



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR2182

**Admission authority:** Hertfordshire County Council for The Leys Primary and Nursery School, Stevenage

**Date of decision:** 02 November 2021

## Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Hertfordshire County Council for The Leys Primary and Nursery School for September 2021 and 2022.

I determine that the published admission number for September 2021 and 2022 shall be 60.

## The referral

1. Hertfordshire County Council (the local authority) has referred proposals for variations to the admission arrangements (the arrangements) for September 2021 and 2022 to the adjudicator. The Leys Primary and Nursery School (the school) is a community school for children aged three to eleven in Stevenage.
2. The proposed variations are that the published admission number (PAN) is reduced from 75 to 60 for both years.

## Jurisdiction and procedure

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which deals with variations to determined arrangements. Paragraphs 3.6 of the School Admissions Code 2021 (the Code) says (in so far as relevant here):

“3.6 Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a

determination of the Schools Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator for approval, and the appropriate bodies notified. Where the local authority is the admission authority for a community or voluntary controlled school, it **must** consult the governing body of the school before making any reference.”

4. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variations are within my jurisdiction. The 2021 Code came into force on 1 September 2021 and thus all references made are to the 2021 Code.

5. In considering this matter I have had regard to all relevant legislation and the Code.

6. The information I have considered in reaching my decision includes:

a. the referral from the local authority dated 18 August 2021 and supporting documents;

b. the determined arrangements for 2021 and 2022 and the proposed variations to those arrangements;

c. evidence that the governing board for the school has been consulted;

d. a map showing the location of the school and other relevant schools;

e. a copy of the email dated 20 August 2021 notifying the appropriate bodies about the proposed variations; and

f. information available on the websites of the local authority and the Department for Education (DfE).

## The proposed variation

7. The school is situated in the north east of Stevenage, a town 29 miles north of London. The DfE database shows fifteen other schools admitting children to the Reception Year (YR) within two miles from its postcode. The admission arrangements, including a PAN of 75, for each of the school years 2021/22 and 2022/23 were determined by the local authority on 24 February 2020 and 22 February 2021, respectively.

8. Paragraph 3.6 of the Code (as above) requires that admission arrangements, once determined, may only be revised, that is changed or varied, if there is a major change of circumstance or certain other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

## Consideration of proposed variation

9. The school currently has a PAN of 75 and the local authority told me that admissions to years 1 to 3 are capped at 60. I shall comment later in this determination about capping. The school is located in the Stevenage North East A planning area along with four other schools with a total of 345 reception places. The five schools in the planning area have not been full to PAN in the last few years with more places surplus at the school compared to the other schools.

10. The local authority told me, “Reducing the PAN would allow senior leaders and governors to establish a budget which is predicated on a realistic and accurate figure for income/pupil intake, so that funds can be accurately and precisely targeted to maximise the quality of education at the school. This would include:

- establishing an efficient and effective staffing structure
- releasing funds to maintain and enhance vital school resources

The reduction in PAN would allow the school to better organise to ensure a stable and financially viable organisation and allow the school to strategically plan.”

11. The minutes of the meeting of the Resources Committee of the governing board on 7 July 2021 record discussion about the need to reduce the PAN to 60 as if more than 60 pupils are admitted, “we will have no choice but to recruit another qualified teacher as the year group will have to be split into three classes. This will have a huge impact on our school budget.” The governing board met on 12 July 2021, and it was agreed to take the issue to the local authority.

12. I want to consider the impact of the proposed reduction on the number of places in the planning area. The local authority has a duty to make sure that there are sufficient places in the local area if the PAN is reduced. The local authority sent me information about the number of places in the planning area, the number of children admitted in the last few years and the forecast for 2022 onwards.

Table 1: number of places in the local authority planning area for admission to YR with forecast of demand

	2019	2020	2021	2022	2023
<b>Sum of PANs (based on existing PAN of 75 at the school)</b>	345	345	345	345	345
<b>Number of children admitted/forecast</b>	312	317	306	311	297
<b>Number of vacant places</b>	33	28	39	34	48
<b>Number of vacant places as a percentage</b>	9.6%	8.1%	11.3%	9.9%	13.9%

13. The local authority told me that the summer 2020/21 forecast indicated demand for 324 reception places against 345 places available. In addition, it was anticipated that North

Hertfordshire District Council's Local Plan, which included new housing development in this area of Stevenage where school places were likely to be needed, was anticipated to be adopted in early 2021. However, the Plan has now been delayed until the end of 2021 at the earliest and possibly early 2022. This together with fewer YR children across the area than forecast provides the context for this application to reduce the PAN. The local authority told me, "Therefore, in light of the delay in new housing growth coming forward and suppressed demand, it is considered that a reduction in PAN from 75 to 60 would assist The Leys Primary & Nursery School in managing numbers and class organisation over the coming years as well as ensuring more financial security."

14. I turn now to the numbers at the school. The school has not admitted to its PAN of 75 for a number of years and the numbers admitted are also below the proposed PAN of 60. The numbers admitted are 2021: 56; 2020: 52; 2019: 50; 2018: 54; 2017: 57. Expanding on the financial issues, the local authority told me that, "Employing a third teacher and extra support staff from September 2021 would have a major impact on the school's finances leading to a deficit budget in 2022/23. The only alternative would be to make staff redundancies in other year groups which would have a negative impact on pupils' outcomes and staff wellbeing."

15. The School Admissions (Infant Class Sizes) (England) Regulations 2012 require that children are taught in class sizes of no more than 30 with one teacher with a very few and limited exceptions. If the PAN stayed at 75 the school would be required to admit up to that number. This may be unlikely given previous numbers but, if it admits more than 60, the school would be required to employ an additional teacher or to allocate any such children to another class and introduce mixed aged classes – which it is unlikely to wish to do.

16. The school has not admitted to its PAN for a number of years and the proposed new housing in the area where families would be looking for places in the planning area has not yet been taken forward. There is sufficient capacity still available to offer places to parents who may move into the area mid-year. I therefore approve the proposed reduction in PAN for September 2021 and 2022.

17. I need to clarify the local authority's decision to cap the school's intake at 60 in Years 1 - 3 which was taken in discussion with the school about their financial pressures. The local authority said, "Years 1 to 3 currently have their PAN capped at 60." The reference to the PAN for those years is not entirely accurate as the PAN of course applies only to the relevant year of entry, to the Reception Year for this school, and not to other year groups. Applications to other year groups are determined by the admission authority and are based on whether the admission of that child would prejudice the efficient delivery of education or use of resources. It is for the admission authority to come to that decision and to clarify to any applicant the basis for doing so. It would be possible in this context for the admission authority to have regard to the effects of the infant class size regulations in coming to a conclusion about whether prejudice would or would not arise. In practice, I note that the numbers on roll are below the cap of 60 for those years.

## Determination

18. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Hertfordshire County Council for The Leys Primary and Nursery School for September 2021 and 2022.

19. I determine that the published admission number for September 2021 and 2022 shall be 60.

Dated: 02 November 2021

Signed:

Schools adjudicator: Lorraine Chapman