

Diocesan Authorities can make a referral to the School's Adjudicator if they have objections to the decision.

3.42 The DfE Guidance sets out a number of reasons for closing schools, which include the following:

- There are surplus places elsewhere in the local area which can accommodate displaced pupils and there is no predicted demand for the school in the medium to long term
- It is no longer considered viable

3.43 If the consultation process starts in early November 2023 then there is sufficient time for the five stages of the statutory closure process to be completed in order for closure to be effective by 31 August 2024. It is appreciated that the proposal comes with little prior consultation with communities and during the period when families are seeking to apply for school places for September 2024.

3.44 Currently, as this is only a proposal, parents can apply for school places at both St Bartholomew's C of E Primary School and St Peter's Community Primary School for September 2024. However, a decision on the closure proposals will need to be taken in sufficient time before the 8 March 2024 date, when late for good reason applications will be considered before National Offer Day on 16 April 2024.

3.45 It is proposed to start the consultation on 7 November 2023 and for it to run for nearly 7 weeks concluding on 22 December 2023. This will mean it runs alongside the consultation on proposed admission arrangements for September 2025.

3.46 There will be three consultation events for each proposal, two in-person meetings and an online meeting.

3.47 Details of these meetings will be provided and the consultation will be hosted on the Council's [consultation portal](#) which will set out full details of the proposals. Consultees will be able to respond to the following questions:

- Do you agree that the council should reduce the total number of surplus school spaces in the city?
- Any comments or reasons for your answer?
  
- Do you agree or disagree with the proposal to close X School by September 2024?
- Any comments or reasons for your answer?

Responders will be able to indicate the extent to which they agree or disagree (Strongly agree/Tend to agree/Neither agree nor disagree/Tend to disagree/Strongly disagree/Don't know or not sure/Not Answered) with the proposals and provide a comment in a free text box.



- 3.48 A further report will be presented to the Children, Families & Schools Committee on 8 January 2024 detailing the response to the consultation and making recommendations about the next steps.

#### **4. Analysis and consideration of alternative options**

- 4.1 When considered in conjunction with the proposals for admission arrangements for September 2025, the Council could propose to make no changes to primary school arrangements or propose to close two primary schools.
- 4.2 The Council has previously sought to make changes to primary school PANs to reduce the number of unfilled places, with varying levels of success. The number of unfilled places and the complexity in decision making has meant that Council has concluded it must seek to propose the closure of two primary schools and reduce the PAN of 9 other primary schools.
- 4.3 The Council could seek to solely propose the closure of schools as a way of reducing surplus places. However, this approach could risk the ability of the council to ensure sufficient school places in the decades to follow and will mean that communities are left without a school to attend, within a reasonable distance.
- 4.4 If future pupil numbers continue to fall, it is possible that these proposals and those in the accompanying paper will not reduce the number of unfilled places sufficiently. Further proposals may be required alongside other approaches to support the on-going viability of the city's schools.

#### **5. Community engagement and consultation**

- 5.1 If agreed, it is proposed to start the consultation on the proposal to close the two schools on Tuesday 7 November 2023 and for it to be concluded on 22 December 2023. A total of 6 weeks and 3 days.
- 5.2 It is proposed that there will be three engagement events to cover the proposal for each school in this report.
- 5.3 A consultation response form will be available on the council's consultation portal and interested parties will be able to leave a phone message for someone to call them back and take down their response over the telephone, should they not be able to complete a response form online.
- 5.4 Attention will be given to engaging sections of the community who may not previously have participated with public consultations such as those with protected characteristics and this is considered within the Equalities Impact Assessment (Appendix 2).

#### **6. Conclusion**

- 6.1 The Council is seeking to reduce the number of surplus places through a programme of PAN reductions and school closures.

- 6.2 It is proposed to consult on the closure of St Bartholomew's C of E Primary School and St Peter's Community Primary School and for these closures to take effect on 31 August 2024.
- 6.3 A consultation period will run from Tuesday 7 November to Friday 22 December 2024 and a report on the results and proposals for next steps will come to the Children, Families & Schools Committee on 8 January 2024.
- 6.4 The Council recognises that these proposals will be concerning for the pupils, families and staff of these schools and is committed to minimise the disruptions that will result from these proposals being implemented.

## **7. Financial implications**

- 7.1 School budgets are determined in accordance with criteria set by the government and school funding regulations dictate that the vast majority (over 90% in 2023/24) of the delegated schools block of funding is allocated through pupil-led factors. This means schools with falling pupil numbers are likely to see reductions in annual budgets. This situation can be particularly challenging where pupil numbers in year groups fall well below the expected number, based on the PAN of a school.
- 7.2 By reducing the number of surplus places in the city in the longer term there is an expectation that school occupancy rates will increase meaning that school budgets generally are more sustainable. Schools are more likely to be able to balance their budgets if operating with full, or close to full, forms of entry.
- 7.3 Where a local authority maintained school has a deficit at the point at which the school closes this will be a charge to the Council's General Fund. The total deficit of both schools by the end of the academic year 2023/24 is estimated to be £400k and the Council is making provision for this expenditure as part of its financial modelling, at a time of significant pressure on the Council's budget. There will also potentially be additional costs relating to redundancies and additional central staff expenditure for the Council in managing the process that would result in further costs to the Council's general fund.

Name of finance officer consulted: Steve Williams Date consulted: (19/10/23)

## **8. Legal implications**

- 8.1 Local authorities are under a statutory duty to ensure that there are sufficient school places in their area, promote high educational standards, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential. To help local authorities to meet their duties and restructure local provision, they have the power to close all categories of local authority, maintained schools. Reasons for closing a maintained mainstream school include where it is surplus to requirements (for example

there are sufficient places in neighbouring schools to accommodate displaced pupils).

- 8.2 In order to effect a school closure the Council must comply with the statutory provisions contained in the Education and Inspections Act 2006, associated Regulations and the Statutory Guidance "Opening and Closing Maintained Schools, Guidance for proposers and decision-makers" January 2023. The Guidance includes statutory processes, guidance on consultation and guidance for decision makers when determining proposals. Proposers and decision makers must have regard to it when closing an existing maintained school.
- 8.3 The first stage of the process requires the proposer to consult with any parties that the proposer thinks appropriate. It is for the proposer to determine the length and nature of the consultation.
- 8.4 The outcome of the consultation will be brought back to committee for consideration in January 2024. At that stage a decision will be made whether to move to the next stage of the process and publish statutory notices.

Name of lawyer consulted: Serena Kynaston Date consulted: (17/10/23)

## **9. Equalities implications**

- 9.1 An Equality Impact Assessment has been carried out on the proposals being recommended to the committee. The assessment can be found at Appendix 2 and the results have been incorporated into the content of the report.
- 9.2 It is worth noting that the admission process is 'blind', by virtue of applications being considered in line with the published admission arrangements that do not take account of a person's protected characteristics.
- 9.3 However, the availability of school places across the city could have an impact on certain groups due to their proximity to certain schools and the availability of places should families make a late application.
- 9.4 The consultation process needs to take account of:
- young parents who may be less likely to respond to the consultation
  - issues of accessibility and comprehension of the consultation process the materials made available
  - ensuring that the decision-making process after the consultation is based on the content not just quantity of replies.
- 9.5 When determining admission arrangements, the council needs to ensure that there are sufficient school places available within a reasonable distance for families who may contain members who have special educational needs, disabilities, speak English as an additional language and of various

racess/ethnicities. This will ensure that if families apply after the deadline date they will not be significantly disadvantaged and face the prospect of a lengthy journey to school.

9.6 It is recognised that to foster strong community cohesion schools' intake should seek to reflect the city's diversity.

9.7 A financially viable school is essential to be able to meet the needs of all those pupils who attend the school and to be able to meet the needs of the community and the inequalities they may experience.

## **10. Sustainability implications**

10.1 Wherever possible the council aims to reduce the number of journeys to school undertaken by car. A reduction in the availability of school places across the city by the closure of two primary schools could risk a rise in the number of journeys undertaken by car.

10.2 Schools are expected to have a School Travel Plan to:

- reduce the number of vehicles on the journey to school
- improve safety on the journey to school
- encourage more active and sustainable travel choices

10.3 Any change to schools' intakes of pupils because of other schools closing will require their travel plans to be re-written to take account of the change.

10.4 Many primary schools are clustered in areas which means that a school closure will not mean a significant increase in journeys to other schools. The consultation period will be an opportunity to explore what the potential impacts of these proposed closures will be and the report to committee in January can be expected to detail these in more detail.

10.5 Consideration will need to be given to the use of the vacant school site should the proposals be agreed so that the negative impacts on the current habitat are minimized and the future use of the accommodation and the site reflect sustainability principles.

## **11. Other Implications**

11.1 The School Admissions Code requires all schools to have oversubscription criteria for each 'relevant age group' and the highest priority must be given, unless otherwise provided in the Code, to looked after children and all previously looked after children, including those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted.

11.2 These priorities will ensure that for pupils who are care experienced, they will receive the highest priority for a place in a different school, should the school they currently attend close.

## **Supporting Documentation**

### **1. Appendices**

1. Pupil forecast
2. Equality Impact Assessment

