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## **Chief Officer Key Decision**

**Date: 30 July 2020**

**Subject: Melrose School – to approve the proposals for a prescribed alteration to expand the school and provide a primary age phase**

Lead officer: Jane McSherry, Assistant Director for Education

Lead member: Councillor Eleanor Stringer

Contact officer: Tom Procter, Head of Contracts and School Organisation

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### **Recommendations:**

- A. To approve the proposals for prescribed alterations to Melrose School from September 2021 to lower the age range from 11-16 years old to 4-16 years old through the introduction of 24 full time equivalent places in the primary phase for children aged 4 to 11 and to also increase the number of places in the secondary phase of the school to 54. The school would therefore have a total capacity for 78 pupils. Approval to be conditional on the grant of planning permission for the necessary capital works by 31 December 2020.
- B. That approval is conditional on the capital scheme being granted planning permission by 31 December 2020. In the interim, a temporary change in age range and places at Melrose School will be implemented from September 2020 as described in paragraph 5.3 below.
- C. That the reason for this decision is to provide places for pupils with special educational needs and disabilities (SEND) in the local area and the expansion of Melrose School provides good value for money. Melrose is rated by Ofsted as “Good” with “consistently strong teaching across the school” and the council’s Assistant Director for Education is satisfied that the leadership of the school has the management capacity to continue to raise standards while the school expands.

## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 Melrose School is a special school for children with Social, Emotional and Mental Health needs (SEMH).
- 1.2 Demand for SEND places has increased and is forecast to continue to increase into the next decade. To accommodate some of the anticipated increase, the council published a statutory proposal to expand Melrose School from 1 September 2020, providing a primary school phase for the first time and additional secondary school phase places.
- 1.2 The statutory notice period expired on 23 July 2020 and it is now for the council to decide whether to agree to the significant enlargement and change in age range of Melrose School. As statutory decision maker, the council must also state the reason for the decision.

- 1.3 Over £2.5 million is approved in the council's Capital Programme for the refurbishment and extension of Melrose School to enable the school to increase the capacity of the school.

## 2 DETAILS

- 2.1. The London Borough of Merton has a legal obligation to provide sufficient school places for its area. As illustrated by the table below, the council area has experienced a significant increase in the number of statements/EHCP (Education and Health Care Plans) over the past five years and one of the greatest increase in need is children with Social, Emotional and Mental Health needs (SEMH)

	Jan-15		Jan-20	
	No.	%	No.	%
<b>ASD</b> - Austistic Spectrum Disorder	289	28%	635	33%
<b>SLCN</b> - Speech, Language and Communication Needs	227	22%	389	20%
<b>MLD</b> - Moderate Learning Difficulty	211	20%	325	17%
<b>SEMH</b> - Social, Emotional and Mental Health	116	11%	288	15%
<b>SLD</b> - Severe Learning Difficulty	98	9%	107	6%
<b>PD</b> -- Physical Disability	37	4%	49	3%
<b>SPLD</b> - Specific Learning Difficulty	24	2%	32	2%
<b>VI</b> - Visual Impairment	19	2%	17	1%
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<b>PMLD</b> - Profound and Multiple Learning Difficulty	6	1%	10	1%
<b>OTH</b> - Other Difficulty/ Disability	7	1%	57	3%
<b>Total</b>	<b>1045</b>	<b>100%</b>	<b>1928</b>	<b>100%</b>

- 2.2. The council does not have any specialist provision within the borough for primary age children with SEMH and as a result, it has been necessary to place children out of borough including in independent and non-maintained provision.

- 2.3. The overall objective is to provide sufficient good quality local school places for children with Social, Emotional and Mental Health needs (SEMH). Melrose School was rated "Good" by Ofsted at its last inspection and the council's Assistant Director for Education is satisfied that the school is still at least to this standard and its leadership has the management capacity to continue to raise standards while the school expands.

- 2.4. The school provides value for money in being considerably less expensive to provide education than non-maintained or independent special school provision and so meets the objective to provide suitable, high quality places to meet the growing number of SEND children.
- 2.5. The proposed expansion will be enabled by a physical extension to the school in three distinct areas:
- A specific primary phase will be built with a dedicated entrance and site area
  - In the secondary phase the current, inadequate hall will be converted to become two classrooms. This will allow a distinct area for more vulnerable secondary SEMH pupils or SEMH girls, depending on the referrals and cohort
  - A new hall facility will be provided that can be timetabled to be used at separate times by primary age and secondary age children
- 2.6. The process of school expansion is subject to a statutory procedure and statutory guidance, which is outlined in the consultation and legal implications section of this report.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The council has a statutory duty to provide sufficient school places including for children with SEND so, given the increase in demand, there is no alternative but to provide or commission more special school places. To this end, the council needs to meet the further increase in special school places for children with SEMH.
- 3.2. The alternatives to the expansion of Melrose School are to either commission or facilitate a new state- funded school (which should be an Academy or Free School) or rely on commissioning more places from the independent sector.
- 3.3. The council has already needed to commission more places in the independent sector in recent years and it costs considerably more in placement and transport costs, and requires children to travel away from the local area.
- 3.4. With regard to a new school, previous site searches for primary and secondary school shows there are no easy site options, and expanding an existing Good school provides good value for money . It is also much quicker to deliver to ensure that the benefits can be received more quickly. Lastly, providing primary school provision in this way is effective and efficient as it will be in a distinct area of the site with a separate entrance to the secondary provision, but there are the economies of scale of having the primary and secondary school provision on the same site, with a shared, good quality hall for sports and performance activities.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1 To comply with the statutory requirements a statutory notice was published on 25 June 2020 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.

### **Responses to the consultation**

- 4.2 Two responses were received to the consultation, both of which were positive:
- A Headteacher of a local primary school confirmed she agreed with the expansion of Melrose and the addition of the primary age phase places
  - Merton Conservatives responded to say "Merton Conservatives fully support the proposal to expand Melrose School. This expansion will significantly increase the level of provision for pupils with social, emotional and mental health needs in Merton, which is needed to meet rising demand for SEMH educational provision. The new development will see the creation of a new primary school, new classrooms, and a new school hall. In addition to being the best decision for SEMH pupils in Merton, the expansion will also benefit Merton taxpayers, as they will not have to pay for non-maintained SEMH provision."

### *Overall conclusion following consultation responses*

- 4.3 There were no objections or concerns raised during the consultation, and so officers' views remain that the expansion of Melrose School should proceed to provide SEND local school places that are value for money.

## **5 TIMETABLE**

- 5.1. A planning application for the expansion capital works at Melrose School was submitted in June.
- 5.2. Subject to approval of this report and the planning application it is aimed that a contract decision on the building works will be made in October 2020 so that works can commence in the school summer holidays, with the works due to be completed for September 2021.
- 5.3. However, there is an immediate need for placements in the primary age range for Autumn 2020 so the school will make use of a council building adjacent to Melrose School for 12 months until the new build is ready.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

### *Capital*

- 6.1. The Capital Programme 2018-22 includes over £2.5 million to fund the expansion of Melrose School which, based on a Quantity Surveyor's estimate of the detailed design, is sufficient to fund the required capital works.

- 6.2. The table below summarises the capital budget in relation to the Melrose Expansion:

	<b>2020-21 Budget</b>	<b>2021-22 Budget</b>	<b>Total</b>
	<b>£</b>	<b>£</b>	<b>£</b>
Melrose Primary SEMH annexe 16	836,610	750,000	1,586,610
Melrose Secondary SEMH 14 Places	200,000	750,000	950,000
<b>Total Capital Budget</b>	<b>1,036,610</b>	<b>1,500,000</b>	<b>2,536,610</b>

### *Revenue*

- 6.3. A further revenue costs will be required for the adaptation of 'Worsfold House' for the school's use for one year. The Children, Schools and Families has a revenue budget of £321,430 in 2020/21 for this expenditure, which has been allowed for in estimates.

### *Property*

- 6.4. The permanent expansion will be enabled by use of the existing Melrose School site and a small portion of land which is currently outside the school's fence line, and most recently used as a scout hut, but disused for at least the past 10-15 years.
- 6.5. For a temporary period of one year, part of the council's 'Worsfold House' will be used for a primary age class. This is less expensive than erecting a temporary classroom. It should be noted that this is strictly for a temporary period and in July 2019 the Council's Cabinet agreed to the disposal of this land for housing purposes. Before occupation by the school, officers will therefore ensure clarity is received from the DfE to ensure that it does not fall under the Schedule 1 of the Academies Act 2010 (land that may be transferred for use by an academy) and so its temporary use for school provision would not impact on the council's medium term plans.

## **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, 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 permanent expansion of a maintained special school to increase the number of pupils by 10% or more than 20 pupils and the alteration of the upper or lower age limit of a special school by a year or more (except

where the alteration is a temporary one, which it is anticipated will be in place for no more than two years) are prescribed alterations for which statutory proposals must be published and approved under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.

- 7.3. The 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. Approval can be conditional subject to certain events specified in the Regulations, including for instance the grant of planning permission. 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. The council must give reasons for its decision. The decision and the reasons for it must be published on the council's website and the council must also notify the school governors, local CE and RC dioceses, parents of pupils at the school and any other body considered appropriate. The local Church of England diocese and the local Roman Catholic diocese have the right to appeal to the Schools Adjudicator against the decision within four weeks of the decision being made.
- 7.6. The council has a duty to implement approved proposals. The DfE register (EduBase) must be updated when proposals have been implemented.
- 7.7. In deciding whether or not to approve proposals, the council should have regard to the statutory guidance, 'Making significant changes ('prescribed alterations') to maintained schools, statutory guidance for proposers and decision-makers October 2018'
- 7.8. 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.
- 7.9. 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'. 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.

- 7.10. The decision-maker should be satisfied that any necessary funding required to implement the proposal will be available.
- 7.11. If the proposals are approved, the council will have a statutory duty to implement them including providing the necessary accommodation for the expansion of the school. The power of general competence under section 1 of the Localism Act 2011 enables the Council to do anything for its own purpose (subject to limitations) which would include the proposals outlined for the use of the land by a school.
- 7.12. The power under section 2 of the Local Authorities (Land) Act 1963 enables the Council to erect any building and construct or carry out works on land for the benefit or improvement of its area.
- 7.13. Schedule 1 of the Academies Act 2010 provides a discretionary power to the Secretary of State to make a land transfer scheme for an academy in relation to land owned by a local authority which at any time in the last eight years has been used wholly or mainly for the purposes of a school or a 16 to 19 Academy. The Secretary of State requires (i) consent in respect of the disposal of land and (ii) notification of the change of use of land which at any time in the last eight years has been used wholly or mainly for the purposes of a school or a 16 to 19 Academy. It is therefore recommended that confirmation in writing is obtained from the Secretary of State that it will not exercise its powers to make a scheme nor will it require consent in respect of any future disposal or notification of any future use of the land at Worsfold House prior to its use by Melrose School.

## **8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1 The expansion of Melrose School 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.

## **9.0 CRIME AND DISORDER IMPLICATIONS**

- 9.1 There are no specific crime and disorder implications

## **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. Of the main risks highlighted in this decision paper, the financial risk continues to be managed carefully. 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 – Copy of published notice and prescribed information

**12 BACKGROUND PAPERS**

12.1 Guidance for decision makers – “Making significant changes (‘prescribed alterations’) to maintained schools Statutory guidance for proposers and decision-makers, October 2018 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](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756572/Maintained_schools_prescribed_alterations_guidance.pdf)



## **Appendix 1 - Copy of published notice and prescribed information**

### **Statutory notice**

#### **LONDON BOROUGH OF MERTON**

##### **Expansion and Change of Age Range at Melrose Special School**

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 change the lower age limit and increase the number of pupils at Melrose School, Church Road, Mitcham, CR4 3BE, a maintained special school for pupils with Social, Emotional and Mental Health needs (SEMH), with effect from 1 September 2020.

The proposed change in age range would lower the age range at the school from 11-16 years old to 4-16 years old through the introduction of 24 full time equivalent places in the primary phase for children aged 4 to 11. It is also proposed to increase the number of places in the secondary phase of the school to 54.

Melrose School presently has a capacity of 45 places aged 11-16 and the proposal is to increase the capacity to 78, 24 of which will be in the primary phase and 54 in the secondary school phase. The number on roll according to January 2020 school census is 32.

The London Borough of Merton will implement the proposals.

This notice is an extract of the complete proposal. Copies of the complete proposal can be viewed at <http://www.merton.gov.uk/consultations.htm>

Alternatively you can request a printed copy of the complete proposal from the address below or telephone 020 8545 3289.

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, Schools and Families (FAO: Tom Procter, Head of Contracts and School Organisation), London Borough of Merton, Civic Centre, London Road, Morden, SM4 5DX or by emailing: [SchConsult@merton.gov.uk](mailto:SchConsult@merton.gov.uk)

Rachael Wardell  
Director of Children, Schools and Families  
London Borough of Merton  
Civic Centre  
London Road  
Morden SM4 5DX

Date: 25 June 2020

#### **Explanatory Notes**

Melrose is a special school for children with Social, Emotional and Mental Health needs.

The London Borough of Merton aims to decide whether to approve the proposals in July or August 2020. 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 lower the age range at Melrose School from 11-16 years old to 4-16 years old through the introduction of 24 full time equivalent places in the primary phase for children aged 4 to 11. It is also proposed to increase the number of places in the secondary phase of the school to 54. The school would therefore have a total capacity for 78 pupils.

### Evidence of demand

As illustrated by the table below, the council area has experienced a significant increase in the number of statements/EHCP (Education and Health Care Plans) over the past five years and one of the greatest increase in need is children with Social, Emotional and Mental Health needs (SEMH).

Primary Need	Jan-15		Jan-20	
	No.	%	No.	%
<b>ASD</b> - Austistic Spectrum Disorder	289	28%	635	33%
<b>SLCN</b> - Speech, Language and Communication Needs	227	22%	389	20%
<b>MLD</b> - Moderate Learning Difficulty	211	20%	325	17%
<b>SEMH</b> - Social, Emotional and Mental Health	116	11%	288	15%
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<b>OTH</b> - Other Difficulty/ Disability	7	1%	57	3%
<b>Total</b>	<b>1045</b>	<b>100%</b>	<b>1928</b>	<b>100%</b>

The council does not have any specialist provision within the borough for primary age children with SEMH and as a result it has been necessary to place children out of borough including in non-maintained provision.

## **Objectives (including how the proposal would increase educational standards and parental choice)**

The overall objective is to provide sufficient good quality local school places for children with Social, Emotional and Mental Health needs (SEMH).

At its last Ofsted inspection on 15 May 2018 it was confirmed that Melrose School continues to be good and safeguarding is effective. Leaders are successfully raising expectations and improving the quality of teaching through a number of actions, which has resulted in consistently strong teaching across the school. The curriculum offers a wide range of learning opportunities that suit the needs of pupils and prepares them well for the next stage of their education and training. Pupils mostly listen and engage in lessons. Pupils say that they feel happy and are well supported by staff.

The school provides value for money in being considerably less expensive to provide education than non-maintained provision and so meets the objective to provide suitable, high quality places to meet the growing number of children with SEMH requiring specialist placement.

This will be enabled by a physical extension to the school in three distinctive areas:

- A specific primary phase will be built with a dedicated entrance and site area
- In the secondary phase the current, inadequate hall will be converted to become two classrooms. This will allow a distinct area for more vulnerable secondary SEMH pupils or SEMH girls, depending on the referrals and cohort
- A new hall facility will be provided that can be timetabled to be used at separate times by primary age and secondary age children

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

The provision of a primary phase at Melrose School will not reduce the intake of neighbouring state schools. There is generally 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 total estimated cost of the capital project is circa £2 million and is being met by Merton Council, with some formulaic government capital grant support. As described above, long term value for money is being achieved as Melrose School is less expensive to provide education than non-maintained provision, especially when transport costs are taken into account, and so the objective is to ensure suitable, high quality places are provided to meet the growing number of SEN children.

## **Implementation and any proposed stages for implementation**

The official date for implementation of this proposal is 1 September 2020, with a first cohort of primary school pupils being provided within a temporary building. It is aimed that the permanent building will be completed for September 2021; the school will gradually expand to its new capacity as demand increases for sufficient extra classes.

**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 Thursday 23 July 2020 by email to [SchConsult@merton.gov.uk](mailto:SchConsult@merton.gov.uk) or by post to Director of Children, Schools and Families (FAO: Tom Procter, Head of Contracts and School Organisation), London Borough of Merton, Civic Centre, London Road, Morden, SM4 5DX