

CABINET

Agenda Item 90

Brighton & Hove City Council

Subject:	Update and outcome of the formal consultation stage for the proposed Falmer Academy		
Date of Meeting:	16 October 2008		
Report of:	Director of Children's Services		
Contact Officer:	Name:	Lorraine O'Reilly	Tel: 294226
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Key Decision:	Yes	Forward Plan No. CAB3342	
Wards Affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Council Procedure Rule 7, Access to Information Rule 5 and Section 100B (4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) was that the statutory consultation period required under Government guidance for the determination of the Statutory Notice closed on 13th October, therefore after the deadline for reports to Cabinet.

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 Falmer High School site. The report informs Members of the outcomes of the statutory consultation process and seeks approval to determine the closure of the Falmer High School in August 2010 to enable the opening of the Falmer Academy in September 2010.

2. RECOMMENDATIONS:

2.1 That the Cabinet note the progress since the Cabinet Report of 10th July 2008.

2.2 That the Cabinet consider the outcome of the statutory stage of consultation undertaken between 1 September and 13 October 2008.

2.3 That taking into account the requirements of the Education and Inspections Act 2006, the statutory guidance contained in the DCSF 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 Falmer

High School on 31st August 2010 to enable the immediate opening of Falmer Academy on 1st September 2010. 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 31st January 2009.

- 2.4 That Cabinet delegates authority to the Director of Children's Services to submit the Outline Business Case (OBC) to the DCSF to enable the project to move into the Implementation Stage.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Following the submission of the Expression of Interest in April 2008 and having received ministerial approval in early May 2008, the Council undertook the consultation process on the future of Falmer High School. This consultation was undertaken between 19 May and 4 July 2008 and was reported to Cabinet on 10th July 2008. It was then resolved to proceed to the publication of Statutory Notices for the closure of the school. Notices were published on 1 September 2008 and a statutory 'representation' period of 6 weeks then followed. This concluded on 13th October 2008. Any representations received are set out at paragraph 4 below.
- 3.2 The proposal to develop the Falmer Academy forms part of the Government's programme to develop 400 Academies of which 130 are now open or in development. Announced recently are proposals for two Academies in Hastings sponsored by Brighton University and co-sponsored by British Telecom. Plans are also being considered for Shoreham, Littlehampton and Poole.
- 3.3 The proposed Academy's development is currently in the second of four stages of development. This stage is the Feasibility Stage. During the Feasibility Stage, detailed consideration is given to the curriculum and physical development of the Academy to ensure that there is validity in the proposal moving to the third stage of the process, the Implementation Stage. It is expected that the Falmer Academy project will move into the Implementation Stage by the end of November but by no later than 31 January 2009.
- 3.4 Moving to the implementation stage will represent a significant move forward in the process and will realign the timetable instigated in February 2006 for the Academy opening in September 2010.
- 3.5 In addition to undertaking the Statutory Consultation, the following further progress has been made:
- 3.5 1 Positive detailed negotiations with Partnerships for Schools have resulted in their approval of the Options Appraisal for the site (a copy of the Options Appraisal document of 30 pages is available in the Members' Library).

- 3.5.2 The siting of the Academy and the phasing of its construction means that the Bridge Centre can remain in its current location until at least 2012, after which they could move to new purpose built accommodation in the proposed community stadium. The Trustees of the Bridge Centre have expressed their appreciation of the work that has been undertaken on their behalf to secure a long term capital future for the centre.
- 3.5.3 Similarly the Daisy Chain nursery is able to remain in its current location and their lease has been extended for a further two years. The Huggles Nursery's lease has been extended to May 2009.
- 3.5.4 The Swan Centre which will remain as Council wide provision, for the same number of pupils, and continue to be funded by the Council can continue to operate with no disruption until it is relocated in new purpose built accommodation, funded by the Council, housed within the Academy.
- 3.5.5 The monthly Staff Engagement Group, that now forms part of the governance structure, has commenced with over 20 Falmer staff taking part in positive discussions about the future curriculum and organisation of the school. Staff surgeries are held every Monday afternoon at the school and are welcomed. Future activities for the staff, pupils, governors and parents include a visit to a London Academy in November and to the Aldridge Foundation Academy in Darwen in December, further meetings of the Partnership Board in November and January and the formation of the Parents Council in January.
- 3.5.6 The students of Falmer High School have been actively expressing their desires for the proposed Academy and have made a DVD/film expressing these. The film can be accessed from the home page of the proposed Academy's website www.proposedfalmeracademy.org. The pupils have also written a booklet about the proposed Academy which has been given to all pupils, parents and prospective parents. An "Oscars" celebration with the Sponsor, staff and pupils took place on 15th October.
- 3.5.7 Meetings of the Staff Engagement, Education, Community Engagement and Design Groups continue throughout the Feasibility Stage and into the Implementation Stage as do discussions with unions and their representatives. Discussions have also been held with the 14-19 Learning Partnership Board which represents all secondary schools, FE colleges and adult provision in the City and with the four main feeder primary schools (Moulsecoomb, Bevendean, Coldean and Coombe Road). A presentation will be given at the Governors' Briefing meeting and also at the Primary Heads meeting in November.
- 3.5.8 A proposed Falmer Academy website has been established to provide information and to answer some of the common questions from parents and members of the community. Newsletters and information about the website have been widely distributed in the Falmer area.

3.5.9 The Project Initiation Document has been submitted and approved by the DCSF in line with the conditions set out in Lord Adonis' letter of 7th May 2008, thus resulting in further Government support to the project.

3.5.10 Members of the Children & Young People's Overview & Scrutiny Committee were updated at the meeting of 24th September where a number of questions were asked and clarified.

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 issued by the DCSF. 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 between 19 May and 4 July 2008.
- 4.2 On 10 July 2008 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 1st September and appeared on the Council's website. In addition, 34 Notices were displayed in 30 locations across the City. See Appendix 3. The Statutory Notice stated where additional information on the closure proposal could be obtained. Only one enquiry was made.
- 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 governing body of Falmer High School, East and West Sussex County Councils, the Learning and Skills Council and the DCSF. In addition to this all head teachers in the city were informed of the publication of the Statutory Notice and given details informing them how they could obtain a copy of the full proposal. No requests were received for a copy of the full proposal.
- 4.4 The proposed Academy's website also carried information on the consultation and provided an interactive question and answer facility. No enquiries on the consultation have been received. Reference to the consultation was included in 20,000 proposed Academy newsletters which were distributed on a monthly basis to all households in the Moulsecomb, Bevendean and Coldean wards. These newsletters were also distributed to the parents of pupils at Falmer High School and all the parents of pupils at the four main feeder primary schools.
- 4.5 Nationally the Green Party and a number of unions are opposed to the government's Academies programme and have formed the National Anti Academy Alliance (AAA). The AAA has recently distributed its first national newsletter. The Brighton branch of the Alliance has distributed a local newsletter. It is believed that 3000 local AAA newsletters were distributed. The newsletter carried a proforma

letter addressed to the Lead Member for Children's Services expressing concern (but not objecting to the proposal) and requesting that a ballot of parents be undertaken and encouraging the return of such. Five of these letters have been received although it is not possible to validate the origination or authenticity of two of them.

4.6 To ensure that the local community were fully informed about the proposal and the consultation, presentations and discussions have been held with:

4.6.1 Local Action Team in Moulsecoomb on two occasions on 11th June and 9th July. The group has representatives from residents committees, community workers, the Working Together project, Sussex Police, the Community Safety Team, Sussex and Brighton universities and local residents. At both meetings the Local Action Team has been unanimously in favour of the proposal.

4.6.2 The Action for Bevendean Committee. This group represents local residents, disability groups, tenants associations, residents groups, ward councillors and the Community Development Trust. At its meeting on 22nd September, the Group voted overwhelmingly in favour of the proposal.

4.6.3 On two occasions, the proposed Academy has been discussed and considered by the Focal People's Group hosted by the Vicar of St Andrews. The meetings have been attended by the MP Des Turner and his wife, representatives from Sussex Police, the Trust for Developing Community Youth Work, City College, the Living without Violence project, the Duke of Edinburgh scheme and Youth Service, Brighton & Hove Albion Football Club, ward councillors, the Women's Refuge Project, Brighton University and the Action for Bevendean Committee. The Academy proposal was the featured item at the meeting on 3rd September where the proposal gained universal support.

4.6.4 The Swan Centre is also in support of the proposal and a new Service Level Agreement has been agreed until August 2010 when a new agreement will be issued.

4.6.5 At meetings held with each of the four main feeder primary schools (Bevendean, Moulsecoomb, Coldean and Coombe Road), each headteacher was in support of the proposed Academy's development.

4.7 Both Brighton and Sussex Universities have further considered their support of the proposed Academy at board level and have reiterated their commitment. Brighton University has recently announced its sponsorship of two Academies in Hastings.

4.8 The Council is required to consult a number of bodies as part of the statutory process (see 4.3). No objections to the proposal have been forthcoming from these bodies. At a meeting of the Governing body of Falmer High School held on

29th September 2008 to specifically discuss the Academy's development, the Governing body again stated their support for the proposal.

4.9 In addition to the endorsements given by the three community representation groups detailed above, one of which has been confirmed in writing, eight statements of support have been received from Brighton and Sussex universities, City College, the Learning & Skills Council, the 14-19 Learning Partnership Board and from the four main feeder primary schools. The Sussex County Cricket Club and Brighton & Hove Albion Football Club have also written as has the Director of Children's Services in her role as Statutory Officer. Copies are shown as Appendix 4.

4.10 In all cases where an Academy is proposed, the Prime Minister's office opens an on-line e-petition. The site received 207 names against the file heading

"We the undersigned petition the Prime Minister to stop the closure of Falmer High School in Brighton & Hove and hold a ballot to decide if an Academy is what the community wants".

The DCSF responded in length on 8th October. A full copy is shown as Appendix 5. The following extract is the most pertinent to the Cabinet's considerations:

"Once closure consultation has been completed and responses considered, the Council will then make a final decision in October as to whether to approve the closure proposal. As happens with most Academy proposals, any closure decision will be subject to the Academy then being given approval to go ahead by the DCSF Ministers. We currently expect Ministers to be able to decide the Falmer Academy Funding Agreement proposal in late October or shortly afterwards, but subject to the Feasibility Stage having been successfully completed, and the necessary legal, educational and other steps having been taken".

The petition is included here in the spirit of openness and completeness.

4.11 Five proforma letters (see 4.6) were received by the Cabinet Member for Children's Services. These letters were not submitted in accordance with the laid down statutory process. However, since the letters were received during the period that the Notice was in force, they have been considered as representations to that Notice.

4.12 Two further proforma letters were received after the end of the 6 week statutory consultation period. These letters have not therefore been considered as representations to the Notice and mention is made of these here in the spirit of openness and completeness.

4.13 Objections to the proposal were received from three parents of prospective pupils.

- 4.14 An objection was received by the Green Party after the end of the statutory six week consultation period. Mention is made of this objection in the spirit of openness and completeness.
- 4.15 In summary, nine representations have been received in support and eight against the proposal. Copies of all representations are appended as Appendix 6.
- 4.16 The level of representations is extremely low for a consultation of this size and considering the balance of views expressed and from whom those views have been expressed, it is recommended that Recommendation 2.3 of this report is enacted.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

- 5.1.1 The capital cost of the Academy will be met by the DCSF. Negotiations continue with Partnerships for Schools to determine the exact amount as the outcome of the Options Appraisal is known. Allocated funding from the DCSF currently stands at £26.2m. This funding is only available within the Academy programme. It is not transferable to Falmer High School, the BSF programme or other schools in the City.
- 5.1.2 The next stage of the process to develop the Academy is the approval of the Outline Business Case. The approval enables the Funding Agreement to be signed by the Chief Executive of Brighton & Hove City Council and the Secretary of State, thus enabling the procurement of the design and build contract to commence and the recruitment of the Principal Designate to proceed.
- 5.1.3 The revenue budget for the Academy will be based on the existing Falmer High School budget and be finalised nearer the time.
- 5.1.4 In line with the Minister's condition, the Project Initiation Document was re-submitted and recently approved by Partnerships for Schools on 30th August 2008. This approval confirms release of grant funding through the Standards Fund to ensure appropriate development of the project in the early stages.

Finance Officer Consulted: Catherine Vaughan

Date: July 2008

5.2 Legal Implications:

- 5.2.1 Statutory notices were published on 1st September 2008 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 13th October 2008.
- 5.2.2 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.
- 5.2.3 The DCSF 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.
- 5.2.4 DCSF 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 DCSF 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 Falmer High School 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 Falmer High School will not be implemented.

5.2.5 A full copy of the DCSF 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.

5.2.6 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.

5.2.7 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: October 2008

5.3 Equalities Implications:

5.3.1 Young people leaving Falmer High School are presently the highest group in the City in terms of Not in Education Employment or Training (NEET) being 11.6% in 2007, almost double the 6.2% average for the City. Although the figures for pupils undertaking further education have increased over the past few years, this rate in 2007 at 63% is lower than other schools in the City where sixth form provision is provided in the school environment. It is therefore hoped that over time, provision of the sixth form will increase the number of pupils fully engaged in post-16 education widening

participation of the young people in this area of the City in further education thus improving the very high number of adults in the area who have no formal qualifications, currently 37.61%.

5.3.2 GCSE Exam results (non-validated 2008) for Falmer High School show improvement in the overall GCSE results 5 A*-C, improving from 30% to 41%. However, when taking into account Maths and English, A-C grades fell from 24% to 19%. Provisional value added results, using Fisher Family Trust analysis, show improvement to 1031, meaning that Falmer High School remains as one of the highest value added schools.

5.3.3 Falmer High School was identified in the Minister's announcement on 10th June as one of the 638 schools who have not met the national requirement to reach 30% A-C grades and is therefore part of the National Challenge programme. The Children & Young Peoples Trust has submitted an Action Plan for consideration to the DCSF in relation to an improvement strategy. The development of the Academy in such circumstances is accepted by Government as an appropriate option for significant improvement.

5.4 Sustainability Implications:

5.4.1 The construction of the proposed Academy will adhere to DCSF guidelines (Building Bulletin 98) and will be in line with stringent new targets issued by the Government in March 2008 to reduce school carbon footprints to 60% for all new school buildings. Thus the proposed new building will take full advantage of all appropriate environmentally sustainable energy and recycling systems including proposals for ground source heat pumps, green roofs and solar gain. The final design must meet the Building Research Establishment Environmental Assessment Model (BREEAM) standard at either Good or Excellent. The Outline Planning application approved on 18 June 2008 reaches the BREEAM Excellent standard. Thus the proposed Academy will be a flagship for environmentally sustainable schools for Brighton & Hove for the future and will be one of the "greenest" buildings in the City.

5.5 Risk and Opportunity Management Implications:

5.5.1 A Risk Register has been compiled and a full Risk Workshop was held on 3rd September 2008. Full consideration of risks is undertaken at every Project Steering Group meeting.

5.6 Corporate / Citywide Implications:

5.6.1 The development of an Academy on the Falmer High School site is in accord with the DCSF's policy on developing a range of schools in each Local Authority thereby increasing the variety of types of school available to parents.

5.7 Crime & Disorder Implications

5.7.1 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 Officers and the Lead Member of the CYPT have considered the alternatives to improve not only the outcome for pupils (which have improved considerably over the last few years but which fall short of the 30% benchmark for GCSEs when including English and Maths) and the possibility of rebuilding the current school.

6.2 As Falmer High School comes within the National Challenge Programme, the CYPT submitted an Action Plan for Improvement. The development of the Academy in such circumstances is accepted by Government as an appropriate option for significant improvement.

6.3 The Council does not enter the Building Schools for the Future (BSF) Programme until 2015. Although the DCSF recently announced a reconsideration of the programme, they have also made clear that local authorities would be expected to widen parental choice and take action to develop Academies, Trust or Federated Schools. Given this, the improvements at Falmer High School so far and the uncertainty of any future BSF programme, officers consider that the Academy offers the best option for the pupils and the local community and the site.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 It is recommended that the proposals to close Falmer High School 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 31st January 2009. The signing of the Funding Agreement effectively constitutes this agreement.

7.2 The proposal to close Falmer High School 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 Falmer High school 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 arrangements 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 Falmer High school does not currently provide. 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 Falmer High School currently hosts the Swan centre. This is a valuable and successful facility for young people on the Autistic spectrum. This facility will be housed within the Academy in new purpose built accommodation so there will be no loss of provision as a result of these proposals.
- 7.9 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 proposals.

SUPPORTING DOCUMENTATION

Appendices:

1. Revised Governance Structure
2. Statutory Notice
3. Locations of the Statutory Notice
4. Summary statements of support for the Academy
5. DCSF response to the e-petition
6. Representations.

Documents In Members' Rooms

- 1 The full proposal including
 - a) The Expression of Interest
 - b) Informal Stage consultation documents and responses
2. Closing a Maintained Mainstream School – A guide for Local Authorities and Governing bodies
3. Representations received to the Formal Consultation Period
4. The full Outline Business Case
5. The Terms of Reference for all groups within the Governance Structure
6. The Options Appraisal Document

Background Documents

1. Policy and Resources Committee paper: Development of an academy on the Falmer School site – 7 February 2008
2. Policy and Resources Committee paper: Update and Expression of Interest for an Academy on the Falmer school site – 6 March 2008
3. Cabinet Paper: Consultation on the Future of Falmer High School and the proposals for the development of an academy on the school site – 10th July 2008.

