

<b>Subject:</b>	<b>An Academy at Portslade Community College: Update and outcome of the formal consultation stage</b>	
<b>Date of Meeting:</b>	<b>17 February 2011</b>	
<b>Report of:</b>	<b>Strategic Director, People</b>	
<b>Contact Officer:</b> Name:	<b>Gil Sweetenham</b>	<b>Tel:</b> <b>29-3474</b>
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<b>Key Decision:</b>	<b>Yes</b>	<b>Forward Plan No:</b> <b>CAB20512</b>
<b>Wards Affected:</b>	<b>All</b>	

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 In line with the Council's policy to ensure that all pupils are given every opportunity to excel, this report updates Members on the process for the proposed development of an Academy on the Portslade Community College site.
- 1.2 The report informs Members of the outcomes of the statutory consultation process and seeks approval to determine the closure of Portslade Community College on 31<sup>st</sup> August 2011 to enable the opening of an academy on the same site the following day.

**2. RECOMMENDATIONS:**

- 2.1 That the Cabinet notes the progress since the Cabinet report of 9<sup>th</sup> December 2010.
- 2.2 That the Cabinet notes the outcome of the statutory stage of consultation undertaken between 20<sup>th</sup> December 2010 and 31<sup>st</sup> January 2011.
- 2.3 That, taking into account the requirements of the Education and Inspections Act 2006, the statutory guidance contained in the document entitled 'Closing of a Maintained Mainstream School – A Guide for Local Authorities and Governing Bodies' and the responses to consultation, the Cabinet conditionally approve to close Portslade Community College on 31<sup>st</sup> August 2011 to enable the immediate opening of an academy on the same site the following day.

(This approval is conditional upon the making of an agreement under Section 482(1) of the Education Act 1996 for the establishment of an Academy. This condition must be met by 30<sup>th</sup> June 2011.)

- 2.4 That Cabinet delegates authority to the Director of Children's Services to submit a feasibility study to the Department for Education (DfE) to enable the project to move into the Implementation Stage.

- 2.5 That Cabinet agree to the setting up of an academy on the site of Portslade Community College from September 2011.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 A report was received by Cabinet on 9<sup>th</sup> December 2010 detailing the reasons for the proposed academy and the intended method of procurement.
- 3.2 For a school to be converted into an academy there needs to be an expression of interest (EoI) agreed by all parties to that agreement, in this case, Brighton & Hove City Council, the DfE and the sponsor. At the time of writing the previous report we believed that the EoI would be with us in mid-December.
- 3.3 Agreeing an EoI is normally a decision for Cabinet. However it was agreed in the last report that the agreement of the Expression of Interest be delegated to the Cabinet Member for Children so that the decision could be taken in a timely manner.
- 3.4 The Portslade Project is being progressed as a pilot project (one of only 4 in the country), as it was not included in the 75 projects being reviewed by DfE. As a pilot is expected that we will trial new ways of procurement and working which is expected to enable building to begin on site in 26 weeks time. Refurbishment funding for the existing site is to be based solely on the condition of the existing building.
- 3.5 In addition to undertaking the Statutory Consultation, the following further progress has been made;
- 3.5.1 Partnerships for Schools (PfS) have confirmed that £12.7million will be available for modifications to the existing buildings and to allow the sixth form to be provided on the main school site.
- 3.5.2 PfS have confirmed that the council will have to procure the building work through the second National Academies Framework as set up by PfS.
- 3.5.3 The EoI has been signed and submitted to the DfE and was accepted on 14<sup>th</sup> January 2011.
- 3.5.4 We have received confirmation that support funding for this project to cover project management costs incurred by the council will have to be top sliced from the £12.7million. There will be no other funding made available from the DfE.
- 3.5.5 Work has started on the reference scheme that is required at the start of the procurement process.
- 3.3.6 As this project is being run as a pilot project trialling new ways of procurement there is no requirement for an Outline Business Case (OBC). In this pilot the OBC had been replaced by a feasibility study. This is one of the ways in which it is hoped that procurement time can be reduced to just 26 weeks.

#### **4. CONSULTATION**

- 4.1 Consultation on the closure of a school must follow the processes set out in sections 15-16 of the Education and Inspections Act 2006 (EIA 2006) and the statutory guidance. Section 16(2) of the Act provides that before publishing any proposals for closure of a community school, the Council must have consulted 'such persons as appear to them to be appropriate'. This consultation was carried out in May and June 2010.
- 4.2 On 9<sup>th</sup> December 2010 Cabinet authorised the Director of Children's Services to proceed to publish the required statutory notices for the closure of the school. The subsequent 6 week representation period was the final opportunity for people and organisations to express their views about the proposals. Statutory notices were subsequently published in the local newspaper on 20<sup>th</sup> December 2010. In addition notices were displayed outside all entrances to the school and in locations across the City. The Statutory Notice stated where the full proposal information relating to this proposal could be obtained.
- 4.3 The Statutory Notice forms part of the full proposal. Copies of the full proposal were sent to the Anglican and Catholic diocese, the head teacher and governing body of Portslade Community College, local ward councillors, the DfE and local Members of Parliament. A copy of the full proposal information is in the Members rooms.
- 4.4 During the publication period 1 individual and 1 company requested a copy of the full proposal information.
- 4.5 7 representations were received during the publication period. Of these 1 was against the proposal, 3 related to the ongoing provision of community services, one was related to the proposed Academy rather than the closure of Portslade Community College and the final representation was from the Governors of Portslade Community College. Copies of the responses / representations are in the Members Rooms.
- 4.6 With regard to the representations received as a result of publishing this statutory notice, commenting on the setting up of an Academy, the statutory guidance referred to in paragraph 2.3 above provides that where proposals are published to close a school in anticipation of the setting up of an Academy they are not considered to be "related". Accordingly the Decision Maker should only take into account representations which relate to the closure of Portslade Community College, and not the proposals to set up a new Academy. Information regarding this representation is however reported here for the sake of completeness.
- 4.7 With regard to the comments about the ongoing provision of community services such as the Village Centre, Adult Education, Library and Sports Centre it is important to note that these facilities are dependant on factors and decisions outside PCC becoming an academy.

- 4.8 A meeting was held at the Village Centre with the Portslade Community Forum on 24<sup>th</sup> January 2011 to further discuss the academy proposal. A copy of notes taken at the meeting are attached to this report as Appendix 1.
- 4.9 A further public meeting was held on 25<sup>th</sup> January 2011 at the school. The purpose of this meeting was to discuss the Academy proposal not the school closure process.
- 4.10 This meeting was attended by approximately 80 members of the public as well as the head teacher and Chair of Governors of the school, Local Authority representatives and directors of the Aldridge Foundation.
- 4.11 Notes taken at the meeting are attached to this report at Appendix 2.
- 4.12 A draft copy of the consultation timeline for the future development of the proposed Academy was tabled at the meeting. A copy of the timeline is attached to this report at Appendix 3.
- 4.13 At a meeting of the Governing body of Portslade Community College held on 25<sup>th</sup> January 2011 to specifically discuss the Academy's development, the Governing body again stated their support for the proposal.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 The capital cost of the sixth form build and adaptations to the college site on Chalky Road will be funded by the £12.7m grant from Department for Education (DfE). At this time, funding for project management costs has not been notified by the DfE and if this is not forthcoming the council will need to identify these resources internally. These costs, previously estimated to be up to £300k, can be met from the available School Futures Reserve which was set up to support schemes of this nature.
- 5.2 The revenue budget for the Academy will be based on the existing PCC formula budget and will be finalised in March 2011. As things stand, PCC is forecast to have a budget deficit at the time of closure, 31 August 2011, of around £150k. The college are working closely with HR regarding consultation over a staffing restructure and have identified potential savings to balance the budget going forward. However, based on previous restructures, there could be one-off severance and/or redundancy costs of up to £250k. The submitted EOI stated that the council would contribute towards the costs associated with TUPE, by funding 50% any severance costs incurred, with the DfE confirming they will fund up to £100k towards this total cost. This could mean an overall deficit of £300k for the school at the time of closure.
- 5.3 Any school deficit as at 31 August 2011 would need to be met by Brighton & Hove Children's Services, and this would be by way of an additional allocation to the schools contingency budget in 2011/12. This would potentially reduce the total available funding for all schools in 2011/12, as this is unlikely to be met from the existing schools contingency budget.

*Finance Officer consulted:*

*Andy Moore, Nigel Manvell*

*Date: 18/01/11*

### Legal Implications:

- 5.4 Statutory notices were published on 20<sup>th</sup> December 2010 in accordance with Section 15(1) of the 2006 Act and the accompanying School Organisation (Establishment and Discontinuance of Schools (England) Regulations 2007, as amended, (“the Regulations”). The statutory six week period for representations to be made followed. The closing date for receipt of representations or objections was 31<sup>st</sup> January 2011.
- 5.5 Paragraphs 7 – 8 and 19 of Schedule 2 to EIA 2006 set out who should decide proposals. In the case of this proposal the decision is to be taken by the LA. However there is provision for some rights of appeal to the schools adjudicator.
- 5.6 The guidance does not prescribe the process by which an LA carries out their decision-making function. This is a matter for the LA to determine but the requirement to have regard to statutory guidance applies equally to the body or individual that takes the decision. In this instance Cabinet will act as the Decision Maker for the Local Authority.
- 5.7 The Guidance entitled ‘Closing a maintained mainstream school,’ provides that there are 4 key issues which the Decision Maker should consider before judging the respective factors and merits of the statutory proposals:
- (a) Is any information missing? If so, the Decision Maker should write immediately to the proposer/promoter specifying a date by which the information must be provided.
  - (b) Does the published notice comply with statutory requirements? The Decision Maker should consider whether the notice is valid as soon as a copy is received. Where a published notice does not comply with statutory requirements as set out in the Regulations, it may be judged invalid and the Decision Maker should consider whether they can decide the proposals. In this instance legal advice has confirmed that the notice did comply with the statutory requirements.
  - (c) Has the statutory consultation been carried out prior to the publication of the notice? Details of the consultation should be included in the proposals. The Decision Maker should be satisfied that the consultation meets statutory requirements (see paragraphs 1.2 to 1.6 of the guidance ). If some parties submit objections on the basis that consultation was not adequate, the Decision Maker may wish to take legal advice on the points raised. If the requirements have not yet been met, the Decision Maker may judge the proposals to be invalid and should consider whether they can decide the proposals. Alternatively the Decision Maker may take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposals as a whole.
  - (d) Are the proposals linked or related to other published proposals? The proposal to close Portslade Community College is linked to the proposal to open an Academy on the same site the following day. If the Proposal to

proceed with the Academy should fail for any reason the proposal to close Portslade Community College will not be implemented.

- 5.8 A full copy of the guidance 'Closing a Maintained Mainstream school' is in the Members room. Paragraphs 4.15 to 4.62 of the Guidance set out the factors which must be considered by Decision Makers when determining a statutory proposal.
- 5.9 In considering proposals for a school closure the Decision Maker can decide to:
  - Reject the proposal
  - Approve the proposal
  - Approved the proposal with modifications
  - Approve the proposal subject to them meeting a specific condition

The Regulations provide that conditional approvals can only be given where the Decision Maker is otherwise satisfied that the proposals can be approved, and approval can automatically follow an outstanding event. In the case of this proposal approval would be conditional upon the making of an agreement under Section 482 (1) of the Education Act 1996 for the establishment of an Academy.

- 5.10 All decisions must give reasons for the decision indicating the main factors / criteria for the decision, irrespective of whether the proposals were rejected or approved, Section 7 of this report gives the reasons for the decision based on the legislative framework within which the proposal must be decided.

*Lawyer consulted:*                    *Serena Kynaston*

*Date:* 08/01/11

Equalities Implications:

- 5.11 Planning and provision of school places is conducted in such a way as to avoid potentially discriminatory admissions priorities or planning processes. The city council and voluntary aided school bodies must be mindful of best practice as described in the Admission Code of Practice.

Sustainability Implications:

- 5.12 The construction of the proposed Academy will adhere to guidelines issued by the DfE in respect of the size of the building needed for the proposed number of children on roll.

Risk and Opportunity Management Implications:

- 5.13 Risk Register will be compiled and a full Risk Workshop will be held in the near future. Full consideration of risks is undertaken at every Project Steering Group meeting.

**Corporate / Citywide Implications:**

- 5.14 The development of an Academy on the Portslade Community College site is in accordance with the DfE's policy on developing a range of schools in each Local Authority thereby increasing the variety of types of school available to parents.

**Crime & Disorder Implications:**

- 5.15 Throughout the development of the proposed Academy, consultation with both community groups and the Community Safety team and police liaison officers will take place. Sussex Police Service endorse the view that the engagement of the community in the use of the facilities at the Academy and with the availability of those facilities outside normal school hours, it is envisaged that crime and disorder in the local area will be reduced, as will the numbers of pupils not in education, employment or training (NEET).

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S)**

- 6.1 The only alternative option is to leave Portslade Community College as a community school managed by the Local Authority.
- 6.2 This is not considered acceptable as in discussions with the DfE it has been agreed that the school requires significant structural change to improve the results achieved by the school.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 It is recommended that the proposals to close Portslade Community College are approved subject to the condition that an agreement under Section 482 (1) of the Education Act 1996 is made for the establishment of an Academy on the same site. This agreement must be made by 30<sup>th</sup> June 2011. The signing of the Funding Agreement effectively constitutes this agreement.
- 7.2 The proposal to close Portslade Community College is inextricably linked to the proposal to open an Academy on the same site the following day. Consequently the Academy proposal is instrumental in the factors to be considered in determining the closure proposal.
- 7.3 The Academy proposal will afford significant capital investment in the school which will enable the development of the curriculum going forward. This will contribute to raising standards at the school improving attainment for children and young people.
- 7.4 The setting up of an Academy on the site of Portslade Community College will contribute to a strategic approach to diversity in choice for secondary education within the city.
- 7.5 The Academy will offer a focal point for the community providing a range of extended services to all ages. The Academy will encourage business and community participation in all types of events and activities.

- 7.6 The Academy will adhere to the Councils admissions arrangement which is based on catchment areas. This provides a truly local school which serves its most immediate community and assists in the aspirations of the Local Authority in terms of green travel arrangements.
- 7.7 The proposed Academy will have an on site sixth form which Portslade Community College cannot provide at present. This will enable students to access a coherent and exciting 14 to 19 curriculum offer. It is believed that this will encourage more young people to take up the opportunity for further and higher education.
- 7.8 There has been a wide ranging consultation with the school, stakeholders and the wider community. The results of the pre statutory notice consultation is included in the full proposal and shows that on balance there is support for the proposal.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

1. Notes from the Portslade Community Forum meeting held on 24<sup>th</sup> January 2010
2. Notes from the public meeting held on 25<sup>th</sup> January 2011
3. Consultation meetings timeline

#### **Documents In Members' Rooms**

1. A copy of the full proposal for the Closure of Portslade Community College
2. A copy of the guidance 'Closing a Maintained Mainstream school'
3. Responses to the statutory notice

#### **Background Documents**

1. Cabinet report from 9<sup>th</sup> December 2010