

## **DETERMINATION**

<b>Case reference:</b>	STP/000163
<b>Referral body:</b>	Brighton & Hove School Organisation Committee
<b>Statutory proposal:</b>	To open a new voluntary aided Montessori primary school with nursery provision
<b>Date of decision:</b>	25 May 2005

### **Determination**

**Under the powers conferred on me by Schedule 6 to the School Standards and Framework Act 1998, I hereby reject the proposal to establish a new voluntary aided Montessori primary school in Brighton and Hove.**

#### **1. The referral**

1.1 The Secretary of Brighton and Hove School Organisation Committee (“the SOC”) wrote to the Office of the School’s Adjudicator on 3<sup>rd</sup> March 2005 referring to a proposal by the Brighton and Hove Montessori School Foundation (“the Foundation”) to open a new voluntary aided primary school (“the proposed school”) with nursery provision.

#### **2. Jurisdiction**

2.1 The case was referred to me under paragraph 3 (6A) of Schedule 6 to the School Standards and Framework Act 1998 (“the Act”). This requires a School Organisation Committee, where that SOC has rejected proposals published by promoters for the establishment of a new foundation or voluntary school, to refer those proposals to the schools adjudicator if the promoters so request.

2.2 The Foundation published their proposal in a notice on 30<sup>th</sup> September 2004. It was considered and rejected (unanimously by the four groups present) in a meeting of the SOC on 21<sup>st</sup> February 2005. The Secretary of the SOC referred it to me in a letter dated 3<sup>rd</sup> March 2005. I am satisfied that I have jurisdiction to consider the proposal.

2.3 As required by paragraph 3(7) of Schedule 6 to the Act, I have considered the proposal afresh. I have had full regard to the guidance given by the Secretary of State as required by paragraph 3 (4) of Schedule 6 to the Act, and I have also had regard to the relevant provisions of the Sex Discrimination Act 1975, of the Race Relations Act 1976, of the Disability Discrimination Act 1995 as required by paragraph 6 of Schedule 5 to the Act, and to the relevant provisions of the Human Rights Act 1998.

### 3. Procedures

3.1 In considering this case, I have carefully noted all the papers that have been put before me, including the following:

- a. The proposal as submitted by the Foundation to the SOC, the proposer's Prescribed Information (as required by Schedule 3 to the Education (School Organisation Proposals) (England) Regulations 1999), representations made to the SOC by the Brighton and Hove City Council as Local Education Authority ("the LEA") and other parties, and the draft minutes of the meeting of the SOC.
- b. The LEA's School Organisation Plan for 2003-2008 and School Admissions booklet for parents for 2005-2006.
- c. Submissions to me by the Foundation and responses from them to questions I put to them in writing.
- d. Advice from the Voluntary Aided Schools Capital Team of the Department for Education and Skills ("DfES").
- e. The Memorandum and Articles of Association (under the Companies Acts 1985 and 1989) for the Montessori Schools, both signed on 24<sup>th</sup> May 2004.
- f. Reports from the Office for Standards in Education ("OFSTED"), the DfES and the LEA on the present school provided by the Foundation ("the present school") as follows:
  - i. Inspection of Nursery Education on behalf of OFSTED, 17<sup>th</sup> January 2000.
  - ii. Visit by a Professional Assistant from the LEA's Learning Support Services, 14<sup>th</sup> February 2000.
  - iii. Visit by Her Majesty's Inspector ("HMI"), 26<sup>th</sup> November 2001.
  - iv. Visit by HMI, 25<sup>th</sup> September 2002.
  - v. Nursery Inspection on behalf of OFSTED, 14<sup>th</sup> March 2005.
- g. Representations that have been put before me (addressed to the Foundation, to the SOC or to me) from people and organisations with an interest in the outcome of the proposal.

3.2 On 28<sup>th</sup> April 2005, I visited the proposed site for the new school, simply to gain an impression of the site and its environs. On the same day, I visited the present school, accompanied by the headteacher and representatives of the LEA, and was able to observe children and staff at work.

3.3 I convened a meeting with representatives of the Foundation and the LEA at the present independent Montessori School in Brighton and

Hove on the same day, in order to clarify a number of issues, and I have taken note of the information that emerged from that meeting.

- 3.4 I convened a further meeting at the present school, again on the same day, which was open to any with an interest in the proposal. Representatives of the Foundation, the LEA and the SOC made presentations, and there was opportunity for any people present to make representations. I have taken note of the representations that were made to me on that occasion.

#### **4. Context of the Proposal**

- 4.1 The present school is an independent Montessori School which was established in 1985 as a private venture, but now operates under the auspices of the Foundation. It is located in a Victorian terraced house near the centre of Brighton and in a church hall on the opposite side of one of the adjoining roads. (There are several other Montessori schools or nurseries operating in the wider area of Brighton and Hove, but there is little communication with the present school, and no collaboration.) The present accommodation is a limiting factor so far as activities and numerical growth are concerned, although good use is made of the space that is available.

- 4.2 The Foundation has explained how the school aims to operate in accordance with the distinctive educational and social philosophy pioneered by Maria Montessori in Italy and America around a hundred years ago. This approach aims to capitalise upon children's natural learning tendencies and provide mixed-age groups (including groups for 3-6, 6-9 and 9-12 year-olds) in which learning can be encouraged. Although there are many Montessori schools across the world, there is no maintained Montessori school in England, so the Foundation has emphasised that approval of the current proposal would break new educational ground and offer new opportunity.

- 4.3 The Foundation made an attempt to secure DfES grant approval for the capital costs of a new school several years ago, but the premises that were then under consideration for adaptation were deemed unsuitable, and the present proposal became possible through approval by the DfES for the funding of a brand new school on a fresh site.

#### **5. The Proposal**

- 5.1 The proposal is for the establishment of a new voluntary aided primary school on the fresh site in September 2006. The Foundation has agreed with me that such a date is now impracticable, and has agreed that, should I approve their proposal, it would be expedient for me to modify the date of implementation to September 2007. Although the Foundation's intention is that the present school would close consequently upon the opening of the new school, it is clear to me,

particularly from the meetings I held, that it is a totally new school that is being proposed, and not a transfer of the present independent school to new premises within the maintained sector.

- 5.2 There is some uncertainty in the published notice about the number of children for whom a new school is being proposed (although the matter is clearer in the proposer's Prescribed Information submitted to the SOC). The notice says that the school would be 'for 180 boys and girls mainly between the ages of 3 and 11', but goes on to say that the school 'will have nursery classes from age 3', and that 'the admissions numbers will be as follows: 30 age 3, 30 age 4 and 30 age 5'. I ascertained at my meeting with representatives of the Foundation and the LEA that what was really intended was that 30 children should be admitted at age 3 and progress as a group through the school to age 11. The Foundation accepted at our meeting that the usual age of the allocation of full-time places to children in maintained schools in Brighton and Hove is 4+, and indicated that they would wish to follow this pattern. There would therefore be eight year groups in the school. The number of pupils for whom the school would be provided would thus be 210 together with 30 of nursery age. The Foundation recognises that the 30 nursery-age children would be likely to attend on only a half-time basis on the basis of the present funding arrangements, but wishes to restrict the number of nursery age children to 30 in order to preserve the group of 30 in its progression through the school. Since the Montessori approach would result in three parallel teaching groups of the 3-6 year-old children, the Foundation recognises that the result would be reduced teaching group sizes for half of each day (on the assumption that the nursery age children all attended for the same half-days). Were I to support the proposal, the Foundation would welcome a modification within my approval to clarify the proposed size of the school.
- 5.3 The Foundation has stressed that their new school, if approved, would, as 'the first publicly funded Montessori school in the UK', bring innovation and diversity to learning, and believes that the introduction of greater diversity and opportunity for parental choice would be in accordance with Government policy. Representations have been made generally and to me about a need for more suitable premises, about parents' desire for their children to be able to complete their primary education in the Montessori ethos, and about a perceived injustice if a parental preference for Montessori education is not met free-of-charge (while faith and other schools exist in the maintained sector). The Foundation has drawn attention to the high standards achieved in the present school, and the positive influence that they believe a maintained Montessori school could have on educational standards as a whole and on the practice of other maintained schools.
- 5.4 Support for the proposal has been expressed by parents of pupils at the present school, supporters of the Montessori philosophy in Brighton and Hove and beyond and some residents local to the site for the proposed school.

## **6. The Objections**

- 6.1 Objections to the proposal have come from various quarters, including the LEA, the SOC (in the reasons given for rejecting the proposal), the Church of England (“CE”) and Roman Catholic (“RC”) dioceses, a maintained infant school and maintained primary school local to the proposed site for a new school and some residents close to the proposed site.
- 6.2 The LEA, the SOC, the RC diocese and several existing schools have all drawn attention to the existing and forecast levels of surplus primary school places in the City, believing that the creation of a new maintained school would cause a dilution of resources for other schools unless sufficient totally fresh pupils were drawn into the City’s maintained schools sector. Particular concern has been expressed by some existing schools within the neighbourhood of the proposed new school about the potential negative effect on them if it should need to admit children from its immediate locality in addition to children attracted from across the City and beyond by the Montessori philosophy. These concerns extend to the supply of revenue funding to and by the LEA and the use of DfES and LEA capital resources.
- 6.3 The DfES has given approval in principle for Targeted Capital Fund (“TCF”) grant for site acquisition and construction costs for a new school. However, this grant will not cover the acquisition and preparation costs of that part of the site allocated for playing field use. The LEA, SOC and CE diocese have argued that full capital provision has not been made for site acquisition, in that no agreement has been reached by the Foundation with the LEA for the LEA to fund the playing field costs.
- 6.4 The LEA and the SOC have objected that the Foundation has failed to demonstrate either that it would be able to produce the 10% of initial capital costs associated with a new school, or that the future governing body would be able to sustain an ongoing ability to produce 10% of continuing capital liability for the maintenance of the premises. (These 10% contributions are required of the proposer and governors of all voluntary aided schools.)
- 6.5 The LEA, the SOC, the CE diocese and West Sussex County Council have highlighted what they believe to be unacceptable features in the proposed admissions arrangements. These include an ‘automatic’ transfer from the nursery provision to the main school, a distinction at age 5 between nursery and main school admissions, allocations by ‘zones’ (a concept not recognised in the City), the drawing of lots and the lack of an adequate tie-break arrangement.
- 6.6 The SOC and West Sussex County Council, without commenting on the standards of achievement in the present school, have stressed the need for clear assurances about anticipated standards of educational provision, curriculum breadth and balance, and achievement as measured by the standard tests at the end of Key Stages 1 and 2.

- 6.7 The SOC noted the lack of an adequate travel plan for the new school, and they and several residents near the proposed site expressed concern about an anticipated increase in local traffic. (A travel plan has now been produced.)

## **7. Consideration**

- 7.1 The Guidance on Statutory Proposals for Decision Makers (“the Guidance”), referred to in 2.3 above, contains guidance in a number of respects relevant to the current proposal. I have taken careful note of this Guidance in considering the features of the proposal.

### Revenue and Capital Costs

- 7.2 Associated with concerns about surplus places is the concern expressed by the LEA and the dioceses about value for money in terms of revenue income and expenditure. Until recently, the LEA was concerned that, given its current position in relation to receipt of Government funding, not only would the LEA receive no additional funding associated with an additional school, but there would be no actual additional income for the City associated with pupils previously attending independent schools or schools outside the City. The LEA and others argued on this basis that there would be a deleterious effect on the budgets of all existing schools in the City if the proposed school were to be established. More recently, however, the Government has announced a new method of supporting the schools of each LEA, known as the Dedicated Schools Grant, which from April 2006 will produce actual LEA income for each additional child. The LEA has now accepted that there would be real additional funding for each child entering the City’s maintained schools from the independent sector or elsewhere. However, I accept the LEA’s continuing concern that there would be no additional income associated with children simply moving from other schools in the City or with future children attending the proposed school rather than existing schools, despite the additional revenue costs of maintaining the additional school that would be incurred.
- 7.3 I turn now to the capital costs anticipated in providing the proposed new school. The Guidance describes how an Adjudicator must be ‘satisfied that any capital required to implement the proposals will be available’, and that a proposal may not be approved conditionally upon availability of capital. The DfES has given approval in principle for a grant of 90% of the initial site purchase and construction costs. In correspondence with me, they have extended the life of this approval to the end of May 2005 to allow time for this Determination to be made. Representatives of Westdene Primary School have drawn attention to the inadequacy of their temporary classrooms and the sense of injustice they would feel if the proposed new school were to be supported. However, the funding stream for a voluntary aided school

such as that proposed is different from that for community schools, so, sympathetic as I am to the needs of inadequately housed schools, I cannot be influenced by this factor.

- 7.4 Whilst 90% of capital costs for a new voluntary aided school has been approved as grant from the DfES, the remaining 10% has to be found up-front by the Foundation. In order to approve the proposal, therefore, I would need to be satisfied that this 10%, amounting in this case to around £600,000, would immediately be available. I have received copious description as to how a loan of this amount might be serviced, and as to a potential lender. However, despite an explicit request, I have not received any form of written confirmation from the source of funding on which the Foundation is relying, as envisaged by the Guidance. On the contrary, I have been sent a copy of a letter from the Triodos Bank, from whom the Foundation has hoped a loan might be obtained, which, while expressing continuing interest in the project, is clear that no form of commitment has been given.
- 7.5 I have studied carefully the statements of anticipated income and expenditure with which I have been provided. Although I am not in a position to prove that income would not be generated as envisaged, I can only use my judgement and experience in reaching my conclusion that the income figures may prove over-optimistic. I am, for example, unaware of any grant available from the DfES towards fund-raising or staff training costs, and am cautious about the anticipated net income from out-of-hours activities. The Foundation have completed and signed a DfES Form 18, signifying their ability to produce 10% of the initial capital expenditure together with 10% of ongoing capital repair costs. The Foundation is at a disadvantage compared with, for instance, those proposing new faith schools, in that it does not have a 'parent' or 'umbrella' organisation or organised community of people on which to rely. So the assurances given on Form 18 consist of a general intention to attract charitable grants and donations together with an initial commercial loan. I have noted the comments on the form from the LEA, and share the LEA's concern at what they describe as a 'high risk strategy' and the possible need to offer the school premises as security for such a loan. In response to my enquiry, the Foundation have explained that they have not explored the possibility of a loan from the DfES. The Foundation have asked that, if necessary, I should approve the project conditionally upon the 10% contribution becoming available, so I need to point out that the availability of capital is the one area that is explicitly ruled out by the Guidance as the subject of a condition associated with approval.
- 7.6 The LEA, the SOC and the CE diocese have drawn attention to the responsibility that would fall to the LEA to provide a playing field for the proposed school, the fact that no agreement has been reached with the LEA, and the fact that the LEA would have financial difficulty in so doing. However, it is clear from the Act (Schedule 6, paragraph 14), that there is an obligation on the LEA to provide playing fields for any new voluntary aided school that is established. Although the Guidance

requires me to consider whether any new school would meet the minimum statutory requirement for the provision of playing fields, there is no evidence to hand one way or the other, and it is therefore not possible for me to reach a conclusion on this issue.

- 7.7 The Guidance (Section 1, paragraph 33) stipulates that an adjudicator must be satisfied that any capital required to implement a proposal will be available, normally on the basis of written confirmation from the source of funding. I have written assurance that 90% grant from the DfES would be available. However, I have not received any such confirmation with regard to the remaining 10% that the Foundation would need to provide towards site acquisition and construction costs. Despite the strong intentions of the Foundation, I am not satisfied that this 10% capital contribution would necessarily be forthcoming. For that reason alone I am rejecting the proposal, apart from the other concerns that I am now proceeding to describe in this adjudication.

#### Parental Preference

- 7.8 The Foundation, as well as many of those who have written or spoken in favour of the proposal, have referred to the Government's desire to expand the variety of school provision in response to parents' aspirations. This is referred to in paragraph 18 of the Guidance. This paragraph advises an adjudicator to 'take into account not only the existence of spare capacity in neighbouring schools, but also the quality and popularity with parents of the schools in which spare capacity exists and evidence of parents' aspirations for a new school'. That there is surplus primary provision of around 7% in the City is beyond doubt, as I have verified from data provided by the LEA; six primary schools have surplus places of over 25%. I recognise that maintaining surplus places is a drain on LEA resources, and therefore to the detriment of all schools. The addition of a further primary school is, as several objectors have pointed out, potentially a further drain on those resources. However, the Guidance is clear that there should be a presumption in favour of approving the creation of a new school where there is a strong case based on parental preference and standards grounds (with the LEA then needing to take other action to remove surplus capacity).
- 7.9 I need therefore to estimate carefully the extent of parental support and the boost to educational standards that might result from the creation of the new school (paragraphs 1 and 18). Similarly, I note from paragraph 19 that 'all proposals, from whatever source, should be considered on the basis of their educational merits and what they have to offer the local community', and that the groups from whom proposals for new schools are to be encouraged include 'those offering distinctive educational philosophies'. There is no doubt of the distinctiveness of the Montessori philosophy, and I have been convinced of a strong intention on the part of the Foundation and its supporters to combine that philosophy with the conventional systems of English primary education as a contribution to school improvement in the City and

beyond.

### Educational Standards

7.10 I turn now to the matter of educational standards, and in particular to the OFSTED and LEA reports listed in paragraph 3.1.f, above. The most recent report arose from a nursery inspection on behalf of OFSTED on 14<sup>th</sup> March 2005. Effectiveness, the quality of teaching, leadership and management and the partnership with parents and carers are all described as very good. The judgements for all curriculum areas are also universally 'very good'. The two areas for improvement are: the detail in assessment records and information for parents to show a clearer link with the early learning goals; and the use of resources to give children more experience of finding more about information and communication technology, and more opportunities to act out their own ideas and experiences in role-play. The first of these is of particular significance for an organisation that is proposing to establish a school in the maintained system, with the importance given there to early learning goals and later testing.

7.11 It should be noted that this inspection report, as the previous reports, relates only to nursery provision, and therefore cannot be taken as a marker in terms of Key Stage 1 or Key Stage 2. I have been sent some general information about Montessori schools in different parts of the world, but not of a sufficient kind to enable me to form a judgement about the quality of education that might be expected at these stages in a maintained Montessori school. My general conclusion from the foregoing is that the present school clearly makes a contribution of good quality to overall Foundation Stage provision in the City, although the school has difficulty in relating its assessment methods to those required by the early learning goals. In any case, I have already noted that the proposed school would be a new school rather than the present school on a new site and in the maintained system. It is not therefore possible to be certain that present qualities would apply to the proposed school. I conclude generally that there is insufficient evidence to form a judgement as to whether or not a new school in the Montessori tradition would contribute to the overall raising of standards in primary education.

### Anticipated Enrolment

7.12 It has not been easy to gauge the level of parental support for the proposal that is likely to result in actual pupil admissions to a new school. The Prescribed Information shows an initial number of pupils on roll of 125 (with 30 in each of the 3+, 4+, and 5+ year groups, and smaller numbers of older children). The table then shows a constant intake of 30 children of 3+ as the school builds towards full capacity. I have sought evidence for this prediction in the large quantity of papers I have been sent. The Foundation has supplied me with details of a petition conducted between 1994 and 2005 with a total of 822 signatures in favour of a maintained Montessori school being

established in Brighton and Hove. However the sworn declaration (dated 6<sup>th</sup> May 2005) accompanying the petition describes the signatories as 'families, friends, supporters of and visitors to the school'. I cannot therefore accept this petition as an indicator of parental demand for actual school places. In the course of my preparation for this Determination, I have received around 118 letters of support for the proposal and around 14 letters of opposition. Most letters of support offer no indication as to whether they are from parents who hope to enrol their children at the proposed school. I have however tried to elicit from the letters as much indication as I could as to the number of prospective pupils. I recognise that my estimate may be unreliable, particularly as some children may be close to secondary school age before any project is implemented, but it is the only indicator available to me within the correspondence. My estimate is that from those who have written in support, places would be sought for around 69 children, of a variety of ages, at the inception of any new school, a figure less than that shown in the Prescribed Information.

- 7.13 The Foundation has insisted that the proposed school would be populated by children whose parents had actively selected the school for its Montessori basis, from across the whole City and from beyond the city boundaries. This has been their response to existing schools near to the proposed site for a new school which have been nervous about a possible negative effect on their own pupil enrolment. It is of course likely that all or most children in the present school would transfer to a new school. Late in the day, I have been provided with the numbers of pupils on roll in the different age groups of the present school. These show a total population of 68, including 22 aged 3, 20 aged 4 and the remainder aged 2 and between 5 and 9. Although some waiting list numbers have been provided, it has not been explained to which year groups they relate. Nevertheless, this constitutes the strongest evidence of potential demand for the new school, even though the larger year groups do not match the year group sizes planned for the proposed school (unless the waiting list numbers relate wholly or in part to these year groups). Taking all this into account, and for want of better information, I must if anything err on the side of caution and anticipate the possibility that even the younger year groups in the proposed school might not be full. On this basis, it is difficult to be confident that the population of the proposed school would be drawn evenly from across the City (and beyond) as the Foundation intends. With its new facilities, it might prove attractive to more local families, who might indeed find places to be available. If this were to be the case, then the anxieties expressed by the LEA, schools local to the proposed site and other objectors would prove to have been well founded.

#### Travel Plan

- 7.14 Several parties have referred to the lack of a travel plan for the proposed school, but I have, late in the day, been provided with one, dated 6<sup>th</sup> May 2005. The travel plan is particularly important in view of

the Foundation's aspiration for pupils to be drawn from the whole of the City and beyond, rather than from the immediate neighbourhood. Some local residents are naturally concerned at increased traffic levels on what I have observed to be narrow residential roads. The Guidance is clear that matters of traffic congestion and alternatives to car transport should weigh in determining proposals for new schools. The travel plan describes not only the objectives for the present site, but also the Foundation's intentions in relation to the proposed site. I find the travel plan to be an adequate and practical document, which includes details of public transport opportunities as well as other conventional and imaginative ideas. However, since the travel plan has been produced so late in the day, there has been no real opportunity for any other parties to offer comment which might affect my opinion of it.

### Admissions Arrangements

- 7.15 In determining a proposal for a new school, an Adjudicator will not determine the proposed admissions arrangements, since they will be settled in the first instance by the temporary governing body, with an opportunity for other admissions authorities to object at that stage. However, the proposed admissions arrangements are part of the whole proposal for a new school, and can therefore be taken into account in determining that proposal. Several parties have drawn attention to alleged deficiencies in the draft admissions arrangements as they stand. Some of these could no doubt amicably be sorted out by local negotiation, since the Foundation have already shown a desire for flexibility in matters of detail. To give but one example, the distinction between the admissions arrangements for nursery age children and those for older children needs to correspond with the age of 4+ at which children would normally move from one provision to the other in the City.
- 7.16 Of more fundamental importance to the current proposal is the top priority for admission at age 5+ (meaning '4+') intended to be given to children who have been attending the proposed school during their nursery years. Several objectors have pointed out that this intention runs contrary to the DfES's School Admissions Code of Practice ("the Code"). Section 3.18 of the Code is clear that attendance in a nursery class should not guarantee admission to the main school, since this could disadvantage families who move more recently into the area and since some parents might feel obliged to enrol their children before they feel they are ready, in order to secure places at the school. However, although the Code constitutes statutory guidance, it is not itself a statement of law. Given the Montessori practice of integrating 3 to 6 year old children in a single class (in the current proposal, three such classes), I do not believe that the priority envisaged for nursery children from within the school should necessarily be ruled out.

## Staffing

- 7.17 It has become clear to me that what the Foundation is intending in their proposal is the establishment of a totally fresh school, rather than a transfer of the present school to the maintained sector and in new premises. This is an important distinction, since it means that no question will arise of any staff transferring automatically to the new school. Representatives of the Foundation have clearly stated that any present staff wishing to work in the proposed school would need to apply for posts there. If, on the other hand, a transfer had been envisaged, then it would have been necessary for the Foundation and the LEA to consider whether the Transfer of Undertakings (Protection of Employment) Regulations might have applied, and caused all staff to have an entitlement to transfer to the employ of the new governing body.
- 7.18 Generally speaking, LEAs and the governing bodies of voluntary aided schools are not permitted to employ teachers without Qualified Teacher Status (“QTS”). Although most of the teachers at the present school are university graduates, and all hold Montessori qualifications, none has QTS. I understand that the current intention is that those present teachers who wish would be encouraged to apply for posts in the new school on the basis of the Graduate Teacher Programme or similar schemes. I further understand that additional teachers would be employed to mentor the Montessori teachers towards achieving QTS, with ‘cross-fertilisation’ of methodology resulting. I am doubtful as to whether the anticipated initial pupil numbers would warrant employing as many teachers overall as this approach presupposes and provide an adequate budget for this purpose. In order to approve the proposal, I would need to be confident that sufficient, experienced and suitable teachers with QTS would apply for posts in this unique school. Although I have no evidence that such teachers would not be available, neither have I been supplied with any evidence that they would.
- 7.19 Of similar, if not greater, importance is the recruitment of a suitable headteacher for the proposed school, and indeed a succession of suitable headteachers for the future. In response to my enquiry on the subject, the Foundation mentioned the possibility of recruiting from overseas an initial headteacher whose professional qualifications would accord QTS on the basis of reciprocal international agreements, and who also had the necessary Montessori qualifications and experience. More recently, the headteacher has mentioned that several mainstream teachers with QTS (but not, as far as I have been informed, Montessori accreditation) have expressed interest in the headship, including one serving headteacher. In addition to the usual need for anyone undertaking teaching duties in a maintained school to have QTS, it is now a requirement that candidates for headship have achieved the National Professional Qualification for Headteachers (“NPQH”) or have been accepted for a place on a course leading to this qualification. The rules about gaining QTS and NPQH do contain some complex detail

and exceptions. However, it is difficult to envisage a governing body appointing to this important new headship someone of less than fulsome qualifications and experience, without solid experience of the National Curriculum and the English educational system, or without Montessori qualifications and experience. Indeed, it is difficult to envisage the school being accredited as a provider of graduate teacher training without the headteacher having most of these qualities.

### Governing Body

- 7.20 As the proposed school would be a voluntary aided school, the majority of governors would be foundation governors appointed, in this case, by the trustees of the Foundation. I have been supplied with a list of the prospective foundation governors and their credentials. Their credentials are impressive in terms of educational, Montessori and business experience. However, I also note that only one proposed foundation governor has experience as a governor of a maintained school, albeit over a long term with a period as chair. Since this overall lack of experience would probably also apply to most of the staff and elected parent governors, there might prove to be a high degree of reliance on the experience of a very small number of governors. This is a matter of some concern, and would necessitate considerable input from the LEA's governor support staff for some time to come.

### Community Cohesion

- 7.21 As intended by the Guidance, I have considered issues relating to community cohesion and in particular the contribution that might be made by the proposed school to a multi-cultural society. In the Prescribed Information, the Foundation has described the international nature of the Montessori movement, and the intention that the proposed school should continue the tradition of the present school in attracting pupils and staff from a variety of ethnic and religious backgrounds. I have seen the present school in operation and believe that the present tradition would indeed be continued. Although the staff of the present school are mostly female (as in many maintained primary schools), I have noted the Foundation's desire to recruit more male staff. The present school has some experience of meeting the needs of children with special educational needs. I have no reason to question the Foundation's commitment to equal opportunities in either staffing or curriculum access. The Foundation has now produced a policy statement (dated 6<sup>th</sup> May 2005, so on which other parties have not been able to comment), outlining their commitment to principles of community cohesion and inclusion in all their forms.
- 7.22 I have considered the views of the residential community of the proposed school site. The Westdene and Withdene Community Association has expressed support for the project, and in particular the intention to make the new premises available for community use. The Association has also expressed concern that matters of access and traffic should be properly addressed, as have several individual

residents. Other local residents have written in support of the project. One local resident has raised a question about a restrictive covenant on the site, which he believes would inhibit the construction of a school. The Foundation's solicitor has written to explain why this is to misunderstand the nature of the covenant, and I accept this legal advice. Full planning approval has, however, not yet been given by the City Council, and if I were to approve the proposal I would of necessity do so conditionally upon planning consent being granted.

### EYDCP

- 7.23 The Guidance recommends that in considering proposals involving changes in early years provision, the views of the Early Years Development and Childcare Partnership ("EYDCP") should be taken into account. The Foundation claims that it sent relevant papers to LEA officers connected with the City's EYDCP, and the headteacher of the present school is herself a member of the EYDCP. It is therefore surprising and disappointing that the proposal was never included on an EYDCP agenda, and that therefore neither had the SOC nor have I had the benefit of its views.

## **8. Conclusion**

- 8.1 The proposal to establish a maintained Montessori primary school in Brighton and Hove is attractive, in that it would offer greater diversity of provision for the City and wider area, and fulfil the aspirations of some parents. It is clear from the OFSTED reports that there is a history of good quality nursery provision in the present independent school (although also a need to relate learning outcomes more closely to the statutory framework). At the same time, there is little experience of Key Stage 1 and Key Stage 2 provision in the present school on which to draw. This could be said to apply to all new schools, the difference in this case being the potential deficit of experience on the part of some staff of the proposed school. I have no reason to suppose that a combining of the Montessori approach with 'traditional' pedagogy could not be beneficially enlightening on a mutual basis.
- 8.2 However, some fundamental concerns remain. There is a lack of evidence of sufficient parents being committed actually to applying for places at the proposed school on a year by year basis to ensure that the school would be fully subscribed or nearly so. If insufficient pupils were to be forthcoming from across to whole of the City and beyond, an adverse effect might well be experienced in the level of applications for existing schools in the vicinity. Although the present school has demonstrated high standards in its present provision, this provision is limited in terms of the year groups to which it applies. In any case, it is clear to me that a totally new school is what is being proposed, and I have described the concerns I have over potential staffing difficulties at the proposed school. Having considered carefully the advice offered in the Guidance (Section 1, paragraph 18), I have concluded that the case for approval on grounds of parental preference and of standards

is not sufficiently strong here to warrant a presumption in favour of approval.

- 8.3 Above all, the issue that causes me to reject the proposal is that of the availability of capital. As I have explained above, the Guidance requires an adjudicator to be satisfied of the availability of capital. I have not received confirmation of the availability of the 10% required of the Foundation, and therefore cannot approve the proposal.

### **Determination**

**Under the powers conferred on me by Schedule 6 to the School Standards and Framework Act 1998, I hereby reject the proposal to establish a new voluntary aided Montessori primary school in Brighton and Hove.**

Dated: 25 May 2005

Signed:

A handwritten signature in black ink that reads "R A Lindley". The signature is written in a cursive style with a long horizontal stroke at the end.

Schools Adjudicator: Richard Lindley