

<b>Report title</b>	Prescribed Alterations to Specialist Educational Provision	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Dr Michael Hardacre Education and Skills	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All Wards	
<b>Accountable Director</b>	Emma Bennett, Director of Children's and Adult Services	
<b>Originating service</b>	Special Educational Needs Service	
<b>Accountable employee</b>	Robert Hart	Head of Service Inclusion and Empowerment
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<b>Report to be/has been considered by</b>	Children and Young People Leadership Team	11 February 2021

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### Recommendations for decision:

The Cabinet (Resources) Panel is recommended to:

1. Approve the proposed prescribed alteration to St Michael's CE (A) Primary School.
2. Approve the capital allocation and the release of funds to establish new accommodation for a Resource Base at St Michael's CE (A) Primary School.
3. Receive and note the outcomes of Pre-publication Consultation and Representation in relation to the proposed prescribed alterations to St Michael's CE (A) Primary School.
4. Approve the Council entering into a Grant Agreement with St Michael's CE (A) Primary School.

5. Approve the virement from the Special Provision Capital Fund to the St Michael's CE (A) Primary School Project to fund the establishment of a new Resource Base to cater for pupils with Social, Emotional and Mental Health difficulties.
6. Approve the awarding of a grant to St Michael's CE (A) Primary School to fund the establishment of new accommodation.

## **1.0 Purpose**

- 1.1 This report details the outcomes of Pre-publication Consultation and Representation on the proposed prescribed alterations to specialist educational provision at St Michael's CE (A) Primary School.
- 1.2 The paper seeks approval to permanently implement the proposed prescribed alterations.

## **2.0 Background**

- 2.1 Local authorities must ensure that there are sufficient good school places for all pupils, including those with Special Educational Needs and Disabilities (SEND).
- 2.2 The Children and Families Act 2014 requires local authorities to keep provision for children and young people with SEND under review (including its sufficiency).
- 2.3 Central Government has committed £265 million of capital funding (Special Provision Capital Fund) to help local authorities create new school places and improve existing facilities for children and young people with SEND.
- 2.4 Wolverhampton was initially allocated £1,158,571 (across the period 2018-2019 to 2020-2021); however, in May 2018 a further top up allocation was announced. Wolverhampton has now been allocated a total of £1,428,006 (across the period 2018-2019 to 2020-2021).
- 2.5 On 27 February 2018, Cabinet (Resources) Panel:
  - Endorsed the acceptance of a grant of £1,158,571 over three years from the Department of Education in relation to the Special Provision Capital Fund.
  - Endorsed the development of the planned investment of the Special Provision Capital Fund, in line with the guiding principles set out in the report.
  - Delegated authority to the Cabinet Member for Education, in consultation with the Director of Education, for decisions relating to the future investment of the Special Provision Capital Fund.
- 2.6 On 6 March 2018, the Cabinet Member for Education, in consultation with the Director of Education;
  - Endorsed the investment priorities for the Special Provision Capital Fund.
  - Approved the publication of, and subsequent consultation upon, the proposed use of the Special Provision Capital Fund.
- 2.7 On 12 September 2018, Cabinet approved the 'Vision for School Organisation 2018-2020' which outlines the Council's strategic policy in relation to the planning and organisation of school provision across the City. The strategy recommends that the development of provision for students with SEND is guided by the following principles:

- “Local solutions are developed to support a reduction in the required number of out of City placements.
- The number of transitions experienced by children with SEND should be minimised wherever possible.
- Solutions should be developed to offer opportunities for students with SEND to attend mainstream provision, unless doing so would be incompatible with the provision of efficient education for other children.” (City of Wolverhampton Council, September 2018).

2.8 On 27 February 2020, the Cabinet Member for Education, in consultation with the Director of Education;

- Endorsed the progression for the development of new resource base provision.
- Approved the proposed scheme at St Michael’s CE Primary to proceed to the initiation phase of the establishment process.

### 3.0 Statutory Consultation and Decision Making Process

3.1 Figure 1 below summarises the proposed prescribed alterations to St Michael’s CE Primary School.

**Figure 1: Proposed Alterations**

School	Ward	Ofsted Judgement	Proposed Change(s)	Existing Registration	Proposed Registration (with effect from 1 January 2022)
St Michael’s C of E Aided Primary School	Tettenhall Regis	Outstanding	<ul style="list-style-type: none"> <li>• Establishment of SEN provision.</li> </ul>	<ul style="list-style-type: none"> <li>• Mainstream provision.</li> </ul>	<ul style="list-style-type: none"> <li>• Mainstream provision with a resource base for pupils with SEMH.</li> </ul>

3.2 The change proposals qualify as prescribed alterations which require the undertaking of statutory consultation and decision making processes in accordance with ‘The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013’ and ‘The Education and Inspections Act 2006 – as amended by The Education Act 2011.

3.3 Figure 2 below summarises the consultation and decision making process:

**Figure 2: Consultation and Decision Making Process**

Date	Process
14 September 2020 to 12 October 2020	Pre-publication Consultation.
November 2020	The Cabinet Member for Education and Skills, in consultation with the Director of Education, considers the outcome of Pre-Publication Consultation and determines whether or not to proceed to a formal period of Representation in relation to the proposed changes.
1 December 2020 to 11 January 2021	Subject to approval, a period of Representation (formal consultation) will be undertaken.
17 February 2021	Cabinet consider the outcomes of consultation and make a final decision on the proposals.
16 February 2021 to 17 March 2021	Appeals Period
1 January 2022	Implementation

- 3.4 As detailed within the Department for Education's (DfE's) statutory guidance, the Council is the decision-making body regarding proposals to make prescribed alterations to establish and/or alter SEN provision at maintained schools.
- 3.5 Decisions must be made within two months of the end of the Representation Period or they must be referred to the Schools Adjudicator.
- 3.6 There are a number of factors that Cabinet are required to have regard to when making decisions on the proposals. DfE Statutory guidance for decision makers can be found at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/514570/16-04-06\\_FINAL\\_SO\\_Guidance\\_DM.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/514570/16-04-06_FINAL_SO_Guidance_DM.pdf)
- 3.7 Decision makers must consider all views submitted during consultation.
- 3.8 When issuing a decision, the Cabinet can:
- Reject the proposal
  - Approve the proposal without modification
  - Approve the proposal with modification
  - Approve the proposal - with or without modification - subject to certain conditions being met.
- 3.9 The following bodies may appeal the decision:
- The local Church of England diocese
  - The local Roman Catholic diocese.

Should an appeal be lodged, the Council must then send the proposal, representations received and the reasons for their decisions to the Schools Adjudicator.

#### 4.0 Pre-publication Consultation Outcomes

4.1 St Michael's CE (A) Primary School:

4.2 St Michael's CE (A) Primary School is a mainstream voluntary aided primary school which does not currently house specialist provision for pupils with Special Educational Needs and Disabilities. It is proposed to deliver new accommodation on the site including; two new classrooms, a specialism room, a general-purpose room, storage facilities, pupil and staff toilets, circulation space and external remodelling to support the establishment of a 16-place resource base for pupils with Social, Emotional and Mental Health (SEMH) difficulties at St Michael's CE (A) Primary School.

4.3 The establishment of resource base provision at St Michael's CE (A) Primary School would ensure the sufficiency of provision in the City, enable a wider range of pupils to benefit from the education and support provided by St Michael's CE (A) Primary School and address the existing demand issue with pupils leaving the City.

4.4 During the Pre-publication Consultation period, more than 700 letters and consultation documents were distributed to stakeholders. Stakeholders included the Governing Board of St Michael's CE (A) Primary School, members of staff at St Michael's CE (A) Primary School, parents/carers of pupils attending St Michael's CE (A) Primary School and all schools in Wolverhampton. **A complete list of stakeholders who were consulted can be found at Appendix 1.**

4.5 During the Pre-publication Consultation period, 28 written responses were received by the City of Wolverhampton Council (as summarised in Figure 5). These were completed by a range of stakeholders including members of staff at St Michael's CE (A) Primary School, parents/carers of pupils attending St Michael's CE (A) Primary School and members of St Michael's CE (A) Primary School's Governing Board.

4.6 Figure 5: Written Responses Consultation Summary

Consultation Question	Number of Responses Received	Yes	No	Don't Know	Abstained
Do you agree with the proposal to establish a resource base for pupils with Social, Emotional and Mental Health (SEMH) Needs at St Michael's Church of England (Aided)	28	26 (93%)	1 (3.5%)	1 (3.5%)	0 (0%)

Primary School, with effect from 1 January 2022?					
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Copies of all consultation responses can be found at Appendix 2 and must be given due consideration.

4.7 A number of supportive comments regarding the proposal were received during Pre-publication Consultation including:

1. "Not only would the base provide a resource for pupils who have SEMH needs, it would also educate existing St Michael's pupils. Education is key to reducing the stigma around SEMH. As someone who works with young people (Post 16) who have SEMH needs, it is clear to see that early intervention is key. Key to helping young people/children to progress both emotionally, socially and academically." (M5 - Parent/Carer of a pupil at St Michael's CE (A) Primary School)
2. "It would be very helpful if a base was open at St Michael's CE Primary School for children with special needs and disabilities as I have a son who has additional needs and has just started reception. I would like a base to be open at St Michael's School as i have a daughter already attending and my son will be having an Education, Health and Care Plan (EHCP) Plan in place and i would love for him to carry his school life journey at St Michael's School" (M11 – Parent/Carer of a pupil at St Michael's CE (A) Primary School)
3. "A fantastic idea, having the base on site will make it easier for parents to access. Pupils need more support especially with the current situation of covid." (M17 - Parent/Carer of a pupil at St Michael's CE (A) Primary School)
4. "Hopefully this new venture will offer early interventions for those in critical need and would hopefully prevent mental health support in later years. Statistics do support this and show that very early interventions helps pupils make great strides in their holistic and educational developments at a much faster rate." (M19 – NHS Black Country Nurse Practitioner)
5. "With the increase in children receiving diagnosis of SEMH needs even younger the city must respond more quickly, offering proactive support rather than reactive. A resource base in the city would be able to provide this." (M26 – Special Educational Needs Co-ordinator at Wolverhampton secondary school)
6. "I would fully support this proposal. It is an area of growing need and particularly so among young people. I believe that pupils with SEMH needs would thrive at St Michael's given their strong and caring ethos." (M28 – Leader at local secondary School)

4.8 There was one concern regarding the proposal identified during Pre-publication Consultation:

1. "My concern is the School is too small for such a resource base to be suitably implemented and there are not enough areas to provide services which would be needed." (M24 – Parent/Carer of a pupil at St Michael's CE (A) Primary School)

4.9 A Task and Finish Group has been set up to offer project assurance and support the school to deliver effective, high quality resource base provision in a timely fashion. A copy of the Terms of Reference can be found at Appendix 3.

4.10 Representatives from the Education Department met with members of St Michael's CE (A) Primary School's Governing Board on 10 September 2020.

4.11 Outcome of Representation:

4.12 The Representation Period commenced on 1 December 2020 and concluded on 11 January 2021. At the start of the consultation period, a Statutory Notice (Appendix 4) was published in the Express and Star Newspaper and consultation documentation was published on the Council's website and distributed to relevant stakeholders.

4.13 The City of Wolverhampton Council did not receive any responses regarding the proposed change to Warstones Primary School during the Representation Period.

4.14 Having duly considered all responses received, Cabinet is recommended to approve the proposed prescribed alterations to St Michael's CE Primary School.

## **5.0 Evaluation of alternative options**

5.1 Whilst alternative solutions exist, the proposed changes offer practical opportunities to maximise the efficient and timely use of resources and align to the Council's strategic aspirations to:

- "Ensure Wolverhampton's school estate is fit for purpose and meets the full range of more complex needs of children and young people with special educational needs and disabilities now being placed."
- "Develop local provision in order to reduce the number of children needing residential and out of area education, health and care services." (City of Wolverhampton Council 2016).

## **6.0 Reasons for decisions**

6.1 The proposals would support the Council to develop high quality educational provision for pupils with Special Educational Needs and Disabilities and ensure that community needs can be met effectively.

## **7.0 Financial implications**

- 7.1 The proposed prescribed alterations would be supported by a capital grant from the Department for Education (the Special Provision Capital Fund).
- 7.2 Wolverhampton was initially allocated £1.158 million (across the period 2018-19 to 2020-21); however, in May 2018 a further top up allocation was announced. Wolverhampton has now been allocated a total of £1.967 million (across the period 2018-19 to 2020-21).
- 7.3 The capital expenditure required at St Michael's CE Primary will cost in the region of £0.560 million. The cost can be met from the unallocated capital funding within the approved capital programme for Special Provision Capital Funding.
- 7.4 Approval is also sought in this report to award a grant to St Michael's CE (A) Primary School to fund the establishment of a new Resource Base. A grant agreement will be entered into with the school detailing the level of grant, purpose and any clawback arrangements for unspent grant.  
[TS/26012021/U]

## **8.0 Legal implications**

- 8.1 Local authorities must ensure that there are sufficient good schools places for all pupils, including those with SEND.
- 8.2 The Children and Families Act 2014 specifies pertinent duties placed on local authorities in relation to the provision of support for children and young people with SEND including:
- Local authorities in England must exercise their functions with a view to securing that they identify all the children and young people in their area who have or may have special educational needs and/or a disability.
  - Local authorities in England must keep under review the educational provision, training provision and social care provision made outside their area for children and young people for whom they are responsible who have special educational needs and/or a disability.
- 8.3 The legal implications arising from this report are stated in the body of the report. In addition, any proposals to alter the structure of school provision in the area would need to comply with the detailed provisions in the Education and Inspections Act 2006 to ensure sufficient consultation is undertaken and that relevant stakeholders are notified of the proposals/decisions in a timely manner.
- 8.4 The grant agreement will set out the funds to be provided together with any milestones that must be achieved and any clawback that the Council may be entitled to.  
[TS/09022021/R]

## **9.0 Equalities implications**

- 9.1 This report has equal opportunity implications as the contents have direct relevance to educational provision for children and young people in the City.
- 9.2 A full Equality Analysis has been completed in relation to St Michael's CE (A) Primary School. A copy of the Equality Analysis is available in Appendix 5. In line with the prescribed decision-making process, decision-makers are required to pay due regard to this analysis.

## **10.0 All other implications**

- 10.1 Representatives of the Corporate Landlord and Education Directorates are working closely with school leaders to develop appropriate capital schemes which effectively enable the prescribed alterations and meet pupils' needs.
- 10.2 The accommodation proposals for the resource base at St Michael's CE (A) Primary School will be procured and project managed by the Lichfield Diocese. It should be noted that this scheme will require a development plan to be in place and this will be agreed with the Council's Legal team.

## **11.0 Schedule of background papers**

- 11.1 Individual Executive Decision Notice (IEDN) (6 March 2018) [Special Provision Capital Fund.](#)
- 11.2 Cabinet (Resources) Panel (27 February 2018) [Special Provision Capital Fund.](#)
- 11.3 Cabinet (24 February 2016) [Joint Special Educational Needs and Disabilities Strategy.](#)
- 11.4 IEDN (27 February 2020) [Development of Resource Base Provision.](#)
- 11.5 IEDN (19 November 2020) Proposed changes to Specialist Educational Provision.

## **12.0 Appendices**

- 12.1 Appendix 1 - St Michael's CE (A) Primary School Pre-Publication Consultees.
- 12.2 Appendix 2 - St Michael's CE (A) Primary School Pre-Publication Consultation Responses.
- 12.3 Appendix 3 - St Michael's CE (A) Primary School Task and Finish Group TOR.
- 12.4 Appendix 4 - St Michael's CE (A) Primary School – Statutory Notice.
- 12.5 Appendix 5 - St Michael's CE (A) Primary School – Full Equality Analysis.