



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3475

Objector: The London Borough of Hillingdon

Admission Authority: The Elliot Foundation Academies Trust for Pinkwell Primary School, Hillingdon, London

Date of decision: 4 December 2018

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2019 determined by The Elliot Foundation Academies Trust for Pinkwell Primary School in the London Borough of Hillingdon.

I determine that for admission in September 2019 the Published Admission Number will remain at 150.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by the London Borough of Hillingdon (the objector) about the admission arrangements (the arrangements) for September 2019 for Pinkwell Primary School (the school), an academy school for children aged between 3 and 11 years. The school is part of The Elliot Foundation Multi Academy Trust (the trust). The objection is to the reduction in the Published Admission Number (PAN) for the Reception Year (YR) from 150 in 2018 to 90 in 2019.
2. The parties to the objection are the London Borough of Hillingdon, the local authority for the area in which the school is located, and the Board of the trust, the admission authority for the school.

Jurisdiction

3. The terms of the Academy agreement between the multi-academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements

were determined by the academy trust on that basis. The local authority submitted its objection to these determined arrangements on 15 May 2018. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the local authority's form of objection, supporting documents and further correspondence;
 - b. the trust's response to the objection, supporting documents and further correspondence;
 - c. the local authority's composite prospectus for 2019 for parents seeking admission to schools in the area identifying relevant schools;
 - d. a map showing the location of the school and other relevant schools within two miles of Pinkwell;
 - e. information taken from the Department for Education's (DfE) website Get Information About Schools;
 - f. a copy of the email sent to the bodies listed at paragraph 1.44 of the Code about the consultation for changes to the arrangements in September 2019;
 - g. an extract from the minutes of the meeting at which the trust determined the arrangements; and
 - h. a copy of the determined arrangements.

The Objection

6. The objection is to the reduction in the PAN from 150 in 2018 to 90 for admissions in September 2019. The local authority has said that "*it is the opinion of the Council that a decision to reduce the availability of school places [in your area] is not in the best interests of Hillingdon residents.*" It is concerned that the reduction in primary school places would leave the local authority at serious risk of not being able to fulfil its statutory duty to ensure sufficient and reasonable places for local children, "*particularly for in-year admissions*".

Background

7. The trust consulted on a reduction in the school's PAN from 150 to 90 between 16 November 2017 and 5 January 2018. It reported no objections to the consultation and the trust determined the admission arrangements

including the reduction in PAN on 16 February 2018. The minutes of the meeting record the same wording used in the email sent on 15 November 2017 to the local authority informing them about the consultation to reduce the PAN *“Now a critical issue from a financial, learning and recruitment standpoint and in order to achieve the improvements in standards required and identify efficiencies a reduction in the PAN is urgently required.”*

8. The London Borough of Hillingdon divides the borough into 14 localities for planning primary school places. The school is located in the south of the borough in Primary Planning Area (PPA) 12 (Hayes Cranford/Pinkwell Area), along with two other primary schools, Cranford Park Academy and William Byrd Primary Academy. Pinkwell and William Byrd are divided from Cranford Park by the M4 motorway. The local authority has forecast a modest reduction in demand for YR places in this area over the next two years and a relatively stable demand thereafter. The local authority reports that there are only a very small number of vacancies in any individual primary school within a two-mile radius of the school. It also says that there are schools with a higher level of capacity some distance away but reaching those schools by public transport would be challenging for those living in the Pinkwell area. The local authority *“expect further significant housing development, particularly in the adjacent Central Hayes area [PPA 11, next to PPA 12] which will create further demand for school places.”*

Consideration of case

9. I shall consider in detail the school’s case for making a significant reduction to its PAN and the local authority’s serious concerns about the impact of the PAN reduction on the local authority’s ability to meet its statutory duty to ensure sufficient school places are available to make reasonable offers of places to children in its area. In this context I note that should I not uphold the objection and the PAN remains at 90 for 2019 and be set at that level again in future years, the local authority would not be able to object to that lower PAN. This is because, while objections can be made to a reduction in PAN in the year it is reduced, as the local authority has done here, no objections can be made where a PAN is set at the same or a higher level than the previous year. The only exception to this rule concerns PANs set by local authorities for voluntary controlled and community schools and is not relevant here. These matters are covered in paragraph 3.3 b) and 3.3 c) of the Code. My decision in this case thus has implications not only for admissions to the school in 2019 but in subsequent years.
10. It is clear to me that the trust has considered carefully the reduction in PAN. An email, from a consultancy working with the trust, was sent to the local authority on 15 November 2017 informing it about the trust’s consultation to reduce the PAN at the school. The email said *“The Academy has been heavily undersubscribed for a number of years, and has been under PAN by approx.60 places each year since 2014. They received an RI [Requires Improvement] from Ofsted in March 2017 and have since lost a further 175 pupils. There is now a critical issue from a financial, learning and recruitment standpoint, and, in order to achieve the*

improvements in standards required and identify efficiencies, a reduction in the PAN is urgently required.”

11. The email went on to point out the trust’s view, based on information set out in the local authority’s primary starting schools booklets and council minutes, that there were six undersubscribed schools within a two-mile radius of the academy, of which one was in the same PPA 12 area as the school and that there were in addition two further schools within approximately one mile of the academy that offered places to applicants who lived over one and a half to three miles away from the schools.
12. I have looked at the local authority’s booklet, *School Admissions September 2019*, which sets out the offers made on 16 April 2018 for pupils to start school in September 2018 and at the DfE’s website. I have ascertained from these that there are 17 schools, which admit to YR within two miles of Pinkwell school. They are not all in Hillingdon and a number of them are schools with a religious character. A number of them were fully subscribed at the point of national offer day for primary schools in 2018: others were not.
13. To support its case the trust also referred to two local authority committee papers. The first, dated 12 June 2017, reported that there were 470 places available across the borough for primary schools and a four per cent decrease in applications across the borough. The second, dated 18 October 2017, showed 452 YR vacancies across the borough of which 298 were in the south of the borough, PPAs 6 -14. That data showed 50 vacancies in PPA 11 and 43 (estimated) vacancies in PPA 12.
14. I have set out more information about the local authority’s forecasts of demand for places against the supply of places below under my consideration of its arguments. I can say here, however, that I can see why the trust from its perspective and on the information it has available considers that a PAN of 90 at the school would not prevent the local authority from delivering its duty to secure the provision of school places.
15. The trust has provided the following information about pupil and teacher numbers at the school.

Year group	Pupil numbers (2017/18)	Number of places	Pupil vacancies	Teachers (Full Time Equivalent)	Pupil-Teacher Ratio
Reception	85	150	65	4.0	21.25:1
Year 1	111	150	39	4.6	24.1:1
Year 2	95	150	55	4.7	20.21:1
Year 3	93	150	57	4.0	23.25:1
Year 4	112	150	38	4.0	28:1

Year group	Pupil numbers (2017/18)	Number of places	Pupil vacancies	Teachers (Full Time Equivalent)	Pupil-Teacher Ratio
Year 5	129	150	21	5.0	25.8:1
Year 6	122	150	28	4.0	30.5:1
Total	747	1050	303		

16. The trust says “*staff numbers [at the school] are high in relation to pupil numbers and staff costs now represent about 85 per cent of the budget. There is also a disproportionate proportion of children with child protection, special educational needs and disabilities and attendance or behavioural issues. Mobility is also a challenge for the academy.*”

17. The trust had also told me, as noted above, that it had admitted around 60 children fewer than its PAN to YR each year since 2014. I needed to understand in more detail how, if this were the case, the school had, as it said, 111 children in Year 1 in 2017/18 for example, I therefore asked the trust to send me information about the number of children in YR for each of the last five years. On 20 and 21 November 2018, the trust provided me with the following information taken from its annual October census return and for the current year as at 20 November.

Date of census count/current number	Number of children in YR
20 November 2018	87
October 2017	89
October 2016	127
October 2015	126
October 2014	110
October 2013	131

18. Together with the information the trust sent me earlier, the data shows that the numbers admitted to YR have indeed been below 90 over the last two years, that is in September 2017 and September 2018. However, for 2016 and earlier the numbers admitted were well over the PAN of 90 that the trust has set for the school. I note that it is the case that numbers admitted to YR have not reached the PAN of 150, which had been set for those years in the recent past. I cannot, however, accept the trust’s argument that it has admitted around 60 children under PAN in each year since 2014 as this is contradicted by the figures it has provided for the reasons I give immediately below.

19. The trust has said that its argument that the school has been under PAN by approximately 60 places each year since 2014 is based on information from the local authority's primary school admission booklets which sets out the on-time offers made on national offer day for primary schools which is on or about 16 April. The trust sent me the table below which it says *"shows how undersubscribed that Pinkwell has been since September 2014"*.

PAN 150	On-time offers	Number of 1 st preferences offered
September 2017	83	
September 2016		93
September 2015		78
September 2014		50

These figures are significantly different from and lower than those in paragraph 17 which record the actual higher number of children who were admitted to YR in the school at or close to the beginning of the autumn term for each school year.

20. The number of on-time offers made and first preferences expressed for schools are part of but not the whole story of demand for places. A second or third preference is a preference for a school and will result in an offer of a place if a higher preference cannot be met. There will also be further offers of places made after national offer day. In the case of this school, on 16 July 2018 the trust told me that 59 children had accepted places for September 2018 and commented *"that we may well fall significantly short of 90, let alone the published PAN of 150."* On 26 July 2018, the trust reported 70 accepted places for the school and as I have shown above, at 20 November had 87 children in YR. I have also set out above the numbers in YR in each year since 2013. The school clearly has not reached the then PAN of 150 since 2013 period. It has indeed, been around 60 under PAN in YR in the years beginning 2017 and 2018 but not in earlier years.
21. The trust was concerned about the funding gap between the need to recruit YR teachers and the amount of funding it would receive for pupil generated funding. The trust contends that the impact of operating with high levels of surplus places and with volatile admission numbers from year to year is that the school needs to maintain staffing levels that are disproportionate to the actual pupil numbers. In order to achieve the improvement in standards required following its recent Ofsted inspection and identify efficiencies, the trust considers it needs to reduce the PAN to 90 *"to allow the school to stabilise and focus on delivering best possible outcomes for the children."* The trust believes that a PAN of 90 would *"allow for some flexibility and ensure that it supports the local authority should there be an overall increase in pupil numbers across Hillingdon at some point several years hence."*

22. It is the case that schools admit pupils across all year groups after the start of the school year and that pupils also leave from all year groups. The local authority has told me that such pupil mobility is particularly high in PPA 12 and I have no doubt that this creates challenges for the school.
23. I should also note in this context that the PAN applies only to the relevant age group, which is defined in footnote 11 of the Code as “*..the age group at which pupils are or will be normally admitted to the school eg reception, year 7 and year 12....*” This school has one relevant age group and that is YR. Admissions to year groups at this school other than YR are, in the Code’s terms, in-year admissions. The PAN does not apply to such admissions. Rather, in-year applications for places can be refused if the admission of a child would prejudice the provision of efficient education or the efficient use of resources. For YR and for years 1 and 2, the requirements of the School Admissions (Infant Class Sizes) (England) Regulations 2012 (the infant class size regulations) would also be relevant. It is not the case that setting a PAN of 90 for YR in 2019 would automatically allow the school to refuse an application to join a year group higher up the school if the application would take the number of children in that year group above 90.
24. I turn now to the case made by the local authority. The local authority told me that in June 2018 it had undertaken its annual refresh of school place planning and concluded that a loss of 60 YR places in the area served by the school would leave the council at serious risk of not being able to fulfil its statutory duty to ensure sufficient school places. It submitted the data below, as at 12 June 2018, for PPA 12 where the school is based.

Year	Forecast Demand for Places (YR)	Spare Places (YR) PAN of 150 at Pinkwell	Spare Places (YR) PAN 90 at Pinkwell
2019	297	63	3
2020	283	77	17
2021	294	66	6
2022	292	68	8
2023	290	70	10
2024	288	72	12

25. The local authority drew attention to the higher levels of mobility caused both by children leaving schools and in-year admissions in higher numbers in PPA 12 compared to other areas of the borough. Dealing with high levels of mobility creates challenges for schools in terms of budget and staffing management and for local authorities who have the statutory duty to secure the provision of places. For children needing a place in-year, if no places are available at local schools, they will have to travel to other schools some distance from their home. The local authority commented in its objection “*Schools with a higher level of capacity are some distance*

Surplus / (Shortfall)	52	63	77	66	68	70	72	73
--------------------------------------	----	----	----	----	----	----	----	----

29. The local authority reported that, as at 16 April, which was national offer day in 2018 for places in September 2018, 43 pupils resident in PPA 12 (15 per cent of PPA 12 resident pupils) were offered a place at schools in PPA 11. It contends that, as the demand from children living in PPA 11 increases in future years, schools in PPA 11 will have less scope to offer places to children from PPA 12 and these children will accordingly increasingly seek places at schools in PPA 12 including, presumably, though the local authority has not said so in terms, at Pinkwell.
30. School place planning can be challenging for local authorities particularly in areas with highly mobile populations. However, the local authority has the duty to ensure that there are sufficient places for children to attend school if their parents apply for places. The trust's decision to reduce the PAN at YR, removing 60 places each year, does not, in my view, give the local authority sufficient flexibility to manage in-year requests for places. I also acknowledge the trust's view that, undersubscription at YR and an unusually high degree of mobility through in-year admissions, which creates challenging financial issues, does not lead to the period of stability it needs to improve standards. However, the local authority considers that it needs the places at the school to manage the in-year demand for places which arise from the mobile nature of the population in the area. It is also concerned about the increased demand for places in PPA 11 which would impact on the ability for pupils resident in PPA 12, who can currently access places in PPA 11 schools, because there are vacancies there, but would consequently be seeking places in PPA12 schools, including Pinkwell. If pupils resident in the PPA 12 area have to travel to schools with vacancies some distance away, the public transport options can be challenging. Moreover, as I have explained above, a reduction in PAN for YR in 2019 would not necessarily allow the trust simply to refuse to admit pupils to other year groups.
31. My jurisdiction allows me to uphold, partially uphold or not uphold the objection. In this case, the PAN has been set at 90, a reduction of 60 from the previous PAN of 150. I have concluded that a PAN of 90 creates a risk of there not being enough primary places in the area and so I uphold the objection.

Summary of Findings

32. The trust and the local authority have both provided me with useful information about pupil numbers and demand for places. The local authority has understandably emphasised the need for flexibility in the supply to meet variations in demand and the trust equally understandably about the need for stability and predictability to help raise standards. The information provided shows that applications to YR have been significantly below the PAN of 150 in 2018 and 2017. The trust is clear that its priority is to improve standards at the school following the Ofsted report that it requires improvement. Although there are a number of schools within a two-mile radius of the school with vacancies, there are problems with transport and motorway boundaries, which need to be managed carefully.

Determination

33. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2019 determined by The Elliot Foundation Academies Trust for Pinkwell Primary School in the London Borough of Hillingdon.
34. I determine that for admission in September 2019 the Published Admission Number will remain at 150.

Dated: 4 December 2018

Signed:

Schools Adjudicator: Lorraine Chapman