

Democracy Services
London Borough of Merton
Merton Civic Centre
London Road
Morden SM4 5DX

Direct Line: 0208 545 3357

Date: 26 April 2024

Dear Councillor

Notification of a Decision taken by the Executive Director Children, Lifelong Learning and Families

The attached **Key Decision** has been taken with regards to **Opening of Additional Resourced Provision at Liberty Primary School** and will be implemented at **noon** on **Wednesday 1 May 2024** unless a call-in request is received.

The call-in form is attached for your use if needed and refers to the relevant sections of the constitution.

Yours sincerely

Democracy Services

KEY DECISION TAKEN BY AN OFFICER UNDER DELEGATED AUTHORITY

Title of report

Opening of Additional Resourced Provision at Liberty Primary School

Reason for exemption (if any)

N/A

Decision maker

Executive Director of Children, Lifelong Learning and Families Department

Date of Decision

24 April 2024

Date report made available to decision maker

19 April 2024

Decision

- A. To implement a prescribed alteration to Liberty Primary School to make provision reserved for pupils with special educational needs (Additional Resourced Provision) for 30 places across the school year groups for pupils with Communication Needs including children with Autistic Spectrum Disorder (ASD).
- B. That the budget position detailed in section 6 of the report is noted

Reason for decision

The reason for this decision is to provide places for pupils with special educational needs and disabilities (SEND) in the local area following the closure of the existing provision at Stanford Primary School - Liberty Primary School is a "Good" school with the capability and capacity to provide a good quality SEND provision. Provision in this location will provide more parental choice, complementing the existing SEND provision in primary mainstream schools across the borough. Liberty has reduced its mainstream intake from 3 forms to 2 forms of entry so has spare space. Adaptations to Liberty Primary School will be more cost effective than a new build at a school without spare space and will be quicker to achieve. This will allow the places to be provided in time to meet the need arising from the closure of Stanford Primary School at the end of the current academic year.

Alternative options considered and why rejected

The adaptation of alternative locations was considered and rejected on the grounds of either location, capability to provide a good quality provision or a combination of both. The building of a completely new provision as opposed to adapting existing capacity in a school was rejected on the grounds of cost and timescale.

Documents relied on in addition to officer report

None

Declarations of Interest

None

Signature

Signature



Date 24 April 2024

Chief Officer Key Decision

Date: 19 April 2024

Subject: Opening of Additional Resourced Provision at Liberty Primary School

Lead officer: Jane McSherry, Executive Director of Children, Lifelong Learning and Families

Cabinet Member: Sally Kenny, Cabinet Member for Education and Lifelong Learning

Contact officer: Paul Stemp, Admissions Manager and Interim Place Planning Manager

Recommendations:

- A. To implement a prescribed alteration to Liberty Primary School, Western Road to make provision reserved for pupils with special educational needs (Additional Resourced Provision) for 30 places across the school year groups for pupils with Communication Needs including children with Autistic Spectrum Disorder (ASD).
- B. The reason for this decision is to provide places for pupils with special educational needs and disabilities (SEND) in the local area following the closure of the existing provision at Stanford Primary School - Liberty Primary School is a "Good" school with the capability and capacity to provide a good quality SEND provision. Provision in this location will provide more parental choice, complementing the existing SEND provision in primary mainstream schools across the borough. Liberty has reduced its mainstream intake from 3 forms to 2 forms of entry so has spare space. Adaptations to Liberty Primary School will be more cost effective than a new build at a school without spare space and will be quicker to achieve. This will allow the places to be provided in time to meet the need arising from the closure of Stanford Primary School at the end of the current academic year.
- C. That the budget position detailed in section 6 of the report is noted

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The council published a statutory proposal for a prescribed alteration to Liberty Primary School for Additional Resourced Provision (ARPs) for 30 places

across the school year groups for pupils with Communication Needs including children with Autistic Spectrum Disorder with effect from 1 September 2024. The statutory notice period expired on 13 March 2024 and it is now for the council to decide whether to approve the proposals. As statutory decision maker, the council must also state the reason for the decision.

- 1.2 The council's capital programme approved by the Council on 6 March 2024 includes £730,000 for this project.

2. DETAILS

Need for additional SEND places

- 2.1 Due to falling rolls in the mainstream element of the school, The Secretary of State has agreed the closure of Stanford Primary School from 31 August 2024. Stanford School currently provides 24 Additional Resourced Provision (ARP) places for pupils with Communication Needs including children with Autistic Spectrum Disorder (ASD).
- 2.2 While there are sufficient mainstream places at alternative local schools, the closure means there will be a shortage of ARP places, and so there is a need to open alternative similar provision. The proposal is that this can be provided for at Liberty Primary School. This will retain the existing capacity for special provision within the borough, with an increase of an additional 6 places.
- 2.3 The Merton Council area has experienced a significant increase in the number of EHCPs (Education and Health Care Plans) issued over the past seven years and benchmarking across other Local Authority areas has shown that despite a series of expansion projects in recent years Merton has less state funded specialist provision than equivalent local areas.
- 2.4 An ARP at Liberty Primary School will maintain standards and parental choice for children in Merton for the following reasons
 - There will be 30 places for local children who require access to a specialist SEN provision thereby offsetting the impact of the Stanford Primary School closure
 - Liberty Primary School is a "Good" school with the capability and capacity to provide a good quality SEND provision
 - Provision in this location will maintain parental choice, complementing the existing SEND provision in primary mainstream schools across the borough

3. ALTERNATIVE OPTIONS

- 3.1 State funded schools provide value for money as it is considerably less expensive to provide places in state funded schools compared to providing education in independent or non-maintained provision. There are also savings in transport costs if provision is made in local schools. Retaining the number of

places in local special schools following the closure of Stanford Primary School therefore meets the objective to provide suitable, high quality places to meet the growing number of children requiring specialist placement within available funding.

- 3.2 While other schools could have been considered, Liberty was seen as most appropriate for the reasons outlined above.

4. CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1 The Liberty school leadership team and governing body were consulted and then to comply with the statutory requirements a statutory notice was published on 15 February 2024 in the local newspaper and on the council's website. Key stakeholders were also informed including neighbouring councils, health commissioners, the school governors and all parents of children at the school. As required in the regulations, four weeks were provided for any person to object to or make comments on the proposal.
- 4.2 The council received three responses to the consultation.
- 4.3 Firstly, the Liberal Democrat Councillors asked if the funding for this project was included in the 2024/25 business plan that will be voted on at Council on March 6th and is there a business case document they can see showing the costs and benefits (presumably saving money sending people to schools outside the borough). This request was responded to as a member enquiry.
- 4.4 Secondly, the Merton Conservatives confirmed support for the increased provision for pupils with Communication Needs including children with Autistic Spectrum Disorder (ASD).
- 4.5 Thirdly, Councillor Kenny responded to state that Liberty will be a great base for the ARP. Happy with this and hope it goes through really smoothly.

Response to the consultation:

- 4.6 None of the responses to the consultation suggested that the council should not proceed with the proposal. The responses confirmed the proposal has political support within the borough.

5. TIMETABLE

- 5.1 It is proposed that, subject to approval, minor works can commence in July 2024 to enable opening on 1 September 2024, with potential phasing of the project to ensure the provision can open on time.

6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

Capital

- 6.1 The council's capital programme approved by the Council on 6 March 2024 included £730,000 for the construction works to implement this project.

Revenue

- 6.2 The funding to operate the ARP is funded through the Dedicated School Grant, with top up funding for special needs provision provided through the High Needs block. The funding currently provided for Stanford Primary School will effectively be provided to Liberty Primary School instead from 1 September 2024.

7. LEGAL AND STATUTORY IMPLICATIONS

- 7.1 The council has a duty under section 14 of the Education Act 1996 to secure that sufficient schools are available for its area to provide the opportunity of appropriate education for all pupils. It must exercise this function with a view to securing diversity in the provision of schools, and increasing opportunities for parental choice. In exercising this function, the council must have regard to the need for securing that special educational provision is made for pupils who have special educational needs. Where a child has an Education Health and Care Plan, under the Children and Families Act 2014, the council must secure the special educational provision specified in the plan, including arranging and meeting the cost of the appropriate school placement for the child. These costs fall to the High Needs Block of the DSG (Dedicated Schools Grant).
- 7.2 The establishment in a mainstream school of provision reserved for children with special educational needs is a 'prescribed alteration' for which statutory proposals must be published and approved under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. This does not apply to expansions of existing provision unless the overall capacity of the school is to be expanded by more than 30 pupils and by 25% or 200 pupils (whichever is the lesser). A statutory notice was required therefore for the proposed provision at Liberty Primary School.
- 7.3 The Prescribed Alterations Regulations require that a summary notice of proposals is published in a local paper and on the council's website. Details of the proposals must be published on the council's website and copies provided on request. Copies of the proposals must be sent to the governing body of the school and parents of pupils. Comments on or objections to the proposals can be made within a 4 week period from publication of proposals.

- 7.4 The council is the decision maker for proposals. A decision must be made on the proposals within a period of two months of the end of the representation period or they must be referred to the Schools Adjudicator.
- 7.5 Statutory guidance is published in 'Making significant changes ('prescribed alterations') to maintained schools, statutory guidance for proposers and decision-makers January 2023'
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756572/Maintained_schools_prescribed_alterations_guidance.pdf
- 7.6 The council as decision-maker must be satisfied that appropriate consultation and the representation period required by the Regulations has been undertaken and must consider all views submitted on the proposal.
- 7.7 The statutory guidance advises that decision-makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents, raise local standards and narrow attainment gaps. The council must consider the quality of new places created through expansion, taking account of a range of performance indicators and financial data, before deciding whether a school should be expanded. The DfE expects local authorities to create new places in schools that have an overall Ofsted rating of 'good' or 'outstanding'. When considering any reorganisation of provision that the LA recognises as reserved for pupils with special educational needs, including that which might lead to children being displaced, proposers will need to demonstrate how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for those children.
- 7.8 The decision-maker must comply with the Public Sector Equality Duty. Decision-makers must consider community cohesion and should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.
- 7.9 The decision-maker should be satisfied that any necessary funding required to implement the proposal will be available.

8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1 The proposals will contribute to the Authority providing access to a local SEND school place for all its residents with an eligible need for one. The proposal will assist the aim of ensuring that children with special educational needs will be able to attend suitable local school provision.

9. CRIME AND DISORDER IMPLICATIONS

9.1 None specific

10. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1 The project is being managed under project management methodology and a risk log is held and reviewed at project board meetings. However, a capital scheme will always carry some risk of not meeting the budget.

11. APPENDICES – the following documents are to be published with this report and form part of the report

Appendix 1 – Statutory notice

12. BACKGROUND PAPERS

Guidance for decision makers – “Making significant changes (‘prescribed alterations’) to maintained schools Statutory guidance for proposers and decision-makers, January 2023 is on the DfE website:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756572/Maintained_schools_prescribed_alterations_guidance.pdf

Appendix 1

Statutory notice

LONDON BOROUGH OF MERTON

Liberty Primary School – new specialist provision for children with Communication Needs

Notice is hereby given in accordance with Section 19 (1) of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 that the London Borough of Merton is proposing to add a provision that is reserved for pupils with special educational needs to Liberty Primary School, Western Road, Mitcham CR4 3EB with effect from 1 September 2024.

The proposed special educational provision will provide 30 places for pupils with Communication Needs including children with Autistic Spectrum Disorder (ASD). Admission to the provision will be decided by the Council's SEN Panel and pupils admitted to the provision will be additional to the school's published admission number.

The London Borough of Merton will implement the proposals.

Alternatively you can request a printed copy of the complete proposal from the address below or telephone 020 8545 3269.

Within four weeks from the date of publication of these proposals, any person may object to, or make comment upon the proposals, by sending their representations to: Director of Children, Lifelong Learning and Families (FAO: Paul Stemp, Admissions Manager), London Borough of Merton, Civic Centre, London Road, Morden, SM4 5DX or by emailing: School.Consult@merton.gov.uk

Jane McSherry
Executive Director of Children, Lifelong Learning and Families
London Borough of Merton
Civic Centre
London Road
Morden SM4 5DX
Date: 15 February 2024

Explanatory Notes

Liberty Primary School is a maintained mainstream school. From 2017, the council confirmed a revised published admission number for Liberty Primary School of 60 reduced from its previous number of 90. The capacity of the main school at Liberty reduced at that point from 630 to 420, providing space for the SEND provision through adaptations.

The London Borough of Merton aims to decide whether to approve this SEN provision proposal by the end of April 2024. If the Council fails to determine the proposals within two months of the end of the representation period it will pass all relevant material to the Schools Adjudicator who will determine the proposals.

Supplementary information

Description of alteration

The proposal is to implement prescribed alterations to Liberty Primary School, Liberty Road, Mitcham CR4 4XU with effect from 1 September 2024 to make provision reserved for pupils with special educational needs.

Merton Council proposes that the special educational provision will provide 30 places across the school year groups for pupils with Communication Needs including children with Autistic Spectrum Disorder (ASD). Admission to the provision will be decided by the Council's SEN Panel and pupils admitted to the provision will be additional to the school's published admission number.

The council confirmed a revised admission number for Liberty Primary School of 60 from September 2017, a reduction from its previous published admissions number of 90. The total capacity of the main school at Liberty is 420 (a reduction since 2017 from 630). This will provide space for the SEND provision through adaptations.

Evidence of demand

The Merton Council area has experienced a significant increase in the number of EHCPs (Education and Health Care Plans) issued over the past seven years and benchmarking across other Local Authority areas has shown that despite a series of expansion projects in recent years Merton has less state funded specialist provision than equivalent local areas.

Merton Council is not currently balancing its High Needs Dedicated Schools Grant (DSG) budget and has agreed a 'Safety Valve programme' with government to reduce its deficit with a key action being to provide more state funded specialist provision within its area. There is therefore an urgent requirement to address this need as part of the council's strategy to provide good quality state-funded specialist provision school placements.

The Secretary of State has agreed the closure of Stanford Primary School from 31 August 2024. Stanford School currently provides 24 places for pupils with Communication Needs including children with Autistic Spectrum Disorder (ASD) and so there is a need to offer similar provision to these children. The proposal that this can be provided for at Liberty Primary School. This will retain the existing capacity for special provision within the borough, with an increase of an additional 6 places.

Objectives (including how the proposal would retain educational standards and parental choice)

The overall objective is to provide sufficient good quality local school places for children with Autism Spectrum Disorder (ASD) and Speech, Language and Communication Needs (SLCN).

At its last Ofsted inspection on 21 June 2023, Ofsted reported that Liberty Primary School is a good school in its overall effectiveness and is outstanding in 2 of the 5 features. The view of the Head of School Improvement in Merton is that this continues to be the case and the school has the capability and capacity to provide good quality SEND provision.

State funded schools provide value for money as it is considerably less expensive to provide places in state funded schools compared to providing education in independent or non-maintained provision. There are also savings in transport costs if provision is made in local

schools. Retaining the number of places in local schools therefore meets the objective to provide suitable, high quality places to meet the growing number of children requiring specialist placement within available funding.

The proposed solution, given the closure of Stanford Primary School, will retain standards and parental choice for children in Merton for the following reasons:

- The places for local children who require access to a specialist SEN provision will be retained following the closure of Stanford Primary School
- Liberty Primary School is a “Good” school with the capability and capacity to provide a good quality SEND provision
- Provision in this location will retain parental choice, complementing the existing SEND provision in primary mainstream schools to the east of Mitcham town centre, in Morden and in Raynes Park

We have consulted the school leadership and governing body that includes parental representatives on this proposal, who are supportive with a strong motivation to make this new provision a success.

The effect on other schools, academies and educational institutions within the area

Providing a small number of additional SEND places at Liberty Primary School following the closure of Stanford Primary School SEND resourced provision will not reduce the intake of neighbouring specialist state funded schools. There is a high demand compared to supply of SEN places.

Project costs and indication of how these will be met, including how long term value for money will be achieved

The capital cost is estimated to be £600,000.

The scheme will be funded by Merton Council through the Department for Education formulaic High Needs government capital grant.

In the long term, value for money is being achieved as the alternative of funding specialist independent/non-maintained provisions is more expensive. There are additional savings when reduction of transport costs is taken into account, and consultations with parents in recent years demonstrate that families value being able to attend good quality local provision within their local community.

The additional places will therefore meet the objective of ensuring sufficient suitable, high quality local specialist places are provided to meet the growing number of SEN children.

Implementation and any proposed stages for implementation

It is proposed that, subject to approval, minor works can commence in July 2024 to enable opening on 1 September 2024, with potential phasing of the project to ensure the provision can open on time.

A statement explaining the procedure for responses: support; objections and comments

Responses should be provided within four weeks of the publication date of this proposal so by 13 March 2024 by email to School.Consult@merton.gov.uk or by post to Director of Children, Lifelong Learning and Families (FAO: Paul Stemp, School Admissions Manager), London Borough of Merton, Civic Centre, London Road, Morden, SM4 5DX

Merton Council - call-in request form

1. Decision to be called in: (required)

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2. Which of the principles of decision making in Article 13 of the constitution has not been applied? (required)

Required by part 4E Section 16(c)(a)(ii) of the constitution - tick all that apply:

(a) proportionality (i.e. the action must be proportionate to the desired outcome);	
(b) due consultation and the taking of professional advice from officers;	
(c) respect for human rights and equalities;	
(d) a presumption in favour of openness;	
(e) clarity of aims and desired outcomes;	
(f) consideration and evaluation of alternatives;	
(g) irrelevant matters must be ignored.	

3. Desired outcome

Part 4E Section 16(f) of the constitution- select one:

(a) The Panel/Commission to refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns.	
(b) To refer the matter to full Council where the Commission/Panel determines that the decision is contrary to the Policy and/or Budget Framework	
(c) The Panel/Commission to decide not to refer the matter back to the decision making person or body *	
* If you select (c) please explain the purpose of calling in the decision.	

4. Evidence which demonstrates the alleged breach(es) indicated in 2 above (required)

Required by part 4E Section 16(c)(a)(ii) of the constitution:

5. Documents requested

6. Witnesses requested

7. Signed (not required if sent by email):

8. Notes – see part 4E section 16 of the constitution

Call-ins must be supported by at least three members of the Council.

The call in form and supporting requests must be received by 12 Noon on the third working day following the publication of the decision.

The form and/or supporting requests must be sent:

- **EITHER** by email from a Councillor’s email account (no signature required) to democratic.services@merton.gov.uk
- **OR** as a signed paper copy to the Head of Democracy Services, 1st floor, Civic Centre, London Road, Morden SM4 5DX.

For further information or advice contact the Head of Democracy Services on
020 8545 3357